Chapter 36.70A RCW
GROWTH MANAGEMENT—PLANNING BY SELECTED COUNTIES AND CITIES

Sections

36.70A.010 Legislative findings.
36.70A.011 Findings—Rural lands.
36.70A.020 Planning goals.
36.70A.030 Definitions.
36.70A.035 Public participation—Notice provisions.
36.70A.040 Who must plan—Summary of requirements—Resolution for partial planning—Development regulations must implement comprehensive plans—Tribal participation.
36.70A.045 Phasing of comprehensive plan submittal.
36.70A.050 Guidelines to classify agriculture, forest, and mineral lands and critical areas.
36.70A.060 Natural resource lands and critical areas—Development regulations.
36.70A.067 Effective date—Certain actions under RCW 36.70A.070, 36.70A.110, 36.70A.350, and 36.70A.360.
36.70A.070 Comprehensive plans—Mandatory elements.
36.70A.080 Comprehensive plans—Optional elements.
36.70A.085 Comprehensive plans—Port elements.
36.70A.090 Comprehensive plans—Innovative techniques.
36.70A.095 Comprehensive plans—Climate change and resiliency element—Affected counties.
36.70A.096 Comprehensive plans—Greenhouse gas emissions reduction subelement—Department approval.
36.70A.097 Climate change and resiliency planning timeline—Funding.
36.70A.100 Comprehensive plans—Must be coordinated.
36.70A.103 State agencies required to comply with comprehensive plans.
36.70A.106 Comprehensive plans—Development regulations—Transmittal to state—Amendments—Expedited review.
36.70A.108 Comprehensive plans—Transportation element—Multimodal transportation improvements and strategies.
36.70A.110 Comprehensive plans—Urban growth areas.
36.70A.115 Comprehensive plans and development regulations must provide sufficient land capacity for development.
36.70A.120 Planning activities and capital budget decisions—Implementation in conformity with comprehensive plan.
36.70A.130 Comprehensive plans—Review procedures and schedules—Implementation progress report.
36.70A.131 Mineral resource lands—Review of related designations and development regulations.
36.70A.140 Comprehensive plans—Ensure public participation.
36.70A.142 Comprehensive plans—Siting of organic materials management facilities.
36.70A.150 Identification of lands useful for public purposes.
36.70A.160 Identification of open space corridors—Purchase authorized.
36.70A.165 Property designated as greenbelt or open space—Not subject to adverse possession.
36.70A.170 Natural resource lands and critical areas—Designations.

36.70A.171 Playing fields—Compliance with this chapter.
36.70A.172 Critical areas—Designation and protection—Best available science to be used.
36.70A.175 Wetlands to be delineated in accordance with manual.
36.70A.177 Agricultural lands—Innovative zoning techniques—Accessory uses.
36.70A.180 Chapter implementation—Intent.
36.70A.190 Technical assistance—Grants—Mediation services—Resolution of tribal disputes—Model climate change and resiliency element.
36.70A.200 Siting of essential public facilities—Limitation on liability.
36.70A.210 Countywide planning policies.
36.70A.211 Siting of schools—Rural areas, when authorized—Impact fees.
36.70A.212 Siting of schools—Periodic updates.
36.70A.213 Extension of public facilities and utilities to serve school sited in a rural area authorized—Requirements for authorization—Report.
36.70A.215 Review and evaluation program.
36.70A.217 Guidance for local governments on the review and evaluation program—Public participation—Analysis and recommendations.
36.70A.250 Growth management hearings board—Creation—Members.
36.70A.252 Growth management hearings board—Consolidation into environmental and land use hearings office.
36.70A.260 Growth management hearings board—Regional panels.
36.70A.270 Growth management hearings board—Conduct, procedure, and compensation—Public access to rulings, decisions, and orders.
36.70A.280 Growth management hearings board—Matters subject to review.
36.70A.290 Growth management hearings board—Petitions—Evidence.
36.70A.295 Growth management hearings board—Direct judicial review.
36.70A.300 Final orders.
36.70A.302 Growth management hearings board—Determination of invalidity—Vesting of development permits—Interim controls.
36.70A.305 Expedited review.
36.70A.310 Growth management hearings board—Limitations on appeal by the state.
36.70A.320 Presumption of validity—Burden of proof—Plans and regulations.
36.70A.3201 Growth management hearings board—Legislative intent and finding.
36.70A.330 Noncompliance.
36.70A.332 Training regarding findings of noncompliance.
36.70A.335 Order of invalidity issued before July 27, 1997.
36.70A.340 Noncompliance and sanctions.
36.70A.345 Sanctions.
36.70A.350 New fully contained communities.
36.70A.360 Master planned resorts.
36.70A.362 Master planned resorts—Existing resort may be included.
36.70A.365 Major industrial developments.

36.70A.367 Major industrial developments—Master planned locations.
36.70A.368 Major industrial developments—Master planned locations—Reclaimed surface coal mine sites.
36.70A.370 Protection of private property.
36.70A.380 Extension of designation date.
36.70A.385 Environmental planning pilot projects.
36.70A.390 Moratoria, interim zoning controls—Public hearing—Limitation on length—Exceptions.
36.70A.410 Treatment of residential structures occupied by persons with handicaps.
36.70A.420 Transportation projects—Findings—Intent.
36.70A.430 Transportation projects—Collaborative review process.
36.70A.450 Family day-care provider's home facility—County or city may not prohibit in residential or commercial area—Conditions.
36.70A.460 Watershed restoration projects—Permit processing—Fish habitat enhancement project.
36.70A.470 Project review—Amendment suggestion procedure—Definitions.
36.70A.480 Shorelines of the state.
36.70A.481 Construction—Chapter 347, Laws of 1995.
36.70A.490 Growth management planning and environmental review fund—Established.
36.70A.500 Growth management planning and environmental review fund—Awarding of grant or loan—Procedures.
36.70A.510 General aviation airports.
36.70A.520 National historic towns—Designation.
36.70A.530 Land use development incompatible with military installation not allowed—Revision of comprehensive plans and development regulations.
36.70A.540 Affordable housing incentive programs—Low-income housing units—Tiny house communities.
36.70A.545 Increased density bonus for affordable housing located on property owned by a religious organization.
36.70A.550 Aquifer conservation zones.
36.70A.570 Regulation of forest practices.
36.70A.590 Complying with requirements relating to surface and groundwater resources.
36.70A.600 Cities planning under RCW 36.70A.040—Increasing residential building capacity—Housing action plan authorized—Grant assistance.
36.70A.610 Housing supply and affordability report.
36.70A.620 Cities planning under RCW 36.70A.040—Minimum residential parking requirements.
36.70A.630 Local design review—Requirements and restrictions.
36.70A.635 Minimum residential density.
36.70A.636 Department technical assistance—Approval of alternative action.
36.70A.637 Extension for certain areas.
36.70A.638 Extension for lack of infrastructure capacity.
36.70A.639 Department rules.
36.70A.680 Accessory dwelling units—Local regulation.
36.70A.681 Accessory dwelling units—Limitations on local regulation.

36.70A.682 Accessory dwelling units—Department review of comprehensive plans.
36.70A.690 On-site sewage system self-inspection.
36.70A.695 Development regulations—Jurisdictions specified—Electric vehicle infrastructure.
36.70A.696 Accessory dwelling units—Definitions.
36.70A.697 Accessory dwelling units—Adoption of requirements.
36.70A.698 Accessory dwelling units—Off-street parking—When prohibited.
36.70A.699 Accessory dwelling units—Rights not modified.

VOLUNTARY STEWARDSHIP PROGRAM

36.70A.700 Purpose—Intent—2011 c 360.
36.70A.702 Construction.
36.70A.703 Definitions.
36.70A.705 Voluntary stewardship program established—Administered by commission—Agency participation.
36.70A.710 Critical areas protection—Alternative to RCW 36.70A.060—County's responsibilities—Procedures.
36.70A.715 Funding by commission—County's duties—Watershed group established.
36.70A.720 Watershed group's duties—Work plan—Conditional priority funding.
36.70A.725 Technical review of work plan—Time frame for action by director.
36.70A.730 Report by watershed group—Director consults with statewide advisory committee.
36.70A.735 When work plan is not approved, fails, or is unfunded—County's duties—Rules.
36.70A.740 Commission's duties—Timelines.
36.70A.745 Statewide advisory committee—Membership.
36.70A.750 Agricultural operators—Individual stewardship plan.
36.70A.755 Implementing the work plan.
36.70A.760 Agricultural operators—Withdrawal from program.
36.70A.800 Role of growth strategies commission.
36.70A.900 Severability—1990 1st ex.s. c 17.
36.70A.901 Part, section headings not law—1990 1st ex.s. c 17.
36.70A.902 Section headings not law—1991 sp.s. c 32.
36.70A.903 Transfer of powers, duties, and functions.
36.70A.904 Conflict with federal requirements—2011 c 360.

Agricultural lands—Legislative directive of growth management act: See note following RCW 7.48.305.

Building permits—Evidence of adequate water supply required: RCW 19.27.097.

Expediting completion of projects of statewide significance—Requirements of agreements: RCW 43.157.020.

Impact fees: RCW 82.02.050 through 82.02.100.

Population forecasts: RCW 43.62.035.

Regional transportation planning: Chapter 47.80 RCW.

Subdivision and short subdivision requirements: RCW 58.17.060, 58.17.110.

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 § 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 § 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 § 1; 2021 c 254 § 1; 2002 c 154 § 1; 1990 1st ex.s. c 17 § 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 up to four 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.

(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. [2023 c 332 § 2; 2023 c 228 § 14; 2021 c 254 § 6; 2020 c 173 § 4. Prior: 2019 c 348 § 2; 2017 3rd sp.s. c 18 § 2; 2012 c 21 § 1; prior: 2009 c 565 § 22; 2005 c 423 § 2; 1997 c 429 §

3; 1995 c 382 § 9; prior: 1994 c 307 § 2; 1994 c 257 § 5; 1990 1st ex.s. c 17 § 3.]

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

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

(3) The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

(4) This section was amended by 2023 c 228 § 14 and by 2023 c 332 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

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 § 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 § 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 § 7.]

Prospective application—1997 c 429 §§ 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 § 1.]

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

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

RCW 36.70A.035 Public participation—Notice provisions. (1) The public participation requirements of this chapter shall include notice procedures that are reasonably calculated to provide notice to property owners and other affected and interested individuals, tribes, government agencies, businesses, school districts, group A public water systems required to develop water system plans consistent with state board of health rules adopted under RCW 43.20.050, and organizations of proposed amendments to comprehensive plans and development regulation. Examples of reasonable notice provisions include:

(a) Posting the property for site-specific proposals;

(b) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located or that will be affected by the proposal;

(c) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;

(d) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; and

(e) Publishing notice in agency newsletters or sending notice to agency mailing lists, including general lists or lists for specific proposals or subject areas.

(2)(a) Except as otherwise provided in (b) of this subsection, if the legislative body for a county or city chooses to consider a change to an amendment to a comprehensive plan or development regulation, and the change is proposed after the opportunity for review and comment has passed under the county's or city's procedures, an opportunity for review and comment on the proposed change shall be provided before the local legislative body votes on the proposed change.

(b) An additional opportunity for public review and comment is not required under (a) of this subsection if:

(i) An environmental impact statement has been prepared under chapter 43.21C RCW for the pending resolution or ordinance and the proposed change is within the range of alternatives considered in the environmental impact statement;

(ii) The proposed change is within the scope of the alternatives available for public comment;

(iii) The proposed change only corrects typographical errors, corrects cross-references, makes address or name changes, or clarifies language of a proposed ordinance or resolution without changing its effect;

(iv) The proposed change is to a resolution or ordinance making a capital budget decision as provided in RCW 36.70A.120; or

(v) The proposed change is to a resolution or ordinance enacting a moratorium or interim control adopted under RCW 36.70A.390.

(3) This section is prospective in effect and does not apply to a comprehensive plan, development regulation, or amendment adopted before July 27, 1997. [2015 c 25 § 1; 1999 c 315 § 708; 1997 c 429 § 9.]

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

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

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 § 1; 2014 c 147 § 1; 2000 c 36 § 1; 1998 c 171 § 1; 1995 c 400 § 1; 1993 sp.s. c 6 § 1; 1990 1st ex.s. c 17 § 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 § 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 § 7.]

RCW 36.70A.045 Phasing of comprehensive plan submittal. The department may adopt a schedule to permit phasing of comprehensive plan submittal for counties and cities planning under RCW 36.70A.040. This schedule shall not permit a comprehensive plan to be submitted greater than one hundred eighty days past the date that the plan was required to be submitted and shall be used to facilitate expeditious review and interjurisdictional coordination of comprehensive plans and development regulations. [1991 sp.s. c 32 § 15.]

RCW 36.70A.050 Guidelines to classify agriculture, forest, and mineral lands and critical areas. (1) Subject to the definitions provided in RCW 36.70A.030, the department shall adopt guidelines, under chapter 34.05 RCW, no later than September 1, 1990, to guide the classification of: (a) Agricultural lands; (b) forestlands; (c) mineral resource lands; and (d) critical areas. The department shall consult with the department of agriculture regarding guidelines for agricultural lands, the department of natural resources regarding forestlands and mineral resource lands, and the department of ecology regarding critical areas.

(2) In carrying out its duties under this section, the department shall consult with interested parties, including but not limited to: (a) Representatives of cities; (b) representatives of counties; (c) representatives of developers; (d) representatives of builders; (e) representatives of owners of agricultural lands, forestlands, and mining lands; (f) representatives of local economic development officials; (g) representatives of environmental organizations; (h) representatives of special districts; (i) representatives of the governor's office and federal and state agencies; and (j) representatives of Indian tribes. In addition to the consultation required under this subsection, the department shall conduct public hearings in the various regions of the state. The department shall consider the public input obtained at such public hearings when adopting the guidelines.

(3) The guidelines under subsection (1) of this section shall be minimum guidelines that apply to all jurisdictions, but also shall

allow for regional differences that exist in Washington state. The intent of these guidelines is to assist counties and cities in designating the classification of agricultural lands, forestlands, mineral resource lands, and critical areas under RCW 36.70A.170.

(4) The guidelines established by the department under this section regarding classification of forestlands shall not be inconsistent with guidelines adopted by the department of natural resources. [1990 1st ex.s. c 17 § 5.]

RCW 36.70A.060 Natural resource lands and critical areas—Development regulations. (1)(a) Each county that is required or chooses to plan under RCW 36.70A.040, and each city within such county, shall adopt development regulations on or before September 1, 1991, to assure the conservation of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170. Regulations adopted under this subsection may not prohibit uses legally existing on any parcel prior to their adoption and shall remain in effect until the county or city adopts development regulations pursuant to RCW 36.70A.040. Such regulations shall assure that the use of lands adjacent to agricultural, forest, or mineral resource lands shall not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of these designated lands for the production of food, agricultural products, or timber, or for the extraction of minerals. Any county located to the west of the crest of the Cascade mountains that has both a population of at least four hundred thousand and a border that touches another state, and any city in such county, may adopt development regulations to assure that agriculture, forest, and mineral resource lands adjacent to short line railroads may be developed for freight rail dependent uses.

(b) Counties and cities shall require that all plats, short plats, development permits, and building permits issued for development activities on, or within five hundred feet of, lands designated as agricultural lands, forestlands, or mineral resource lands, contain a notice that the subject property is within or near designated agricultural lands, forestlands, or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. The notice for mineral resource lands shall also inform that an application might be made for mining-related activities, including mining, extraction, washing, crushing, stockpiling, blasting, transporting, and recycling of minerals.

(c) Each county that adopts a resolution of partial planning under RCW 36.70A.040(2)(b), and each city within such county, shall adopt development regulations within one year after the adoption of the resolution of partial planning to assure the conservation of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170. Regulations adopted under this subsection (1)(c) must comply with the requirements governing regulations adopted under (a) of this subsection.

(d)(i) A county that adopts a resolution of partial planning under RCW 36.70A.040(2)(b) and that is not in compliance with the planning requirements of this section, RCW 36.70A.040(4), 36.70A.070(5), 36.70A.170, and 36.70A.172 at the time the resolution is adopted must, by January 30, 2017, apply for a determination of compliance from the department finding that the county's development

regulations, including development regulations adopted to protect critical areas, and comprehensive plans are in compliance with the requirements of this section, RCW 36.70A.040(4), 36.70A.070(5), 36.70A.170, and 36.70A.172. The department must approve or deny the application for a determination of compliance within one hundred twenty days of its receipt or by June 30, 2017, whichever date is earlier.

(ii) If the department denies an application under (d)(i) of this subsection, the county and each city within is obligated to comply with all requirements of this chapter and the resolution for partial planning adopted under RCW 36.70A.040(2)(b) is no longer in effect.

(iii) A petition for review of a determination of compliance under (d)(i) of this subsection may only be appealed to the growth management hearings board within 60 days of the issuance of the decision by the department.

(iv) In the event of a filing of a petition in accordance with (d)(iii) of this subsection, the county and the department must equally share the costs incurred by the department for defending an approval of determination of compliance that is before the growth management hearings board.

(v) The department may implement this subsection (1)(d) by adopting rules related to determinations of compliance. The rules may address, but are not limited to: The requirements for applications for a determination of compliance; charging of costs under (d)(iv) of this subsection; procedures for processing applications; criteria for the evaluation of applications; issuance and notice of department decisions; and applicable timelines.

(e) Any county that borders both the Cascade mountains and another country and has a population of less than fifty thousand people, and any city in such county, may adopt development regulations to assure that agriculture, forest, and mineral resource lands adjacent to short line railroads may be developed for freight rail dependent uses.

(2) Each county and city shall adopt development regulations that protect critical areas that are required to be designated under RCW 36.70A.170. For counties and cities that are required or choose to plan under RCW 36.70A.040, such development regulations shall be adopted on or before September 1, 1991. For the remainder of the counties and cities, such development regulations shall be adopted on or before March 1, 1992.

(3) Such counties and cities shall review these designations and development regulations when adopting their comprehensive plans under RCW 36.70A.040 and implementing development regulations under RCW 36.70A.120 and may alter such designations and development regulations to ensure consistency.

(4)(a) A city with a population fewer than 25,000 may adopt the county's critical areas regulations by reference to satisfy the requirements under this section to designate and protect critical areas; provided, that the county's critical areas regulations are not subject to any outstanding administrative or judicial appeals at the time of the city's adoption. Nothing in this subsection prohibits a city from adopting its own critical areas regulations.

(b) The city legislative action adopting the county regulations by reference must incorporate future amendments to the critical areas policies and development regulations of the county.

(c) A city that adopts the county's critical areas regulations by reference is not required to take legislative action to review and

update development regulations protecting critical areas under RCW 36.70A.130.

(d) If grant funding is available for a local jurisdiction's periodic comprehensive planning updates as required in RCW 36.70A.070, and a city has adopted by reference the county's critical areas regulations as allowed in (a) through (c) of this subsection, the county in which the city is located shall be entitled to the portion of the city's grant funding that would otherwise have been utilized for updating the city's critical areas regulations. The department is authorized to determine what portion of the available grant funding the city would have received for the critical areas regulations update the county is entitled to receive.

(5) Forestland and agricultural land located within urban growth areas shall not be designated by a county or city as forestland or agricultural land of long-term commercial significance under RCW 36.70A.170 unless the city or county has enacted a program authorizing transfer or purchase of development rights. [2023 c 225 § 2; 2017 3rd sp.s. c 18 § 3; 2014 c 147 § 2; 2005 c 423 § 3; 1998 c 286 § 5; 1991 sp.s. c 32 § 21; 1990 1st ex.s. c 17 § 6.]

Findings—2023 c 225: "The growth management act has been in place for over 30 years. As time has passed, the legislature has found that the act needs to be adjusted to accommodate difficulties that have been encountered over time. The legislature finds that small cities should be able to adopt the critical areas ordinances of the counties pursuant to the advice of the work group engaged to make such positive changes to the act." [2023 c 225 § 1.]

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

Intent—Effective date—2005 c 423: See notes following RCW 36.70A.030.

RCW 36.70A.067 Effective date—Certain actions under RCW 36.70A.070, 36.70A.110, 36.70A.350, and 36.70A.360. The initial effective date of an action that expands an urban growth area designated under RCW 36.70A.110, removes the designation of agricultural, forest, or mineral resource lands designated under RCW 36.70A.170, creates or expands a limited area of more intensive rural development designated under RCW 36.70A.070(5)(d), establishes a new fully contained community under RCW 36.70A.350, or creates or expands a master planned resort designated under RCW 36.70A.360, is after the latest of the following dates:

(1) 60 days after the date of publication of notice of adoption of the comprehensive plan, development regulation, or amendment to the plan or regulation, implementing the action, as provided in RCW 36.70A.290(2); or

(2) If a petition for review to the growth management hearings board is timely filed, upon issuance of the board's final order. [2022 c 218 § 2.]

Findings—Intent—2022 c 218: "The legislature finds that climate change is one of the greatest challenges facing our state and the world today, an existential crisis with major negative impacts on environmental and human health. The legislature further finds that

compact and responsibly planned development of residential and public facilities, intended under the growth management act, mitigates climate change through the efficient use of energy resources and the corresponding decrease in greenhouse gas production. This dense development and the concentration of growth in urban areas also prevents sprawl, lessening development's impact on natural resources, ecosystems, and habitats.

The legislature also finds that current legal frameworks work against the act's goal of responsibly planned for growth by prematurely allowing development rights to vest before the validity of plans and regulations can be determined. This flawed process has led to the approval of development that has decreased resource lands and placed a strain on local infrastructure services. Furthermore, it makes it extremely difficult for local jurisdictions to come back into compliance with state laws and leaves citizens with no real remedy to undo these planning violations.

Therefore, the legislature intends to set the effective date of these impactful planning actions to a time that will allow for the thorough review of growth planning decisions intended under the act." [2022 c 218 § 1.]

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; and

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

(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(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(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 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. [2023 c 228 § 3. Prior: 2022 c 246 § 2; 2022 c 220 § 1; 2021 c 254 § 2; prior: 2017 3rd sp.s. c 18 § 4; 2017 3rd sp.s. c 16 § 4; 2017 c 331 § 2; 2015 c 241 § 2; 2010 1st sp.s. c 26 § 6; 2005 c 360 § 2; (2005 c 477 § 1 expired August 31, 2005); 2004 c 196 § 1; 2003 c 152 § 1; prior: 2002 c 212 § 2; 2002 c 154 § 2; 1998 c 171 § 2; 1997 c 429 § 7; 1996 c 239 § 1; prior: 1995 c 400 § 3; 1995 c 377 § 1; 1990 1st ex.s. c 17 § 7.]

***Reviser's note:** RCW 36.70A.030 was amended by 2023 c 332 § 2 and 2023 c 228 § 14, changing subsection (23) to subsection (35).

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 § 1.]

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

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

Prospective application—1997 c 429 §§ 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 § 4.]

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

RCW 36.70A.080 Comprehensive plans——Optional elements. (1) A comprehensive plan may include additional elements, items, or studies dealing with other subjects relating to the physical development within its jurisdiction, including, but not limited to:

(a) Conservation;

(b) Solar energy; and

(c) Recreation.

(2) A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.

(3)(a) Cities that qualify as a receiving city may adopt a comprehensive plan element and associated development regulations that apply within receiving areas under chapter 39.108 RCW.

(b) For purposes of this subsection, the terms "receiving city" and "receiving area" have the same meanings as provided in RCW 39.108.010. [2011 c 318 § 801; 1990 1st ex.s. c 17 § 8.]

Rules——2011 c 318: See note following RCW 39.108.005.

RCW 36.70A.085 Comprehensive plans——Port elements. (1) Comprehensive plans of cities that have a marine container port with annual operating revenues in excess of sixty million dollars within their jurisdiction must include a container port element.

(2) Comprehensive plans of cities that include all or part of a port district with annual operating revenues in excess of twenty million dollars may include a marine industrial port element. Prior to adopting a marine industrial port element under this subsection (2), the commission of the applicable port district must adopt a resolution in support of the proposed element.

(3) Port elements adopted under subsections (1) and (2) of this section must be developed collaboratively between the city, the applicable port, and the applicable tribe, which shall comply with RCW 36.70A.040(8), and must establish policies and programs that:

(a) Define and protect the core areas of port and port-related industrial uses within the city;

(b) Provide reasonably efficient access to the core area through freight corridors within the city limits; and

(c) Identify and resolve key land use conflicts along the edge of the core area, and minimize and mitigate, to the extent practicable, incompatible uses along the edge of the core area.

(4) Port elements adopted under subsections (1) and (2) of this section must be:

(a) Completed and approved by the city according to the schedule specified in RCW 36.70A.130; and

(b) Consistent with the economic development, transportation, and land use elements of the city's comprehensive plan, and consistent with the city's capital facilities plan.

(5) In adopting port elements under subsections (1) and (2) of this section, cities and ports must: Ensure that there is consistency

between the port elements and the port comprehensive scheme required under chapters 53.20 and 53.25 RCW; and retain sufficient planning flexibility to secure emerging economic opportunities.

(6) In developing port elements under subsections (1) and (2) of this section, a city may utilize one or more of the following approaches:

(a) Creation of a port overlay district that protects container port uses;

(b) Use of industrial land banks;

(c) Use of buffers and transition zones between incompatible uses;

(d) Use of joint transportation funding agreements;

(e) Use of policies to encourage the retention of valuable warehouse and storage facilities;

(f) Use of limitations on the location or size, or both, of nonindustrial uses in the core area and surrounding areas; and

(g) Use of other approaches by agreement between the city and the port.

(7) The department of commerce must provide matching grant funds to cities meeting the requirements of subsection (1) of this section to support development of the required container port element.

(8) Any planned improvements identified in port elements adopted under subsections (1) and (2) of this section must be transmitted by the city to the transportation commission for consideration of inclusion in the statewide transportation plan required under RCW 47.01.071. [2023 c 470 § 2018; 2022 c 252 § 2; 2009 c 514 § 2.]

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

Findings——Intent——2009 c 514: "(1) The legislature finds that Washington's marine container ports operate within a complex system of marine terminal operations, truck and train transportation corridors, and industrial services that together support a critical amount of our state and national economy, including key parts of our state's manufacturing and agricultural sectors, and directly create thousands of high-wage jobs throughout our region.

(2) The legislature further finds that the container port services are increasingly challenged by the conversion of industrial properties to nonindustrial uses, leading to competing and incompatible uses that can hinder port operations, restrict efficient movement of freight, and limit the opportunity for improvements to existing port-related facilities.

(3) It is the intent of the legislature to ensure that local land use decisions are made in consideration of the long-term and widespread economic contribution of our international container ports and related industrial lands and transportation systems, and to ensure that container ports continue to function effectively alongside vibrant city waterfronts." [2009 c 514 § 1.]

RCW 36.70A.090 Comprehensive plans——Innovative techniques. A comprehensive plan should provide for innovative land use management techniques, including, but not limited to, density bonuses, cluster housing, planned unit developments, and the transfer of development rights. [1990 1st ex.s. c 17 § 9.]

RCW 36.70A.095 Comprehensive plans—Climate change and resiliency element—Affected counties. (1) The requirements of the greenhouse gas emissions reduction subelement of the climate change and resiliency element set forth in RCW 36.70A.070 apply only to those counties that are required or that choose to plan under RCW 36.70A.040 and that also meet either of the criteria set forth in (a), (b), or (c) of this subsection on or after April 1, 2021, and the cities with populations greater than 6,000 as of April 1, 2021, within those counties:

(a) A county with a population density of at least 100 people per square mile and a population of at least 200,000;

(b) A county bordering on the Columbia and Snake rivers with a population density of at least 75 people per square mile and an annual growth rate of at least 1.65 percent; or

(c) A county located to the west of the crest of the Cascade mountains with a population of at least 130,000.

(2) The requirements of the amendments to the transportation element of RCW 36.70A.070 set forth in chapter 228, Laws of 2023 apply only to: (a) Counties and cities that meet the population criteria set forth in subsection (1) of this section; and (b) cities with populations of 6,000 or greater as of April 1, 2021, that are located in a county that is required or that chooses to plan under RCW 36.70A.040.

(3) The requirements of the amendments to the land use element of RCW 36.70A.070 set forth in chapter 228, Laws of 2023 apply only to: (a) Counties and cities that meet the population criteria set forth in subsection (1) or (2) of this section; and (b) counties that have a population of 20,000 or greater as of April 1, 2021, and that are required or that choose to plan under RCW 36.70A.040.

(4) Once a county meets either of the sets of criteria set forth in subsection (1) of this section, the requirement to conform with the greenhouse gas emissions reduction subelement of the climate change and resiliency element set forth in RCW 36.70A.070 remains in effect, even if the county no longer meets one of these sets of criteria.

(5) If the population of a county that previously had not been required to conform with the greenhouse gas emissions reduction subelement of the climate change and resiliency element set forth in RCW 36.70A.070 changes sufficiently to meet either of the sets of criteria set forth in subsection (1) of this section, the county, and the cities with populations greater than 6,000 as of April 1, 2021, within that county, shall adopt a greenhouse gas emissions reduction subelement of the climate change and resiliency element set forth in RCW 36.70A.070 at the next scheduled update of the comprehensive plan as set forth in RCW 36.70A.130.

(6) The population criteria used in this section must be based on population data as determined by the office of financial management. [2023 c 228 § 4.]

RCW 36.70A.096 Comprehensive plans—Greenhouse gas emissions reduction subelement—Department approval. (1) A county or city required to complete a greenhouse gas emissions reduction subelement may submit the subelement to the department for approval. When submitted to the department for approval, the subelement becomes effective when approved by the department as provided in this section. If a county or city does not seek department approval of the

subelement, the effective date of the subelement is the date on which the comprehensive plan is adopted by the county or city.

(2) Notice of intent to apply for approval. (a) Not less than 120 days prior to applying for approval of a subelement, the county or city must notify the department in writing that it intends to apply for approval. The department shall review proposed subelements prior to final adoption and advise the county or city of the actions necessary to receive approval.

(b) The department may consult with other relevant state agencies in making its determination.

(c) The department shall publish notice in the Washington State Register that a city or county has notified the department of its intent to apply for approval and the department shall post a copy of the notice on the department website.

(3) Procedures for an application for approval. (a) After taking final action to adopt a greenhouse gas emissions reduction subelement, a city or county may apply to the department for approval of the subelement. A city or county must submit its application to the department within 10 days of taking final action.

(b) An application for approval must include, at a minimum, the following:

(i) A cover letter from the legislative authority requesting approval;

(ii) A copy of the adopted ordinance or resolution taking the legislative action or actions required to adopt the greenhouse gas emissions reduction subelement;

(iii) A statement explaining how the adopted subelement complies with the provisions of this chapter; and

(iv) A copy of the record developed by the city or county at any public meetings or public hearings at which action was taken on the greenhouse gas emissions reduction subelement.

(c) For purposes of this subsection, the terms "action" and "meeting" have the same definition as in RCW 42.30.020.

(4) Approval procedures. (a) The department shall strive to achieve final action to approve or deny an application within 180 days of the date of receipt of the application.

(b) The department must issue its decision in the form of a written statement, including findings of fact and conclusions, and noting the date of the issuance of its decision. The department's issued decision must conspicuously and plainly state that it is the department's final decision and that there will be no further modifications to the proposed greenhouse gas emissions reduction subelement.

(c) The department will promptly publish its decision on the application for approval as follows:

(i) Notify the city or county in writing of its determination;

(ii) Publish a notice of action in the Washington State Register;

(iii) Post a notice of its decision on the agency website; and

(iv) Notify other relevant state agencies regarding the approval decision.

(5) The department shall approve a proposed greenhouse gas emissions reduction subelement unless it determines that the proposed greenhouse gas emissions reduction subelement is not consistent with the policy of RCW 36.70A.070 and, after they are adopted, the applicable guidelines.

(6) The department's final decision to approve or reject a proposed greenhouse gas emissions reduction subelement or amendment by

a local government planning under RCW 36.70A.040 may be appealed according to the following provisions:

(a) The department's final decision to approve or reject a proposed greenhouse gas emissions reduction subelement or amendment by a local government planning under RCW 36.70A.040 may be appealed to the growth management hearings board by filing a petition as provided in RCW 36.70A.290.

(b) A decision of the growth management hearings board concerning an appeal of the department's final decision to approve or reject a proposed greenhouse gas emissions reduction subelement or amendment must be based solely on whether or not the adopted or amended greenhouse gas emissions reduction subelement, any adopted amendments to other elements of the comprehensive plan necessary to carry out the subelement, and any adopted or amended development regulations necessary to implement the subelement, comply with the goal set forth in RCW 36.70A.020(14) as it applies to greenhouse gas emissions reductions, RCW 36.70A.070(9) excluding RCW 36.70A.070(9)(e), the guidelines adopted under RCW 70A.45.120 applicable to the greenhouse gas emissions reduction subelement, or chapter 43.21C RCW. [2023 c 228 § 6.]

RCW 36.70A.097 Climate change and resiliency planning timeline—Funding. ***(Expires July 31, 2025.)*** (1) Notwithstanding the requirements of RCW 36.70A.070(10), it is the intent that jurisdictions subject to RCW 36.70A.130(5)(b) implement the requirements of chapter 228, Laws of 2023 on or before June 30, 2025. Any funding provided to cover applicable local government costs related to implementation of chapter 228, Laws of 2023 shall be considered timely.

(2) This section expires July 31, 2025. [2023 c 228 § 16.]

RCW 36.70A.100 Comprehensive plans—Must be coordinated. The comprehensive plan of each county or city that is adopted pursuant to RCW 36.70A.040 shall be coordinated with, and consistent with, the comprehensive plans adopted pursuant to RCW 36.70A.040 of other counties or cities with which the county or city has, in part, common borders or related regional issues. [1990 1st ex.s. c 17 § 10.]

RCW 36.70A.103 State agencies required to comply with comprehensive plans. State agencies shall comply with the local comprehensive plans and development regulations and amendments thereto adopted pursuant to this chapter except as otherwise provided in RCW 71.09.250 (1) through (3), 71.09.342, and 72.09.333.

The provisions of chapter 12, Laws of 2001 2nd sp. sess. do not affect the state's authority to site any other essential public facility under RCW 36.70A.200 in conformance with local comprehensive plans and development regulations adopted pursuant to chapter 36.70A RCW. [2002 c 68 § 15; 2001 2nd sp.s. c 12 § 203; 1991 sp.s. c 32 § 4.]

Purpose—Severability—Effective date—2002 c 68: See notes following RCW 36.70A.200.

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

RCW 36.70A.106 Comprehensive plans—Development regulations—Transmittal to state—Amendments—Expedited review. (1) Each county and city proposing adoption of a comprehensive plan or development regulations under this chapter shall notify the department of its intent to adopt such plan or regulations at least sixty days prior to final adoption. State agencies including the department may provide comments to the county or city on the proposed comprehensive plan, or proposed development regulations, during the public review process prior to adoption.

(2) Each county and city planning under this chapter shall transmit a complete and accurate copy of its comprehensive plan or development regulations to the department within ten days after final adoption.

(3)(a) Any amendments for permanent changes to a comprehensive plan or development regulation that are proposed by a county or city to its adopted plan or regulations shall be submitted to the department in the same manner as initial plans and development regulations under this section. Any amendments to a comprehensive plan or development regulations that are adopted by a county or city shall be transmitted to the department in the same manner as the initial plans and regulations under this section.

(b) Each county and city planning under this chapter may request expedited review for any amendments for permanent changes to a development regulation. Upon receiving a request for expedited review, and after consultation with other state agencies, the department may grant expedited review if the department determines that expedited review does not compromise the state's ability to provide timely comments related to compliance with the goals and requirements of this chapter or on other matters of state interest. Cities and counties may adopt amendments for permanent changes to a development regulation immediately following the granting of the request for expedited review by the department.

(c) A federally recognized Indian tribe may request to receive from the department copies of notices received from cities or counties under this section. Upon receipt of a submittal from a city or county under this section, the department shall forward the submittal to any tribe that has requested notification. [2022 c 252 § 3; 2004 c 197 § 1; 1991 sp.s. c 32 § 8.]

RCW 36.70A.108 Comprehensive plans—Transportation element—Multimodal transportation improvements and strategies. (1) The transportation element required by RCW 36.70A.070 may include, in addition to improvements or strategies to accommodate the impacts of development authorized under RCW 36.70A.070(6)(b), multimodal transportation improvements or strategies that are made concurrent with the development. These transportation improvements or strategies may include, but are not limited to, measures implementing or evaluating:

(a) Multiple modes of transportation with peak and nonpeak hour capacity performance standards for locally owned transportation facilities; and

(b) Modal performance standards meeting the peak and nonpeak hour capacity performance standards.

(2) Any county located to the west of the crest of the Cascade mountains that has both a population of at least four hundred thousand and a border that touches another state, and any city in such county, may include development of freight rail dependent uses on land adjacent to a short line railroad in the transportation element required by RCW 36.70A.070. Such counties and cities may also modify development regulations to include development of freight rail dependent uses that do not require urban governmental services in rural lands.

(3) Nothing in this section or RCW 36.70A.070(6)(b) shall be construed as prohibiting a county or city planning under RCW 36.70A.040 from exercising existing authority to develop multimodal improvements or strategies to satisfy the concurrency requirements of this chapter.

(4) Nothing in this section is intended to affect or otherwise modify the authority of jurisdictions planning under RCW 36.70A.040. [2017 3rd sp.s. c 18 § 5; 2005 c 328 § 1.]

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

RCW 36.70A.110 Comprehensive plans—Urban growth areas. (1) Each county that is required or chooses to plan under RCW 36.70A.040 shall designate an urban growth area or areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature. Each city that is located in such a county shall be included within an urban growth area. An urban growth area may include more than a single city. An urban growth area may include territory that is located outside of a city only if such territory already is characterized by urban growth whether or not the urban growth area includes a city, or is adjacent to territory already characterized by urban growth, or is a designated new fully contained community as defined by RCW 36.70A.350. When a federally recognized Indian tribe whose reservation or ceded lands lie within the county or city has voluntarily chosen to participate in the planning process pursuant to RCW 36.70A.040, the county or city and the tribe shall coordinate their planning efforts for any areas planned for urban growth consistent with the terms outlined in the memorandum of agreement provided for in RCW 36.70A.040(8).

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

Each urban growth area shall permit urban densities and shall include greenbelt and open space areas. In the case of urban growth areas contained totally within a national historical reserve, the city may restrict densities, intensities, and forms of urban growth as

determined to be necessary and appropriate to protect the physical, cultural, or historic integrity of the reserve. An urban growth area determination may include a reasonable land market supply factor and shall permit a range of urban densities and uses. In determining this market factor, cities and counties may consider local circumstances. Cities and counties have discretion in their comprehensive plans to make many choices about accommodating growth.

Within one year of July 1, 1990, each county that as of June 1, 1991, was required or chose to plan under RCW 36.70A.040, shall begin consulting with each city located within its boundaries and each city shall propose the location of an urban growth area. Within sixty days of the date the county legislative authority of a county adopts its resolution of intention or of certification by the office of financial management, all other counties that are required or choose to plan under RCW 36.70A.040 shall begin this consultation with each city located within its boundaries. The county shall attempt to reach agreement with each city on the location of an urban growth area within which the city is located. If such an agreement is not reached with each city located within the urban growth area, the county shall justify in writing why it so designated the area an urban growth area. A city may object formally with the department over the designation of the urban growth area within which it is located. Where appropriate, the department shall attempt to resolve the conflicts, including the use of mediation services.

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

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

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

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

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

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

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

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

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

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

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

(iii) Urban growth area expansions where:

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

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

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

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

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

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

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

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

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

(iii) Have no redevelopment capacity; or

(b) Do not require sewer service because development densities are limited due to wetlands, floodplains, fish and wildlife habitats, or geological hazards. [2022 c 252 § 4; 2017 c 305 § 1; 2010 c 211 § 1. Prior: 2009 c 342 § 1; 2009 c 121 § 1; 2004 c 206 § 1; 2003 c 299 § 5; 1997 c 429 § 24; 1995 c 400 § 2; 1994 c 249 § 27; 1993 sp.s. c 6 § 2; 1991 sp.s. c 32 § 29; 1990 1st ex.s. c 17 § 11.]

Effective date—Transfer of power, duties, and functions—2010 c 211: See notes following RCW 36.70A.250.

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

Construction—Application—1995 c 400: See note following RCW 36.70A.070.

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

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 36.70A.115 Comprehensive plans and development regulations must provide sufficient land capacity for development. (1) Counties and cities that are required or choose to plan under RCW 36.70A.040 shall ensure that, taken collectively, adoption of and amendments to their comprehensive plans and/or development regulations provide sufficient capacity of land suitable for development within their jurisdictions to accommodate their allocated housing and employment growth, including the accommodation of, as appropriate, the medical, governmental, educational, institutional, commercial, and industrial facilities related to such growth, as adopted in the applicable countywide planning policies and consistent with the twenty-year population forecast from the office of financial management.

(2) This analysis shall include the reasonable measures findings developed under RCW 36.70A.215, if applicable to such counties and cities. [2017 3rd sp.s. c 16 § 1; 2009 c 121 § 3; 2003 c 333 § 1.]

RCW 36.70A.120 Planning activities and capital budget decisions—Implementation in conformity with comprehensive plan. Each county and city that is required or chooses to plan under RCW 36.70A.040 shall perform its activities and make capital budget decisions in conformity with its comprehensive plan. [1993 sp.s. c 6 § 3; 1990 1st ex.s. c 17 § 12.]

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

RCW 36.70A.130 Comprehensive plans—Review procedures and schedules—Implementation progress report. (1)(a) Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted

them. Except as otherwise provided, a county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section.

(b)(i) A city or town located within [a] county planning under RCW 36.70A.040 may opt out of a full review and revisions of its comprehensive plan established in this section if the city or town meets the following criteria:

(A) Has a population fewer than 500;

(B) Is not located within 10 miles of a city with a population over 100,000;

(C) Experienced a population growth rate of fewer than 10 percent in the preceding 10 years; and

(D) Has provided the department with notice of its intent to participate in a partial review and revision of its comprehensive plan.

(ii) The department shall review the population growth rate for a city or town participating in the partial review and revision of its comprehensive plan process at least three years before the periodic update is due as outlined in subsection (4) of this section and notify cities of their eligibility.

(iii) A city or town that opts out of a full review and revision of its comprehensive plan must update its critical areas regulations and its capital facilities element and its transportation element.

(c) Except as otherwise provided, a county or city not planning under RCW 36.70A.040 shall take action to review and, if needed, revise its policies and development regulations regarding critical areas and natural resource lands adopted according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section. Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefor.

(d) The review and evaluation required by this subsection shall include, but is not limited to, consideration of critical area ordinances and, if planning under RCW 36.70A.040, an analysis of the population allocated to a city or county from the most recent 10-year population forecast by the office of financial management.

(e) Any amendment of or revision to a comprehensive land use plan shall conform to this chapter. Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program consistent with RCW 36.70A.035 and 36.70A.140 that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year. "Updates" means to review and revise, if needed, according to subsection (1) of this section, and the deadlines in subsections (4) and (5) of this section or in accordance with the provisions of subsection (6) of this section. Amendments may be considered more frequently than once per year under the following circumstances:

(i) The initial adoption of a subarea plan. Subarea plans adopted under this subsection (2)(a)(i) must clarify, supplement, or implement jurisdiction-wide comprehensive plan policies, and may only be adopted if the cumulative impacts of the proposed plan are addressed by appropriate environmental review under chapter 43.21C RCW;

(ii) The development of an initial subarea plan for economic development located outside of the 100 year floodplain in a county that has completed a state-funded pilot project that is based on watershed characterization and local habitat assessment;

(iii) The adoption or amendment of a shoreline master program under the procedures set forth in chapter 90.58 RCW;

(iv) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget; or

(v) The adoption of comprehensive plan amendments necessary to enact a planned action under RCW 43.21C.440, provided that amendments are considered in accordance with the public participation program established by the county or city under this subsection (2)(a) and all persons who have requested notice of a comprehensive plan update are given notice of the amendments and an opportunity to comment.

(b) Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with the growth management hearings board or with the court.

(3)(a) Each county that designates urban growth areas under RCW 36.70A.110 shall review, according to the schedules established in subsections (4) and (5) of this section, its designated urban growth area or areas, patterns of development occurring within the urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

(b) The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding 20-year period. The review required by this subsection may be combined with the review and evaluation required by RCW 36.70A.215.

(c) If, during the county's review under (a) of this subsection, the county determines revision of the urban growth area is not required to accommodate the urban growth projected to occur in the county for the succeeding 20-year period, but does determine that patterns of development have created pressure in areas that exceed available, developable lands within the urban growth area, the urban growth area or areas may be revised to accommodate identified patterns of development and likely future development pressure for the succeeding 20-year period if the following requirements are met:

(i) The revised urban growth area may not result in an increase in the total surface areas of the urban growth area or areas;

(ii) The areas added to the urban growth area are not or have not been designated as agricultural, forest, or mineral resource lands of long-term commercial significance;

(iii) Less than 15 percent of the areas added to the urban growth area are critical areas;

(iv) The areas added to the urban growth areas are suitable for urban growth;

(v) The transportation element and capital facility plan element have identified the transportation facilities, and public facilities and services needed to serve the urban growth area and the funding to provide the transportation facilities and public facilities and services;

(vi) The urban growth area is not larger than needed to accommodate the growth planned for the succeeding 20-year planning period and a reasonable land market supply factor;

(vii) The areas removed from the urban growth area do not include urban growth or urban densities; and

(viii) The revised urban growth area is contiguous, does not include holes or gaps, and will not increase pressures to urbanize rural or natural resource lands.

(4) Except as otherwise provided in subsections (6) and (8) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) On or before June 30, 2015, for King, Pierce, and Snohomish counties and the cities within those counties;

(b) On or before June 30, 2016, for Clallam, Clark, Island, Jefferson, Kitsap, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(c) On or before June 30, 2017, for Benton, Chelan, Cowlitz, Douglas, Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before June 30, 2018, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(5) Except as otherwise provided in subsections (6) and (8) of this section, following the review of comprehensive plans and development regulations required by subsection (4) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) Except as provided in subsection (10) of this section, on or before December 31, 2024, with the following review and, if needed, revision on or before June 30, 2034, and then every 10 years thereafter, for King, Kitsap, Pierce, and Snohomish counties and the cities within those counties;

(b) On or before June 30, 2025, and every 10 years thereafter, for Clallam, Clark, Island, Jefferson, Lewis, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(c) On or before June 30, 2026, and every 10 years thereafter, for Benton, Chelan, Cowlitz, Douglas, Franklin, Kittitas, Skamania, Spokane, Walla Walla, and Yakima counties and the cities within those counties; and

(d) On or before June 30, 2027, and every 10 years thereafter, for Adams, Asotin, Columbia, Ferry, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, and Whitman counties and the cities within those counties.

(6)(a) Nothing in this section precludes a county or city from conducting the review and evaluation required by this section before the deadlines established in subsections (4) and (5) of this section. Counties and cities may begin this process early and may be eligible for grants from the department, subject to available funding, if they elect to do so.

(b) A county that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the 24 months following the deadline established in subsection (5) of this section: The county has a population of less than 50,000 and has had its population increase by no more than 17 percent in the 10 years preceding the deadline established in subsection (5) of this section as of that date.

(c) A city that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the 24 months following the deadline established in subsection (5) of this section: The city has a population of no more than 5,000 and has had its population increase by the greater of either no more than 100 persons or no more than 17 percent in the 10 years preceding the deadline established in subsection (5) of this section as of that date.

(d) State agencies are encouraged to provide technical assistance to the counties and cities in the review of critical area ordinances, comprehensive plans, and development regulations.

(7)(a) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW 36.70A.040(1). Only those counties and cities that meet the following criteria may receive grants, loans, pledges, or financial guarantees under chapter 43.155 or 70A.135 RCW:

(i) Complying with the deadlines in this section; or

(ii) Demonstrating substantial progress towards compliance with the schedules in this section for development regulations that protect critical areas.

(b) A county or city that is fewer than 12 months out of compliance with the schedules in this section for development regulations that protect critical areas is making substantial progress towards compliance. Only those counties and cities in compliance with the schedules in this section may receive preference for grants or loans subject to the provisions of RCW 43.17.250.

(8)(a) Except as otherwise provided in (c) of this subsection, if a participating watershed is achieving benchmarks and goals for the protection of critical areas functions and values, the county is not required to update development regulations to protect critical areas as they specifically apply to agricultural activities in that watershed.

(b) A county that has made the election under RCW 36.70A.710(1) may only adopt or amend development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed if:

(i) A work plan has been approved for that watershed in accordance with RCW 36.70A.725;

(ii) The local watershed group for that watershed has requested the county to adopt or amend development regulations as part of a work plan developed under RCW 36.70A.720;

(iii) The adoption or amendment of the development regulations is necessary to enable the county to respond to an order of the growth management hearings board or court;

(iv) The adoption or amendment of development regulations is necessary to address a threat to human health or safety; or

(v) Three or more years have elapsed since the receipt of funding.

(c) Beginning 10 years from the date of receipt of funding, a county that has made the election under RCW 36.70A.710(1) must review and, if necessary, revise development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed in accordance with the review and revision requirements and timeline in subsection (5) of this section. This subsection (8)(c) does not apply to a participating watershed that has determined under RCW 36.70A.720(2)(c)(ii) that the watershed's goals and benchmarks for protection have been met.

(9)(a) Counties subject to planning deadlines established in subsection (5) of this section that are required or that choose to plan under RCW 36.70A.040 and that meet either criteria of (a)(i) or (ii) of this subsection, and cities with a population of more than 6,000 as of April 1, 2021, within those counties, must provide to the department an implementation progress report detailing the progress they have achieved in implementing their comprehensive plan five years after the review and revision of their comprehensive plan. Once a county meets the criteria in (a)(i) or (ii) of this subsection, the implementation progress report requirements remain in effect thereafter for that county and the cities therein with populations greater than 6,000 as of April 1, 2021, even if the county later no longer meets either or both criteria. A county is subject to the implementation progress report requirement if it meets either of the following criteria on or after April 1, 2021:

(i) The county has a population density of at least 100 people per square mile and a population of at least 200,000; or

(ii) The county has a population density of at least 75 people per square mile and an annual growth rate of at least 1.75 percent as determined by the office of financial management.

(b) The department shall adopt guidelines for indicators, measures, milestones, and criteria for use by counties and cities in the implementation progress report that must cover:

(i) The implementation of previously adopted changes to the housing element and any effect those changes have had on housing affordability and availability within the jurisdiction;

(ii) Permit processing timelines; and

(iii) Progress toward implementing any actions required to achieve reductions to meet greenhouse gas and vehicle miles traveled requirements as provided for in any element of the comprehensive plan under RCW 36.70A.070.

(c) If a city or county required to provide an implementation progress report under this subsection (9) has not implemented any specifically identified regulations, zoning and land use changes, or taken other legislative or administrative action necessary to implement any changes in the most recent periodic update in their comprehensive plan by the due date for the implementation progress report, the city or county must identify the need for such action in

the implementation progress report. Cities and counties must adopt a work plan to implement any necessary regulations, zoning and land use changes, or take other legislative or administrative action identified in the implementation progress report and complete all work necessary for implementation within two years of submission of the implementation progress report.

(10) Any county or city that is required by RCW 36.70A.095 to include in its comprehensive plan a climate change and resiliency element and that is also required by subsection (5)(a) of this section to review and, if necessary, revise its comprehensive plan on or before December 31, 2024, must update its transportation element and incorporate a climate change and resiliency element into its comprehensive plan as part of the first implementation progress report required by subsection (9) of this section if funds are appropriated and distributed by December 31, 2027, as required under RCW 36.70A.070(10). [2023 c 280 § 1; 2023 c 228 § 15. Prior: 2022 c 287 § 1; 2022 c 192 § 1; prior: 2020 c 113 § 1; 2020 c 20 § 1026; 2012 c 191 § 1; prior: 2011 c 360 § 16; 2011 c 353 § 2; prior: 2010 c 216 § 1; 2010 c 211 § 2; 2009 c 479 § 23; 2006 c 285 § 2; prior: 2005 c 423 § 6; 2005 c 294 § 2; 2002 c 320 § 1; 1997 c 429 § 10; 1995 c 347 § 106; 1990 1st ex.s. c 17 § 13.]

Reviser's note: This section was amended by 2023 c 228 § 15 and by 2023 c 280 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—2011 c 353: "It is the legislature's intent to provide local governments with more time to meet certain statutory requirements. Many cities and counties in Washington are facing revenue shortfalls, higher expenses, and more difficulty with borrowing money as a result of the economic downturn. The effects of the economic downturn on the budgets of local governments will be felt most deeply from 2010 to 2012. Local governments are facing the combined impact of decreased tax revenues, a falloff in state and federal aid, and increased demand for social services. With the loss of tax revenue and state and federal aid, local governments are being forced to make significant cuts that will eliminate jobs, curtail essential services, and increase the number of people in need. Additionally, local governments are struggling to comply with certain statutory requirements. Local governments want to comply with these statutory requirements, but with budget constraints, they need more time to do so. The legislature does not intend to remove any existing statutory requirement, but rather modify the time under which a local government must meet certain statutory requirements." [2011 c 353 § 1.]

Effective date—Transfer of power, duties, and functions—2010 c 211: See notes following RCW 36.70A.250.

Effective date—2009 c 479: See note following RCW 2.56.030.

Intent—2006 c 285: "There is a statewide interest in maintaining coordinated planning as called for in the legislative findings of the growth management act, RCW 36.70A.010. It is the intent of the legislature that smaller, slower-growing counties and cities be provided with flexibility in meeting the requirements to review local

plans and development regulations in RCW 36.70A.130, while ensuring coordination and consistency with the plans of neighboring cities and counties." [2006 c 285 § 1.]

Intent—Effective date—2005 c 423: See notes following RCW 36.70A.030.

Intent—2005 c 294: "The legislature recognizes the importance of appropriate and meaningful land use measures and that such measures are critical to preserving and fostering the quality of life enjoyed by Washingtonians. The legislature recognizes also that the growth management act requires counties and cities to review and, if needed, revise their comprehensive plans and development regulations on a cyclical basis. These requirements, which often require significant compliance efforts by local governments are, in part, an acknowledgment of the continual changes that occur within the state, and the need to ensure that land use measures reflect the collective wishes of its citizenry.

The legislature acknowledges that only those jurisdictions in compliance with the review and revision schedules of the growth management act are eligible to receive funds from the public works assistance and water quality accounts in the state treasury. The legislature further recognizes that some jurisdictions that are not yet in compliance with these review and revision schedules have demonstrated substantial progress towards compliance.

The legislature, therefore, intends to grant jurisdictions that are not in compliance with requirements for development regulations that protect critical areas, but are demonstrating substantial progress towards compliance with these requirements, twelve months of additional eligibility to receive grants, loans, pledges, or financial guarantees from the public works assistance and water quality accounts in the state treasury. The legislature intends to specify, however, that only counties and cities in compliance with the review and revision schedules of the growth management act may receive preference for financial assistance from these accounts." [2005 c 294 § 1.]

Effective date—2005 c 294: "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 5, 2005]." [2005 c 294 § 3.]

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

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

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

Definitions: See RCW 36.70A.703.

RCW 36.70A.130(2) does not apply to master planned locations in industrial land banks: RCW 36.70A.367(2)(c).

RCW 36.70A.131 Mineral resource lands—Review of related designations and development regulations. As part of the review required by RCW 36.70A.130(1), a county or city shall review its mineral resource lands designations adopted pursuant to RCW 36.70A.170 and mineral resource lands development regulations adopted pursuant to RCW 36.70A.040 and 36.70A.060. In its review, the county or city shall take into consideration:

(1) New information made available since the adoption or last review of its designations or development regulations, including data available from the department of natural resources relating to mineral resource deposits; and

(2) New or modified model development regulations for mineral resource lands prepared by the department of natural resources, the department of commerce, or the Washington state association of counties. [2023 c 470 § 2019; 1998 c 286 § 7.]

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

RCW 36.70A.140 Comprehensive plans—Ensure public participation. Each county and city that is required or chooses to plan under RCW 36.70A.040 shall establish and broadly disseminate to the public a public participation program identifying procedures providing for early and continuous public participation in the development and amendment of comprehensive land use plans and development regulations implementing such plans. The procedures shall provide for broad dissemination of proposals and alternatives, opportunity for written comments, public meetings after effective notice, provision for open discussion, communication programs, information services, and consideration of and response to public comments. In enacting legislation in response to the board's decision pursuant to RCW 36.70A.300 declaring part or all of a comprehensive plan or development regulation invalid, the county or city shall provide for public participation that is appropriate and effective under the circumstances presented by the board's order. Errors in exact compliance with the established program and procedures shall not render the comprehensive land use plan or development regulations invalid if the spirit of the program and procedures is observed. [1995 c 347 § 107; 1990 1st ex.s. c 17 § 14.]

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

RCW 36.70A.142 Comprehensive plans—Siting of organic materials management facilities. Development regulations to implement comprehensive plans under this chapter that are newly developed, updated, or amended after January 1, 2025, must allow for the siting of organic materials management facilities in the areas identified in RCW 70A.205.040(3)(a)(i) to the extent necessary to provide for the establishment of the organic materials management volumetric capacity identified under RCW 70A.205.040(3)(a)(ii). [2022 c 180 § 602.]

Findings—Intent—Scope of authority of chapter 180, Laws of 2022—2022 c 180: See notes following RCW 70A.205.007.

RCW 36.70A.150 Identification of lands useful for public purposes. Each county and city that is required or chooses to prepare a comprehensive land use plan under RCW 36.70A.040 shall identify lands useful for public purposes such as utility corridors, transportation corridors, landfills, sewage treatment facilities, stormwater management facilities, recreation, schools, and other public uses. The county shall work with the state and the cities within its borders to identify areas of shared need for public facilities. The jurisdictions within the county shall prepare a prioritized list of lands necessary for the identified public uses including an estimated date by which the acquisition will be needed.

The respective capital acquisition budgets for each jurisdiction shall reflect the jointly agreed upon priorities and time schedule. [1991 c 322 § 23; 1990 1st ex.s. c 17 § 15.]

Findings—Intent—1991 c 322: See notes following RCW 86.12.200.

RCW 36.70A.160 Identification of open space corridors—Purchase authorized. Each county and city that is required or chooses to prepare a comprehensive land use plan under RCW 36.70A.040 shall identify open space corridors within and between urban growth areas. They shall include lands useful for recreation, wildlife habitat, trails, and connection of critical areas as defined in RCW 36.70A.030. Identification of a corridor under this section by a county or city shall not restrict the use or management of lands within the corridor for agricultural or forest purposes. Restrictions on the use or management of such lands for agricultural or forest purposes imposed after identification solely to maintain or enhance the value of such lands as a corridor may occur only if the county or city acquires sufficient interest to prevent development of the lands or to control the resource development of the lands. The requirement for acquisition of sufficient interest does not include those corridors regulated by the interstate commerce commission, under provisions of 16 U.S.C. Sec. 1247(d), 16 U.S.C. Sec. 1248, or 43 U.S.C. Sec. 912. Nothing in this section shall be interpreted to alter the authority of the state, or a county or city, to regulate land use activities.

The city or county may acquire by donation or purchase the fee simple or lesser interests in these open space corridors using funds authorized by RCW 84.34.230 or other sources. [1992 c 227 § 1; 1990 1st ex.s. c 17 § 16.]

RCW 36.70A.165 Property designated as greenbelt or open space—Not subject to adverse possession. The legislature recognizes that the preservation of urban greenbelts is an integral part of comprehensive growth management in Washington. The legislature further recognizes that certain greenbelts are subject to adverse possession action which, if carried out, threaten the comprehensive nature of this chapter. Therefore, a party shall not acquire by adverse possession property that is designated as a plat greenbelt or open space area or that is dedicated as open space to a public agency or to a bona fide homeowner's association. [1997 c 429 § 41.]

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

RCW 36.70A.170 Natural resource lands and critical areas—Designations. (1) On or before September 1, 1991, each county, and each city, shall designate where appropriate:

(a) Agricultural lands that are not already characterized by urban growth and that have long-term significance for the commercial production of food or other agricultural products;

(b) Forestlands that are not already characterized by urban growth and that have long-term significance for the commercial production of timber;

(c) Mineral resource lands that are not already characterized by urban growth and that have long-term significance for the extraction of minerals; and

(d) Critical areas.

(2) In making the designations required by this section, counties and cities shall consider the guidelines established pursuant to RCW 36.70A.050. [1990 1st ex.s. c 17 § 17.]

RCW 36.70A.171 Playing fields—Compliance with this chapter. In accordance with RCW 36.70A.030, 36.70A.060, *36.70A.1701, and 36.70A.130, playing fields and supporting facilities existing before July 1, 2004, on designated recreational lands shall be considered in compliance with the requirements of this chapter. [2005 c 423 § 5.]

***Reviser's note:** RCW 36.70A.1701 expired June 30, 2006.

Intent—Effective date—2005 c 423: See notes following RCW 36.70A.030.

RCW 36.70A.172 Critical areas—Designation and protection—Best available science to be used. (1) In designating and protecting critical areas under this chapter, counties and cities shall include the best available science in developing policies and development regulations to protect the functions and values of critical areas. In addition, counties and cities shall give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries.

(2) If it determines that advice from scientific or other experts is necessary or will be of substantial assistance in reaching its decision, the growth management hearings board may retain scientific or other expert advice to assist in reviewing a petition under RCW 36.70A.290 that involves critical areas. [2010 c 211 § 3; 1995 c 347 § 105.]

Effective date—Transfer of power, duties, and functions—2010 c 211: See notes following RCW 36.70A.250.

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

RCW 36.70A.175 Wetlands to be delineated in accordance with manual. Wetlands regulated under development regulations adopted pursuant to this chapter shall be delineated in accordance with the

manual adopted by the department pursuant to RCW 90.58.380. [1995 c 382 § 12.]

RCW 36.70A.177 Agricultural lands—Innovative zoning techniques—Accessory uses. (1) A county or a city may use a variety of innovative zoning techniques in areas designated as agricultural lands of long-term commercial significance under RCW 36.70A.170. The innovative zoning techniques should be designed to conserve agricultural lands and encourage the agricultural economy. Except as provided in subsection (3) of this section, a county or city should encourage nonagricultural uses to be limited to lands with poor soils or otherwise not suitable for agricultural purposes.

(2) Innovative zoning techniques a county or city may consider include, but are not limited to:

(a) Agricultural zoning, which limits the density of development and restricts or prohibits nonfarm uses of agricultural land and may allow accessory uses, including nonagricultural accessory uses and activities, that support, promote, or sustain agricultural operations and production, as provided in subsection (3) of this section;

(b) Cluster zoning, which allows new development on one portion of the land, leaving the remainder in agricultural or open space uses;

(c) Large lot zoning, which establishes as a minimum lot size the amount of land necessary to achieve a successful farming practice;

(d) Quarter/quarter zoning, which permits one residential dwelling on a one-acre minimum lot for each one-sixteenth of a section of land; and

(e) Sliding scale zoning, which allows the number of lots for single-family residential purposes with a minimum lot size of one acre to increase inversely as the size of the total acreage increases.

(3) Accessory uses allowed under subsection (2)(a) of this section shall comply with the following:

(a) Accessory uses shall be located, designed, and operated so as to not interfere with, and to support the continuation of, the overall agricultural use of the property and neighboring properties, and shall comply with the requirements of this chapter;

(b) Accessory uses may include:

(i) Agricultural accessory uses and activities, including but not limited to the storage, distribution, and marketing of regional agricultural products from one or more producers, agriculturally related experiences, or the production, marketing, and distribution of value-added agricultural products, including support services that facilitate these activities; and

(ii) Nonagricultural accessory uses and activities as long as they are consistent with the size, scale, and intensity of the existing agricultural use of the property and the existing buildings on the site. Nonagricultural accessory uses and activities, including new buildings, parking, or supportive uses, shall not be located outside the general area already developed for buildings and residential uses and shall not otherwise convert more than one acre of agricultural land to nonagricultural uses; and

(c) Counties and cities have the authority to limit or exclude accessory uses otherwise authorized in this subsection (3) in areas designated as agricultural lands of long-term commercial significance.

(4) This section shall not be interpreted to limit agricultural production on designated agricultural lands. [2006 c 147 § 1; 2004 c 207 § 1; 1997 c 429 § 23.]

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

RCW 36.70A.180 Chapter implementation—Intent. It is the intent of the legislature that counties and cities required to adopt a comprehensive plan under RCW 36.70A.040(1) begin implementing this chapter on or before July 1, 1990, including but not limited to: (1) Inventorying, designating, and conserving agricultural, forest, and mineral resource lands, and critical areas; and (2) considering the modification or adoption of comprehensive land use plans and development regulations implementing the comprehensive land use plans. It is also the intent of the legislature that funds be made available to counties and cities beginning July 1, 1990, to assist them in meeting the requirements of this chapter. [2012 1st sp.s. c 5 § 3; 1990 1st ex.s. c 17 § 19.]

RCW 36.70A.190 Technical assistance—Grants—Mediation services—Resolution of tribal disputes—Model climate change and resiliency element. (1) The department shall establish a program of technical and financial assistance and incentives to counties and cities to encourage and facilitate the adoption and implementation of comprehensive plans and development regulations throughout the state.

(2) The department shall develop a priority list and establish funding levels for planning and technical assistance grants both for counties and cities that plan under RCW 36.70A.040. Priority for assistance shall be based on a county's or city's population growth rates, commercial and industrial development rates, the existence and quality of a comprehensive plan and development regulations, the presence of overburdened communities, and other relevant factors. The department shall establish funding levels for grants to community-based organizations for the specific purpose of advancing participation of vulnerable populations and overburdened communities in the planning process.

(3) The department shall develop and administer a grant program to provide direct financial assistance to counties and cities for the preparation of comprehensive plans under this chapter. The department may establish provisions for county and city matching funds to conduct activities under this subsection. Grants may be expended for any purpose directly related to the preparation of a county or city comprehensive plan as the county or city and the department may agree, including, without limitation, the conducting of surveys, inventories and other data gathering and management activities, the retention of planning consultants, contracts with regional councils for planning and related services, and other related purposes.

(4) The department shall establish a program of technical assistance:

(a) Utilizing department staff, the staff of other state agencies, and the technical resources of counties and cities to help in the development of comprehensive plans required under this chapter. The technical assistance may include, but not be limited to, model

land use ordinances, regional education and training programs, and information for local and regional inventories; and

(b) Adopting by rule procedural criteria to assist counties and cities in adopting comprehensive plans and development regulations that meet the goals and requirements of this chapter. These criteria shall reflect regional and local variations and the diversity that exists among different counties and cities that plan under this chapter.

(5) The department shall provide mediation services to resolve disputes between counties and cities regarding, among other things, coordination of regional issues and designation of urban growth areas.

(6) The department shall provide services to facilitate the timely resolution of disputes between a federally recognized Indian tribe and a city or county.

(a) A federally recognized Indian tribe may request the department to provide facilitation services to resolve issues of concern with a proposed comprehensive plan and its development regulations, or any amendment to the comprehensive plan and its development regulations.

(b) Upon receipt of a request from a tribe, the department shall notify the city or county of the request and offer to assist in providing facilitation services to encourage resolution before adoption of the proposed comprehensive plan. Upon receipt of the notice from the department, the city or county must delay any final action to adopt any comprehensive plan or any amendment or its development regulations for at least 60 days. The tribe and the city or county may jointly agree to extend this period by notifying the department. A county or city must not be penalized for noncompliance under this chapter due to any delays associated with this process.

(c) Upon receipt of a request, the department shall provide comments to the county or city including a summary and supporting materials regarding the tribe's concerns. The county or city may either agree to amend the comprehensive plan as requested consistent with the comments from the department, or enter into a facilitated process with the tribe, which must be arranged by the department using a suitable expert to be paid by the department. This facilitated process may also extend the 60-day delay of adoption, upon agreement of the tribe and the city or county.

(d) At the end of the 60-day period, unless by agreement there is an extension of the 60-day period, the city or county may proceed with adoption of the proposed comprehensive plan and development regulations. The facilitator shall write a report of findings describing the basis for agreements or disagreements that occurred during the process that are allowed to be disclosed by the parties and the resulting agreed-upon elements of the plan to be amended.

(7) The department shall provide planning grants to enhance citizen participation under RCW 36.70A.140.

(8) The department shall develop, in collaboration with the department of ecology, the department of fish and wildlife, the department of natural resources, the department of health, the emergency management division of the military department, as well as any federally recognized tribe who chooses to voluntarily participate, and adopt by rule guidance that creates a model climate change and resiliency element that may be used by counties, cities, and multiple-county planning regions for developing and implementing climate change and resiliency plans and policies required by RCW 36.70A.070(9), subject to the following provisions:

(a) The model element must establish minimum requirements, and may include model options or voluntary cross-jurisdictional strategies, or both, for fulfilling the requirements of RCW 36.70A.070(9);

(b) The model element should provide guidance on identifying, designing, and investing in infrastructure that supports community resilience to climate impacts, including the protection, restoration, and enhancement of natural infrastructure as well as traditional infrastructure and protecting and enhancing natural areas to foster resiliency to climate impacts, as well as areas of vital habitat for safe passage and species migration;

(c) The model element should provide guidance on identifying and addressing natural hazards created or aggravated by climate change, including sea level rise, landslides, flooding, drought, heat, smoke, wildfires, and other effects of reasonably anticipated changes to temperature and precipitation patterns; and

(d) The rule must recognize and promote as many cobenefits of climate resilience as possible such as climate change mitigation, salmon recovery, forest health, ecosystem services, and socioeconomic health and resilience. [2023 c 228 § 9; 2022 c 252 § 5; 1991 sp.s. c 32 § 3; 1990 1st ex.s. c 17 § 20.]

RCW 36.70A.200 Siting of essential public facilities—Limitation on liability. (1)(a) The comprehensive plan of each county and city that is planning under RCW 36.70A.040 shall include a process for identifying and siting essential public facilities. Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities as defined in RCW 81.112.020, state and local correctional facilities, solid waste handling facilities, opioid treatment programs including both mobile and fixed-site medication units, recovery residences, harm reduction programs excluding safe injection sites, and inpatient facilities including substance use disorder treatment facilities, mental health facilities, group homes, community facilities as defined in RCW 72.05.020, and secure community transition facilities as defined in RCW 71.09.020.

(b) Unless a facility is expressly listed in (a) of this subsection, essential public facilities do not include facilities that are operated by a private entity in which persons are detained in custody under process of law pending the outcome of legal proceedings but are not used for punishment, correction, counseling, or rehabilitation following the conviction of a criminal offense. Facilities included under this subsection (1)(b) shall not include facilities detaining persons under RCW 71.09.020 (7) or (16) or chapter 10.77 or 71.05 RCW.

(c) The department of children, youth, and families may not attempt to site new community facilities as defined in RCW 72.05.020 east of the crest of the Cascade mountain range unless there is an equal or greater number of sited community facilities as defined in RCW 72.05.020 on the western side of the crest of the Cascade mountain range.

(d) For the purpose of this section, "harm reduction programs" means programs that emphasize working directly with people who use drugs to prevent overdose and infectious disease transmission, improve

the physical, mental, and social well-being of those served, and offer low threshold options for accessing substance use disorder treatment and other services.

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

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

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

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

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

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

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

(a) A condition that would disqualify the county or city for grants, loans, or pledges under RCW 43.155.070 or 70A.135.070;

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

(c) A basis for any petition under RCW 36.70A.280 or for any private cause of action. [2023 1st sp.s. c 1 § 12; 2021 c 265 § 2. Prior: 2020 c 128 § 1; 2020 c 20 § 1027; 2013 c 275 § 5; 2011 c 60 § 17; 2010 c 62 § 1; 2002 c 68 § 2; 2001 2nd sp.s. c 12 § 205; 1998 c 171 § 3; 1991 sp.s. c 32 § 1.]

Retroactive application—2020 c 128: "This act applies retroactively to land use actions imposed prior to January 1, 2018, as well as prospectively." [2020 c 128 § 2.]

Effective date—2020 c 128: "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 [March 25, 2020]." [2020 c 128 § 3.]

Effective date—2011 c 60: See RCW 42.17A.919.

Purpose—2002 c 68: "The purpose of this act is to:

(1) Enable the legislature to act upon the recommendations of the joint select committee on the equitable distribution of secure

community transition facilities established in section 225, chapter 12, Laws of 2001 2nd sp. sess.; and

(2) Harmonize the preemption provisions in RCW 71.09.250 with the preemption provisions applying to future secure community transition facilities to reflect the joint select committee's recommendation that the preemption granted for future secure community transition facilities be the same throughout the state." [2002 c 68 § 1.]

Severability—2002 c 68: "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." [2002 c 68 § 19.]

Effective date—2002 c 68: "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 [March 21, 2002]." [2002 c 68 § 20.]

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

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 § 6; 2009 c 121 § 2; 1998 c 171 § 4; 1994 c 249 § 28; 1993 sp.s. c 6 § 4; 1991 sp.s. c 32 § 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 36.70A.211 Siting of schools—Rural areas, when authorized—Impact fees. ***(Expires June 30, 2031.)*** (1) A county may authorize the siting in a rural area of a school that serves students from an urban area, even where otherwise prohibited by a multicounty planning policy, under the following circumstances:

(a) The county has a population of more than eight hundred forty thousand but fewer than one million five hundred thousand and abuts at least six other counties;

(b) The county must have adopted in its comprehensive plan a policy concerning the siting of schools in rural areas;

(c) Any impacts associated with the siting of such a school are mitigated as required by the state environmental policy act, chapter 43.21C RCW; and

(d) The county must be a participant in a multicounty planning policy as described in RCW 36.70A.210.

(2) A multicounty planning policy in which any county referenced in subsection (1) of this section is a participant must be amended, at its next regularly scheduled update, to include a policy that addresses the siting of schools in rural areas of all counties subject to the multicounty planning policy.

(3) A school sited under this section may not collect or impose the impact fees described in RCW 82.02.050.

(4) This section expires June 30, 2031. [2017 c 129 § 2.]

RCW 36.70A.212 Siting of schools—Periodic updates. In a county that chooses to site schools under RCW 36.70A.211, each school district within the county must participate in the county's periodic updates required by *RCW 36.70A.130(1)(b) by:

(1) Coordinating its enrollment forecasts and projections with the county's adopted population projections;

(2) Identifying school siting criteria with the county, cities, and regional transportation planning organizations;

(3) Identifying suitable school sites with the county and cities, with priority to siting urban-serving schools in existing cities and towns in locations where students can safely walk and bicycle to the school from their homes and that can effectively be served with transit; and

(4) Working with the county and cities to identify school costs and funding for the capital facilities plan element required by RCW 36.70A.070(3). [2017 c 129 § 3.]

***Reviser's note:** RCW 36.70A.130 was amended by 2023 c 280 § 1, changing subsection (1)(b) to subsection (1)(c).

RCW 36.70A.213 Extension of public facilities and utilities to serve school sited in a rural area authorized—Requirements for authorization—Report. (1) This chapter does not prohibit a county planning under RCW 36.70A.040 from authorizing the extension of public facilities and utilities to serve a school sited in a rural area that serves students from a rural area and an urban area so long as the following requirements are met:

(a) The applicable school district board of directors has adopted a policy addressing school service area and facility needs and educational program requirements;

(b) The applicable school district has made a finding, with the concurrence of the county legislative authority and the legislative authorities of any affected cities, that the district's proposed site is suitable to site the school and any associated recreational facilities that the district has determined cannot reasonably be collocated on an existing school site, taking into consideration the policy adopted in (a) of this subsection and the extent to which vacant or developable land within the growth area meets those requirements;

(c) The county and any affected cities agree to the extension of public facilities and utilities to serve the school sited in a rural area that serves urban and rural students at the time of concurrence in (b) of this subsection;

(d) If the public facility or utility is extended beyond the urban growth area to serve a school, the public facility or utility must serve only the school and the costs of such extension must be borne by the applicable school district based on a reasonable nexus to the impacts of the school, except as provided in subsection (3) of this section; and

(e) Any impacts associated with the siting of the school are mitigated as required by the state environmental policy act, chapter 43.21C RCW.

(2) This chapter does not prohibit either the expansion or modernization of an existing school in the rural area or the placement of portable classrooms at an existing school in the rural area.

(3) Where a public facility or utility has been extended beyond the urban growth area to serve a school, the public facility or utility may, where consistent with RCW 36.70A.110(4), serve a property or properties in addition to the school if the property owner so requests, provided that the county and any affected cities agree with

the request and provided that the property is located no further from the public facility or utility than the distance that, if the property were within the urban growth area, the property would be required to connect to the public facility or utility. In such an instance, the school district may, for a period not to exceed twenty years, require reimbursement from a requesting property owner for a proportional share of the construction costs incurred by the school district for the extension of the public facility or utility.

(4) By December 1, 2023, the department shall report to the governor and the appropriate committees of the legislature about schools outside of urban growth areas that have been built, are under construction, or are planned as a result of the requirements of chapter 32, Laws of 2017 3rd sp. sess. The report shall include the number, location, and characteristics of the schools; the number of urban and rural students served; and a cost analysis of schools built outside of urban growth boundaries. [2017 3rd sp.s. c 32 § 1.]

RCW 36.70A.215 Review and evaluation program. ***(Effective until January 1, 2030.)*** (1) Subject to the limitations in subsection (5) of this section, a county shall adopt, in consultation with its cities, countywide planning policies to establish a review and evaluation program. This program shall be in addition to the requirements of RCW 36.70A.110, 36.70A.130, and 36.70A.210. In developing and implementing the review and evaluation program required by this section, the county and its cities shall consider information from other appropriate jurisdictions and sources. The purpose of the review and evaluation program shall be to:

(a) Determine whether a county and its cities are achieving urban densities within urban growth areas by comparing growth and development assumptions, targets, and objectives contained in the countywide planning policies and the county and city comprehensive plans with actual growth and development that has occurred in the county and its cities; and

(b) Identify reasonable measures, other than adjusting urban growth areas, that will be taken to comply with the requirements of this chapter. Reasonable measures are those actions necessary to reduce the differences between growth and development assumptions and targets contained in the countywide planning policies and the county and city comprehensive plans with actual development patterns. The reasonable measures process in subsection (3) of this section shall be used as part of the next comprehensive plan update to reconcile inconsistencies.

(2) The review and evaluation program shall:

(a) Encompass land uses and activities both within and outside of urban growth areas and provide for annual collection of data on urban and rural land uses, development, zoning and development standards, environmental regulations including but not limited to critical areas, stormwater, shoreline, and tree retention requirements; and capital facilities to determine the quantity and type of land suitable for development, both for residential and employment-based activities;

(b) Provide for evaluation of the data collected under (a) of this subsection as provided in subsection (3) of this section. The evaluation shall be completed no later than three years prior to the deadline for review and, if necessary, update of comprehensive plans and development regulations as required by RCW 36.70A.130. For comprehensive plans required to be updated before 2024, the evaluation

as provided in subsection (3) of this section shall be completed no later than two years prior to the deadline for review and, if necessary, update of comprehensive plans. The county and its cities may establish in the countywide planning policies indicators, benchmarks, and other similar criteria to use in conducting the evaluation;

(c) Provide for methods to resolve disputes among jurisdictions relating to the countywide planning policies required by this section and procedures to resolve inconsistencies in collection and analysis of data; and

(d) Develop reasonable measures to use in reducing the differences between growth and development assumptions and targets contained in the countywide planning policies and county and city comprehensive plans, with the actual development patterns. The reasonable measures shall be adopted, if necessary, into the countywide planning policies and the county or city comprehensive plans and development regulations during the next scheduled update of the plans.

(3) At a minimum, the evaluation component of the program required by subsection (1) of this section shall:

(a) Determine whether there is sufficient suitable land to accommodate the countywide population projection established for the county pursuant to RCW 43.62.035 and the subsequent population allocations within the county and between the county and its cities and the requirements of RCW 36.70A.110. The zoned capacity of land alone is not a sufficient standard to deem land suitable for development or redevelopment within the twenty-year planning period;

(b) An evaluation and identification of land suitable for development or redevelopment shall include:

(i) A review and evaluation of the land use designation and zoning/development regulations; environmental regulations (such as tree retention, stormwater, or critical area regulations) impacting development; and other regulations that could prevent assigned densities from being achieved; infrastructure gaps (including but not limited to transportation, water, sewer, and stormwater); and

(ii) Use of a reasonable land market supply factor when evaluating land suitable to accommodate new development or redevelopment of land for residential development and employment activities. The reasonable market supply factor identifies reductions in the amount of land suitable for development and redevelopment. The methodology for conducting a reasonable land market factor shall be determined through the guidance developed in RCW 36.70A.217;

(c) Provide an analysis of county and/or city development assumptions, targets, and objectives contained in the countywide planning policies and the county and city comprehensive plans when growth targets and assumptions are not being achieved. It is not appropriate to make a finding that assumed growth contained in the countywide planning policies and the county or city comprehensive plan will occur at the end of the current comprehensive planning twenty-year planning cycle without rationale;

(d) Determine the actual density of housing that has been constructed and the actual amount of land developed for commercial and industrial uses within the urban growth area since the adoption of a comprehensive plan under this chapter or since the last periodic evaluation as required by subsection (1) of this section; and

(e) Based on the actual density of development as determined under (b) of this subsection, review commercial, industrial, and

housing needs by type and density range to determine the amount of land needed for commercial, industrial, and housing for the remaining portion of the twenty-year planning period used in the most recently adopted comprehensive plan.

(4) From funds appropriated by the legislature for this purpose, the department shall provide grants to counties, cities, and regional planning organizations required under subsection (5) of this section to conduct the review and perform the evaluation required by this section.

(5) The provisions of this section shall apply to counties, and the cities within those counties, that were greater than one hundred fifty thousand in population in 1996 as determined by office of financial management population estimates and that are located west of the crest of the Cascade mountain range. Any other county planning under RCW 36.70A.040 may carry out the review, evaluation, and amendment programs and procedures as provided in this section.

(6) The requirements of this section are subject to the availability of funds appropriated for this specific purpose. If sufficient funds are not appropriated consistent with the timelines in subsection (2)(b) of this section, counties and cities shall be subject to the review and evaluation program as it existed prior to October 19, 2017. [2017 3rd sp.s. c 16 § 2; 2011 c 353 § 3; 1997 c 429 § 25.]

Expiration date—2017 3rd sp.s. c 16 § 2: "Section 2 of this act expires January 1, 2030." [2017 3rd sp.s. c 16 § 8.]

Intent—2011 c 353: See note following RCW 36.70A.130.

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

RCW 36.70A.215 Review and evaluation program. ***(Effective January 1, 2030.)*** (1) Subject to the limitations in subsection (7) of this section, a county shall adopt, in consultation with its cities, countywide planning policies to establish a review and evaluation program. This program shall be in addition to the requirements of RCW 36.70A.110, 36.70A.130, and 36.70A.210. In developing and implementing the review and evaluation program required by this section, the county and its cities shall consider information from other appropriate jurisdictions and sources. The purpose of the review and evaluation program shall be to:

(a) Determine whether a county and its cities are achieving urban densities within urban growth areas by comparing growth and development assumptions, targets, and objectives contained in the countywide planning policies and the county and city comprehensive plans with actual growth and development that has occurred in the county and its cities; and

(b) Identify reasonable measures, other than adjusting urban growth areas, that will be taken to comply with the requirements of this chapter.

(2) The review and evaluation program shall:

(a) Encompass land uses and activities both within and outside of urban growth areas and provide for annual collection of data on urban and rural land uses, development, critical areas, and capital facilities to the extent necessary to determine the quantity and type

of land suitable for development, both for residential and employment-based activities;

(b) Provide for evaluation of the data collected under (a) of this subsection as provided in subsection (3) of this section. The evaluation shall be completed no later than one year prior to the deadline for review and, if necessary, update of comprehensive plans and development regulations as required by RCW 36.70A.130. The county and its cities may establish in the countywide planning policies indicators, benchmarks, and other similar criteria to use in conducting the evaluation;

(c) Provide for methods to resolve disputes among jurisdictions relating to the countywide planning policies required by this section and procedures to resolve inconsistencies in collection and analysis of data; and

(d) Provide for the amendment of the countywide policies and county and city comprehensive plans as needed to remedy an inconsistency identified through the evaluation required by this section, or to bring these policies into compliance with the requirements of this chapter.

(3) At a minimum, the evaluation component of the program required by subsection (1) of this section shall:

(a) Determine whether there is sufficient suitable land to accommodate the countywide population projection established for the county pursuant to RCW 43.62.035 and the subsequent population allocations within the county and between the county and its cities and the requirements of RCW 36.70A.110;

(b) Determine the actual density of housing that has been constructed and the actual amount of land developed for commercial and industrial uses within the urban growth area since the adoption of a comprehensive plan under this chapter or since the last periodic evaluation as required by subsection (1) of this section; and

(c) Based on the actual density of development as determined under (b) of this subsection, review commercial, industrial, and housing needs by type and density range to determine the amount of land needed for commercial, industrial, and housing for the remaining portion of the twenty-year planning period used in the most recently adopted comprehensive plan.

(4) If the evaluation required by subsection (3) of this section demonstrates an inconsistency between what has occurred since the adoption of the countywide planning policies and the county and city comprehensive plans and development regulations and what was envisioned in those policies and plans and the planning goals and the requirements of this chapter, as the inconsistency relates to the evaluation factors specified in subsection (3) of this section, the county and its cities shall adopt and implement measures that are reasonably likely to increase consistency during the subsequent five-year period. If necessary, a county, in consultation with its cities as required by RCW 36.70A.210, shall adopt amendments to countywide planning policies to increase consistency. The county and its cities shall annually monitor the measures adopted under this subsection to determine their effect and may revise or rescind them as appropriate.

(5)(a) Not later than July 1, 1998, the department shall prepare a list of methods used by counties and cities in carrying out the types of activities required by this section. The department shall provide this information and appropriate technical assistance to counties and cities required to or choosing to comply with the provisions of this section.

(b) By December 31, 2007, the department shall submit to the appropriate committees of the legislature a report analyzing the effectiveness of the activities described in this section in achieving the goals envisioned by the countywide planning policies and the comprehensive plans and development regulations of the counties and cities.

(6) From funds appropriated by the legislature for this purpose, the department shall provide grants to counties, cities, and regional planning organizations required under subsection (7) of this section to conduct the review and perform the evaluation required by this section.

(7) The provisions of this section shall apply to counties, and the cities within those counties, that were greater than one hundred fifty thousand in population in 1995 as determined by office of financial management population estimates and that are located west of the crest of the Cascade mountain range. Any other county planning under RCW 36.70A.040 may carry out the review, evaluation, and amendment programs and procedures as provided in this section. [2011 c 353 § 3; 1997 c 429 § 25.]

Intent——2011 c 353: See note following RCW 36.70A.130.

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

RCW 36.70A.217 Guidance for local governments on the review and evaluation program——Public participation——Analysis and recommendations. (1) The department of commerce, through a contract with a land use and economics entity, shall develop guidance for local governments on the review and evaluation program in RCW 36.70A.215. The contract shall be with an entity experienced in serving private and public sector clients which can assist developers and policymakers to understand near-term market realities and long-term planning considerations, and with experience facilitating successful conversations between multiple local governments and stakeholders on complex land use issues. The department of commerce shall enable appropriate public participation by affected stakeholders in the development of the guidance for the appropriate market factor analysis and review and update of the overall buildable lands program. This guidance regarding the market factor methodology and buildable lands program shall be completed by December 1, 2018. The buildable lands guidance shall analyze and provide recommendations on:

(a) The review and evaluation program in RCW 36.70A.215 and changes to the required information to be analyzed within the program to increase the accuracy of the report when updating countywide planning policies and the county and city comprehensive plans;

(b) Whether a more effective schedule could be developed for countywide planning policies and the county and city comprehensive plan updates to better align with implementing reasonable measures identified through the review and evaluation program, and population projections and census data while maintaining appropriate and timely consideration of planning needs best done through a comprehensive planning process;

(c) A determination on how reasonable measures, based on the review and evaluation program, should be implemented into updates for

countywide planning policies and the county and city comprehensive plans;

(d) Infrastructure costs, including but not limited to transportation, water, sewer, stormwater, and the cost to provide new or upgraded infrastructure if required to serve development; cost of development; timelines to permit and develop land; market availability of land; the nexus between proposed densities, economic conditions needed to achieve those densities, and the impact to housing affordability for homeownership and rental housing; and, market demand when evaluating if land is suitable for development or redevelopment. These all have an impact on whether development occurs or if planned for densities will differ from achieved densities;

(e) Identifying the measures to increase housing availability and affordability for all economic segments of the community and the factors contributing to the high cost of housing including zoning/development/environmental regulations, permit processing timelines, housing production trends by housing type and rents and prices, national and regional economic and demographic trends affecting housing affordability and production by rents and prices, housing unit size by housing type, and how well growth targets align with market conditions including the assumptions on where people desire to live;

(f) Evaluating how existing zoning and land use regulations are promoting or hindering attainment of the goal for affordable housing in RCW 36.70A.020(4). Barriers to meeting this goal shall be identified and considered as possible reasonable measures for each county and city, and as part of the next countywide planning policies and county and city comprehensive plan update;

(g) Identifying opportunities and strategies to encourage growth within urban growth areas;

(h) Identifying strategies to increase local government capacity to invest in the infrastructure necessary to accommodate growth and provide opportunities for affordable housing across all economic segments of the community and housing types; and

(i) Other topics identified by stakeholders and the department.

(2) The requirements of this section are subject to the availability of funds appropriated for this specific purpose. [2017 3rd sp.s. c 16 § 3.]

RCW 36.70A.250 Growth management hearings board—Creation—Members. (1)(a) There is hereby created within the environmental and land use hearings office established by RCW 43.21B.005 a growth management hearings board for the state of Washington. The board shall consist of five members qualified by experience or training in pertinent matters pertaining to land use law or land use planning and who have experience in the practical application of those matters. All five board members shall be appointed by the governor. At least three members of the board shall be admitted to practice law in this state, one each residing respectively in the central Puget Sound, eastern Washington, and western Washington regions. At least two members of the board shall have been a city or county elected official, one each residing respectively in eastern Washington and western Washington. No more than three members of the five-member board may be members of the same major political party. No more than two members at the time of their appointment or during their term may reside in the same county. Board members shall operate on a full-time basis, shall receive an

annual salary to be determined by the governor pursuant to RCW 43.03.040, shall receive reimbursement for travel expenses incurred in the discharge of their duties in accordance with RCW 43.03.050 and 43.03.060, and shall be considered employees of the state of Washington subject to chapter 42.52 RCW.

(2) Each member of the board shall be appointed for a term of six years, and until their successors are appointed. A vacancy shall be filled by appointment by the governor for the unexpired portion of the term in which the vacancy occurs. [2020 c 214 § 1; 2010 c 211 § 4; 1994 c 249 § 29; 1991 sp.s. c 32 § 5.]

Effective date——2010 c 211: "This act takes effect July 1, 2010." [2010 c 211 § 18.]

Transfer of power, duties, and functions——2010 c 211: "(1) The three growth management hearings boards are abolished and their powers, duties, and functions are transferred to the growth management hearings board.

(2) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the three growth management hearings boards must be delivered to the custody of the growth management hearings board. All office furnishings, office equipment, motor vehicles, and other tangible property in the possession of the three growth management hearings boards must be made available to the growth management hearings board.

(3) All funds, credits, or other assets held by the three growth management hearings boards must, on July 1, 2010, be transferred to the growth management hearings board. Any appropriations made to the three growth management hearings boards must, on July 1, 2010, be transferred and credited to the growth management hearings board. If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(4) All employees of the three growth management hearings boards are transferred to the growth management hearings board. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the growth management hearings board to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(5) This section may not be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the public employment relations commission as provided by law.

(6) All rules and pending business before the three growth management hearings boards must be continued and acted upon by the growth management hearings board. All existing contracts and obligations remain in full force and must be performed by the growth management hearings board.

(7) The transfer of the powers, duties, functions, and personnel of the three growth management hearings boards to the growth

management hearings board does not affect the validity of any act performed before July 1, 2010.

(8) All cases decided and all orders previously issued by the three growth management hearings boards remain in full force and effect and are not affected by this act." [2010 c 211 § 17.]

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

RCW 36.70A.252 Growth management hearings board—Consolidation into environmental and land use hearings office. On July 1, 2011, the growth management hearings board is administratively consolidated into the environmental and land use hearings office created in RCW 43.21B.005. The chair of the growth management hearings board shall continue to exercise duties and responsibilities pursuant to RCW 36.70A.270(11). The environmental and land use hearings office shall be responsible for all other administrative functions pertaining to the growth management hearings board. [2020 c 214 § 2; 2010 c 210 § 15.]

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

RCW 36.70A.260 Growth management hearings board—Regional panels. (1) Each petition for review that is filed with the growth management hearings board shall be heard and decided by a regional panel of growth management hearings board members. Regional panels shall be constituted as follows:

(a) Central Puget Sound region. A three-member central Puget Sound panel shall be selected to hear matters pertaining to cities and counties located within the region comprised of King, Pierce, Snohomish, and Kitsap counties.

(b) Eastern Washington region. A three-member eastern Washington panel shall be selected to hear matters pertaining to cities and counties that are required or choose to plan under RCW 36.70A.040 and are located east of the crest of the Cascade mountains.

(c) Western Washington region. A three-member western Washington panel shall be selected to hear matters pertaining to cities and counties that are required or choose to plan under RCW 36.70A.040, are located west of the crest of the Cascade mountains, and are not included in the central Puget Sound region. Skamania county, if it is required or chooses to plan under RCW 36.70A.040, may elect to be included within either the western Washington region or the eastern Washington region.

(2)(a) Each regional panel selected to hear and decide cases shall consist of three board members, at least a majority of whom shall reside within the region in which the case arose, unless such members cannot sit on a particular case because of recusal or disqualification, or unless the board chair determines otherwise due to caseload management determinations or the unavailability of a board member due to illness, absence, or vacancy. The presiding officer of each case shall reside within the region in which the case arose, unless the board chair determines that there is an emergency.

(b) Except as provided otherwise in this subsection (2)(b), each regional panel must: (i) Include one member admitted to practice law in this state; (ii) include one member who has been a city or county elected official; and (iii) reflect the political composition of the board. The requirements of this subsection (2)(b) may be waived by the board chair due to member unavailability, significant workload imbalances, or other reasons. [2020 c 214 § 3; 2010 c 211 § 5; 1994 c 249 § 30; 1991 sp.s. c 32 § 6.]

Effective date—Transfer of power, duties, and functions—2010 c 211: See notes following RCW 36.70A.250.

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

RCW 36.70A.270 Growth management hearings board—Conduct, procedure, and compensation—Public access to rulings, decisions, and orders. The growth management hearings board shall be governed by the following rules on conduct and procedure:

(1) Any board member may be removed for inefficiency, malfeasance, and misfeasance in office, under specific written charges filed by the governor. The governor shall transmit such written charges to the member accused and the chief justice of the supreme court. The chief justice shall thereupon designate a tribunal composed of three judges of the superior court to hear and adjudicate the charges. Removal of any member of the board by the tribunal shall disqualify such member for reappointment.

(2) The principal office of the board shall be located in Thurston county, but it may hold hearings at any other place in the state.

(3) Each board member shall not: (a) Be a candidate for or hold any other public office or trust; (b) engage in any occupation or business interfering with or inconsistent with his or her duty as a board member; and (c) for a period of one year after the termination of his or her board membership, act in a representative capacity before the board on any matter.

(4) A majority of the board shall constitute a quorum for adopting rules necessary for the conduct of its powers and duties or transacting other official business, and may act even though one position of the board is vacant. One or more members may hold hearings and take testimony to be reported for action by the board when authorized by rule or order of the board. The board shall perform all the powers and duties specified in this chapter or as otherwise provided by law.

(5) The board may use one or more hearing examiners to assist the board in its hearing function, to make conclusions of law and findings of fact and, if requested by the board, to make recommendations to the board for decisions in cases before the board. Such hearing examiners must have demonstrated knowledge of land use planning and law. The board shall specify in its rules of practice and procedure, as required by subsection (7) of this section, the procedure and criteria to be employed for designating hearing examiners as a presiding officer. Hearing examiners used by the board shall meet the requirements of subsection (3) of this section. The findings and conclusions of the hearing examiner shall not become final until they

have been formally approved by the board. This authorization to use hearing examiners does not waive the requirement of RCW 36.70A.300 that final orders be issued within one hundred eighty days of board receipt of a petition.

(6) The board shall make findings of fact and prepare a written decision in each case decided by it, and such findings and decision shall be effective upon being signed by two or more members of the regional panel deciding the particular case and upon being filed at the board's principal office, and shall be open for public inspection at all reasonable times.

(7) All proceedings before the board, any of its members, or a hearing examiner appointed by the board shall be conducted in accordance with such administrative rules of practice and procedure as the board prescribes. The board shall develop and adopt rules of practice and procedure, including rules regarding expeditious and summary disposition of appeals and the assignment of cases to regional panels. The board shall publish such rules it renders and arrange for the reasonable distribution of the rules. Except as it conflicts with specific provisions of this chapter, the administrative procedure act, chapter 34.05 RCW, and specifically including the provisions of RCW 34.05.455 governing ex parte communications, shall govern the practice and procedure of the board.

(8) The board must ensure all rulings, decisions, and orders are available to the public through the environmental and land use hearings office's websites as described in RCW 43.21B.005. To ensure uniformity and usability of searchable databases and websites, the board shall coordinate with the environmental and land use hearings office, the department of commerce, and other interested stakeholders to develop and maintain a rational system of categorizing its decisions and orders.

(9) A board member or hearing examiner is subject to disqualification under chapter 34.05 RCW. The rules of practice of the board shall establish procedures by which a party to a hearing conducted before the board may file with the board a motion to disqualify, with supporting affidavit, against a board member or hearing examiner assigned to preside at the hearing.

(10) All members of the board shall meet on at least an annual basis with the objective of sharing information that promotes the goals and purposes of this chapter.

(11) The board shall annually elect one of its attorney members to be the board chair. The duties and responsibilities of the chair include developing board procedures, making case assignments to board members in accordance with the board's rules of procedure in order to achieve a fair and balanced workload among all board members, and managing board meetings. [2020 c 214 § 4; 2019 c 452 § 2. Prior: 2010 c 211 § 6; 2010 c 210 § 16; 1997 c 429 § 11; 1996 c 325 § 1; 1994 c 257 § 1; 1991 sp.s. c 32 § 7.]

Effective date—Transfer of power, duties, and functions—2010 c 211: See notes following RCW 36.70A.250.

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

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

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

Severability—1996 c 325: "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." [1996 c 325 § 6.]

Effective date—1996 c 325: "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 [March 30, 1996]." [1996 c 325 § 7.]

Severability—1994 c 257: "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." [1994 c 257 § 26.]

RCW 36.70A.280 Growth management hearings board—Matters subject to review. (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 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. [2023 c 334 § 7; 2023 c 332 § 6; 2023 c 228 § 7; (2014 c 147 § 3 expired December 31, 2020); 2011 c 360 § 17; 2010 c 211 § 7; 2008 c 289 § 5; 2003 c 332 § 2; 1996 c 325 § 2; 1995 c 347 § 108; 1994 c 249 § 31; 1991 sp.s. c 32 § 9.]

Reviser's note: This section was amended by 2023 c 228 § 7, 2023 c 332 § 6, and by 2023 c 334 § 7, without reference to one another. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

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

Expiration date—2014 c 147 § 3: "Section 3 of this act expires December 31, 2020." [2014 c 147 § 4.]

Effective date—Transfer of power, duties, and functions—2010 c 211: See notes following RCW 36.70A.250.

Findings—2008 c 289: "(1) The legislature recognizes that the implications of a changed climate will affect the people, institutions, and economies of Washington. The legislature also recognizes that it is in the public interest to reduce the state's dependence upon foreign sources of carbon fuels that do not promote energy independence or the economic strength of the state. The legislature finds that the state, including its counties, cities, and residents, must engage in activities that reduce greenhouse gas emissions and dependence upon foreign oil.

(2) The legislature further recognizes that: (a) Patterns of land use development influence transportation-related greenhouse gas emissions and the need for foreign oil; (b) fossil fuel-based transportation is the largest source of greenhouse gas emissions in Washington; and (c) the state and its residents will not achieve emission reductions established in *RCW 80.80.020 without a significant decrease in transportation emissions.

(3) The legislature, therefore, finds that it is in the public interest of the state to provide appropriate legal authority, where

required, and to aid in the development of policies, practices, and methodologies that may assist counties and cities in addressing challenges associated with greenhouse gas emissions and our state's dependence upon foreign oil." [2008 c 289 § 1.]

***Reviser's note:** RCW 80.80.020 was repealed by 2008 c 14 § 13.

Application—2008 c 289: "This act is not intended to amend or affect chapter 353, Laws of 2007." [2008 c 289 § 6.]

Intent—2003 c 332: "This act is intended to codify the Washington State Court of Appeals holding in *Wells v. Western Washington Growth Management Hearings Board*, 100 Wn. App. 657 (2000), by mandating that to establish participation standing under the growth management act, 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 growth management hearings board." [2003 c 332 § 1.]

Severability—Effective date—1996 c 325: See notes following RCW 36.70A.270.

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

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

Definitions: See RCW 36.70A.703.

RCW 36.70A.290 Growth management hearings board—Petitions—Evidence. (1) All requests for review to the growth management hearings board shall be initiated by filing a petition that includes a detailed statement of issues presented for resolution by the board. The board shall render written decisions articulating the basis for its holdings. The board shall not issue advisory opinions on issues not presented to the board in the statement of issues, as modified by any prehearing order.

(2) All petitions relating to whether or not an adopted comprehensive plan, development regulation, or permanent amendment thereto, is in compliance with the goals and requirements of this chapter or chapter 90.58 or 43.21C RCW must be filed within sixty days after publication as provided in (a) through (c) of this subsection.

(a) Except as provided in (c) of this subsection, the date of publication for a city shall be the date the city publishes the ordinance, or summary of the ordinance, adopting the comprehensive plan or development regulations, or amendment thereto, as is required to be published.

(b) Promptly after adoption, a county shall publish a notice that it has adopted the comprehensive plan or development regulations, or amendment thereto.

Except as provided in (c) of this subsection, for purposes of this section the date of publication for a county shall be the date the county publishes the notice that it has adopted the comprehensive plan or development regulations, or amendment thereto.

(c) For local governments planning under RCW 36.70A.040, promptly after approval or disapproval of a local government's shoreline master program or amendment thereto by the department of ecology as provided in RCW 90.58.090, the department of ecology shall publish a notice that the shoreline master program or amendment thereto has been approved or disapproved. For purposes of this section, the date of publication for the adoption or amendment of a shoreline master program is the date the department of ecology publishes notice that the shoreline master program or amendment thereto has been approved or disapproved.

(3) Unless the board dismisses the petition as frivolous or finds that the person filing the petition lacks standing, or the parties have filed an agreement to have the case heard in superior court as provided in RCW 36.70A.295, the board shall, within ten days of receipt of the petition, set a time for hearing the matter.

(4) The board shall base its decision on the record developed by the city, county, or the state and supplemented with additional evidence if the board determines that such additional evidence would be necessary or of substantial assistance to the board in reaching its decision.

(5) The board, shall consolidate, when appropriate, all petitions involving the review of the same comprehensive plan or the same development regulation or regulations. [2011 c 277 § 1; 2010 c 211 § 8; 1997 c 429 § 12; 1995 c 347 § 109. Prior: 1994 c 257 § 2; 1994 c 249 § 26; 1991 sp.s. c 32 § 10.]

Effective date—Transfer of power, duties, and functions—2010 c 211: See notes following RCW 36.70A.250.

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

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

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

RCW 36.70A.295 Growth management hearings board—Direct judicial review. (1) The superior court may directly review a petition for review filed under RCW 36.70A.290 if all parties to the proceeding before the board have agreed to direct review in the superior court. The agreement of the parties shall be in writing and signed by all of the parties to the proceeding or their designated representatives. The agreement shall include the parties' agreement to proper venue as provided in RCW 36.70A.300(5). The parties shall file their agreement with the board within ten days after the date the petition is filed, or if multiple petitions have been filed and the board has consolidated the petitions pursuant to RCW 36.70A.300, within ten days after the board serves its order of consolidation.

(2) Within ten days of receiving the timely and complete agreement of the parties, the board shall file a certificate of agreement with the designated superior court and shall serve the parties with copies of the certificate. The superior court shall obtain exclusive jurisdiction over a petition when it receives the certificate of agreement. With the certificate of agreement the board shall also file the petition for review, any orders entered by the board, all other documents in the board's files regarding the action, and the written agreement of the parties.

(3) For purposes of a petition that is subject to direct review, the superior court's subject matter jurisdiction shall be equivalent to that of the board. Consistent with the requirements of the superior court civil rules, the superior court may consolidate a petition subject to direct review under this section with a separate action filed in the superior court.

(4)(a) Except as otherwise provided in (b) and (c) of this subsection, the provisions of RCW 36.70A.280 through 36.70A.330, which specify the nature and extent of board review, shall apply to the superior court's review.

(b) The superior court:

(i) Shall not have jurisdiction to directly review or modify an office of financial management population projection;

(ii) Except as otherwise provided in RCW 36.70A.300(2)(b), shall render its decision on the petition within one hundred eighty days of receiving the certification of agreement; and

(iii) Shall give a compliance hearing under RCW 36.70A.330(2) the highest priority of all civil matters before the court.

(c) An aggrieved party may secure appellate review of a final judgment of the superior court under this section by the supreme court or the court of appeals. The review shall be secured in the manner provided by law for review of superior court decisions in other civil cases.

(5) If, following a compliance hearing, the court finds that the state agency, county, or city is not in compliance with the court's prior order, the court may use its remedial and contempt powers to enforce compliance.

(6) The superior court shall transmit a copy of its decision and order on direct review to the board, the department, and the governor. If the court has determined that a county or city is not in compliance with the provisions of this chapter, the governor may impose sanctions against the county or city in the same manner as if the board had recommended the imposition of sanctions as provided in RCW 36.70A.330.

(7) After the court has assumed jurisdiction over a petition for review under this section, the superior court civil rules shall govern a request for intervention and all other procedural matters not specifically provided for in this section. [2010 c 211 § 9; 1997 c 429 § 13.]

Effective date——Transfer of power, duties, and functions——2010 c 211: See notes following RCW 36.70A.250.

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

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

RCW 36.70A.300 Final orders. (1) The board shall issue a final order that shall be based exclusively on whether or not a state agency, county, or city is in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to adoption or amendment of shoreline master programs, or chapter 43.21C RCW as it relates to adoption of plans, development regulations, and amendments thereto, under RCW 36.70A.040 or chapter 90.58 RCW.

(2)(a) Except as provided in (b) of this subsection, the final order shall be issued within one hundred eighty days of receipt of the petition for review, or, if multiple petitions are filed, within one hundred eighty days of receipt of the last petition that is consolidated.

(b) The board may extend the period of time for issuing a decision to enable the parties to settle the dispute if additional time is necessary to achieve a settlement, and (i) an extension is requested by all parties, or (ii) an extension is requested by the petitioner and respondent and the board determines that a negotiated settlement between the remaining parties could resolve significant issues in dispute. The request must be filed with the board not later than seven days before the date scheduled for the hearing on the merits of the petition. The board may authorize one or more extensions for up to ninety days each, subject to the requirements of this section.

(3) In the final order, the board shall either:

(a) Find that the state agency, county, or city is in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption or amendment of shoreline master programs, or chapter 43.21C RCW as it relates to adoption of plans, development regulations, and amendments thereto, under RCW 36.70A.040 or chapter 90.58 RCW; or

(b) Find that the state agency, county, or city is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption or amendment of shoreline master programs, or chapter 43.21C RCW as it relates to adoption of plans, development regulations, and amendments thereto, under RCW 36.70A.040 or chapter 90.58 RCW, in which case the board shall remand the matter to the affected state agency, county, or city. The board shall specify a reasonable time not in excess of one hundred eighty days, or such longer period as determined by the board in cases of unusual scope or complexity, within which the state agency, county, or city shall comply with the requirements of this chapter. The board may require periodic reports to the board on the progress the jurisdiction is making towards compliance.

(4)(a) Unless the board makes a determination of invalidity under RCW 36.70A.302, a finding of noncompliance and an order of remand shall not affect the validity of comprehensive plans and development regulations during the period of remand.

(b) Unless the board makes a determination of invalidity, state agencies, commissions, and governing boards may not determine a county, city, or town to be ineligible or otherwise penalized in the acceptance of applications or the awarding of state agency grants or loans during the period of remand. This subsection (4)(b) applies only to counties, cities, and towns that have: (i) Delayed the initial effective date of the action subject to the petition before the board until after the board issues a final determination; or (ii) within thirty days of receiving notice of a petition for review by the board, delayed or suspended the effective date of the action subject to the

petition before the board until after the board issues a final determination.

(5) Any party aggrieved by a final decision of the hearings board may appeal the decision to superior court as provided in RCW 34.05.514 or 36.01.050 within thirty days of the final order of the board. Unless the board makes a determination of invalidity under RCW 36.70A.302, state agencies, commissions, or governing boards shall not penalize counties, cities, or towns during the pendency of an appeal as provided in RCW 43.17.250. [2013 c 275 § 1; 1997 c 429 § 14; 1995 c 347 § 110; 1991 sp.s. c 32 § 11.]

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

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

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

RCW 36.70A.302 Growth management hearings board—Determination of invalidity—Vesting of development permits—Interim controls. (1) The board may determine that part or all of a comprehensive plan or development regulations are invalid if the board:

(a) Makes a finding of noncompliance and issues an order of remand under RCW 36.70A.300;

(b) Includes in the final order a determination, supported by findings of fact and conclusions of law, that the continued validity of part or parts of the plan or regulation would substantially interfere with the fulfillment of the goals of this chapter; and

(c) Specifies in the final order the particular part or parts of the plan or regulation that are determined to be invalid, and the reasons for their invalidity.

(2) A determination of invalidity is prospective in effect and does not extinguish rights that vested under state or local law before receipt of the board's order by the city or county. The determination of invalidity does not apply to a completed development permit application for a project that vested under state or local law before receipt of the board's order by the county or city or to related construction permits for that project.

(3)(a) Except as otherwise provided in subsection (2) of this section and (b) of this subsection, a development permit application not vested under state or local law before receipt of the board's order by the county or city vests to the local ordinance or resolution that is determined by the board not to substantially interfere with the fulfillment of the goals of this chapter.

(b) Even though the application is not vested under state or local law before receipt by the county or city of the board's order, a determination of invalidity does not apply to a development permit application for:

(i) A permit for construction by any owner, lessee, or contract purchaser of a single-family residence for his or her own use or for the use of his or her family on a lot existing before receipt by the county or city of the board's order, except as otherwise specifically provided in the board's order to protect the public health and safety;

(ii) A building permit and related construction permits for remodeling, tenant improvements, or expansion of an existing structure on a lot existing before receipt of the board's order by the county or city; and

(iii) A boundary line adjustment or a division of land that does not increase the number of buildable lots existing before receipt of the board's order by the county or city.

(4) If the ordinance that adopts a plan or development regulation under this chapter includes a savings clause intended to revive prior policies or regulations in the event the new plan or regulations are determined to be invalid, the board shall determine under subsection (1) of this section whether the prior policies or regulations are valid during the period of remand.

(5) A county or city subject to a determination of invalidity may adopt interim controls and other measures to be in effect until it adopts a comprehensive plan and development regulations that comply with the requirements of this chapter. A development permit application may vest under an interim control or measure upon determination by the board that the interim controls and other measures do not substantially interfere with the fulfillment of the goals of this chapter.

(6) A county or city subject to a determination of invalidity may file a motion requesting that the board clarify, modify, or rescind the order. The board shall expeditiously schedule a hearing on the motion. At the hearing on the motion, the parties may present information to the board to clarify the part or parts of the comprehensive plan or development regulations to which the final order applies. The board shall issue any supplemental order based on the information provided at the hearing not later than thirty days after the date of the hearing.

(7)(a) If a determination of invalidity has been made and the county or city has enacted an ordinance or resolution amending the invalidated part or parts of the plan or regulation or establishing interim controls on development affected by the order of invalidity, after a compliance hearing, the board shall modify or rescind the determination of invalidity if it determines under the standard in subsection (1) of this section that the plan or regulation, as amended or made subject to such interim controls, will no longer substantially interfere with the fulfillment of the goals of this chapter.

(b) If the board determines that part or parts of the plan or regulation are no longer invalid as provided in this subsection, but does not find that the plan or regulation is in compliance with all of the requirements of this chapter, the board, in its order, may require periodic reports to the board on the progress the jurisdiction is making towards compliance. [2010 c 211 § 10; 1997 c 429 § 16.]

Effective date——Transfer of power, duties, and functions——2010 c 211: See notes following RCW 36.70A.250.

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

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

RCW 36.70A.305 Expedited review. The court shall provide expedited review of a determination of invalidity or an order effectuating a determination of invalidity made or issued under *RCW 36.70A.300. The matter must be set for hearing within sixty days of the date set for submitting the board's record, absent a showing of good cause for a different date or a stipulation of the parties. [1996 c 325 § 4.]

***Reviser's note:** The reference to RCW 36.70A.300 appears to refer to the amendments made by 1996 c 325 § 3, which was vetoed by the governor.

Severability—Effective date—1996 c 325: See notes following RCW 36.70A.270.

RCW 36.70A.310 Growth management hearings board—Limitations on appeal by the state. A request for review by the state to the growth management hearings board may be made only by the governor, or with the governor's consent the head of an agency, or by the commissioner of public lands as relating to state trust lands, for the review of whether: (1) A county or city that is required or chooses to plan under RCW 36.70A.040 has failed to adopt a comprehensive plan or development regulations, or countywide planning policies within the time limits established by this chapter; or (2) a county or city that is required or chooses to plan under this chapter has adopted a comprehensive plan, development regulations, or countywide planning policies, that are not in compliance with the requirements of this chapter. [2010 c 211 § 11; 1994 c 249 § 32; 1991 sp.s. c 32 § 12.]

Effective date—Transfer of power, duties, and functions—2010 c 211: See notes following RCW 36.70A.250.

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

RCW 36.70A.320 Presumption of validity—Burden of proof—Plans and regulations. (1) Except as provided in subsections (5) and (6) of this section, comprehensive plans and development regulations, and amendments thereto, adopted under this chapter are presumed valid upon adoption.

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

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

(4) A county or city subject to a determination of invalidity made under RCW 36.70A.300 or 36.70A.302 has the burden of demonstrating that the ordinance or resolution it has enacted in

response to the determination of invalidity will no longer substantially interfere with the fulfillment of the goals of this chapter under the standard in RCW 36.70A.302(1).

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

(6) The greenhouse gas emissions reduction subelement required by RCW 36.70A.070 shall take effect as provided in RCW 36.70A.096. [2023 c 228 § 8; 1997 c 429 § 20; 1995 c 347 § 111; 1991 sp.s. c 32 § 13.]

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

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

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

RCW 36.70A.3201 Growth management hearings board—Legislative intent and finding. The legislature intends that the board applies a more deferential standard of review to actions of counties and cities than the preponderance of the evidence standard provided for under existing law. In recognition of the broad range of discretion that may be exercised by counties and cities consistent with the requirements of this chapter, the legislature intends for the board to grant deference to counties and cities in how they plan for growth, consistent with the requirements and goals of this chapter. Local comprehensive plans and development regulations require counties and cities to balance priorities and options for action in full consideration of local circumstances. The legislature finds that while this chapter requires local planning to take place within a framework of state goals and requirements, the ultimate burden and responsibility for planning, harmonizing the planning goals of this chapter, and implementing a county's or city's future rests with that community. [2010 c 211 § 12; 1997 c 429 § 2.]

Effective date—Transfer of power, duties, and functions—2010 c 211: See notes following RCW 36.70A.250.

Prospective application—1997 c 429 §§ 1-21: "Except as otherwise specifically provided in RCW 36.70A.335, sections 1 through 21, chapter 429, Laws of 1997 are prospective in effect and shall not affect the validity of actions taken or decisions made before July 27, 1997." [1997 c 429 § 53.]

Severability—1997 c 429: "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." [1997 c 429 § 54.]

RCW 36.70A.330 Noncompliance. (1) After the time set for complying with the requirements of this chapter under RCW 36.70A.300(3)(b) has expired, or at an earlier time upon the motion of a county or city subject to a determination of invalidity under RCW

36.70A.300, the board shall set a hearing for the purpose of determining whether the state agency, county, or city is in compliance with the requirements of this chapter.

(2) The board shall conduct a hearing and issue a finding of compliance or noncompliance with the requirements of this chapter and with any compliance schedule established by the board in its final order. A person with standing to challenge the legislation enacted in response to the board's final order may participate in the hearing along with the petitioner and the state agency, county, or city. A hearing under this subsection shall be given the highest priority of business to be conducted by the board, and a finding shall be issued within forty-five days of the filing of the motion under subsection (1) of this section with the board. The board shall issue any order necessary to make adjustments to the compliance schedule and set additional hearings as provided in subsection (5) of this section.

(3) If the board after a compliance hearing finds that the state agency, county, or city is not in compliance, the board shall transmit its finding to the governor.

(a) The board may refer a finding of noncompliance to the department. The purpose of the referral is for the department to provide technical assistance to facilitate speedy resolution of the finding of noncompliance and to provide training pursuant to RCW 36.70A.332 as necessary.

(b) Alternatively, the board may recommend to the governor that the sanctions authorized by this chapter be imposed. The board shall take into consideration the county's or city's efforts to meet its compliance schedule in making the decision to recommend sanctions to the governor.

(4) In a compliance hearing upon petition of a party, the board shall also reconsider its final order and decide, if no determination of invalidity has been made, whether one now should be made under RCW 36.70A.302.

(5) The board shall schedule additional hearings as appropriate pursuant to subsections (1) and (2) of this section. [2021 c 312 § 2; 1997 c 429 § 21; 1995 c 347 § 112; 1991 sp.s. c 32 § 14.]

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

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

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

RCW 36.70A.332 Training regarding findings of noncompliance. (1) The department shall offer training to assist local governments in understanding findings of noncompliance from the growth management hearings board pursuant to RCW 36.70A.300 and 36.70A.330 and applying prior decisions of the board to ongoing planning efforts to avoid findings of noncompliance.

(2) The department may award grants to a public agency with appropriate expertise and funded by local governments to provide the training required in subsection (1) of this section.

(3) The training provided in subsection (1) of this section is limited to counties that are largely rural. [2021 c 312 § 3.]

RCW 36.70A.335 Order of invalidity issued before July 27, 1997. A county or city subject to an order of invalidity issued before July 27, 1997, by motion may request the board to review the order of invalidity in light of the section 14, chapter 429, Laws of 1997 amendments to RCW 36.70A.300, the section 21, chapter 429, Laws of 1997 amendments to RCW 36.70A.330, and RCW 36.70A.302. If a request is made, the board shall rescind or modify the order of invalidity as necessary to make it consistent with the section 14, chapter 429, Laws of 1997 amendments to RCW 36.70A.300, and to the section 21, chapter 429, Laws of 1997 amendments to RCW 36.70A.330, and RCW 36.70A.302. [1997 c 429 § 22.]

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

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

RCW 36.70A.340 Noncompliance and sanctions. Upon receipt from the board of a finding that a state agency, county, or city is in noncompliance under RCW 36.70A.330, or as a result of failure to meet the requirements of RCW 36.70A.210, the governor may either:

(1) Notify and direct the director of the office of financial management to revise allotments in appropriation levels;

(2) Notify and direct the state treasurer to withhold the portion of revenues to which the county or city is entitled under one or more of the following: The motor vehicle fuel tax, as provided in chapter 82.38 RCW; the transportation improvement account, as provided in RCW 47.26.084; the rural arterial trust account, as provided in RCW 36.79.150; the sales and use tax, as provided in chapter 82.14 RCW; the liquor profit tax, as provided in RCW 66.08.190; and the liquor excise tax, as provided in RCW 82.08.170; or

(3) File a notice of noncompliance with the secretary of state and the county or city, which temporarily rescinds the county or city's authority to collect the real estate excise tax under RCW 82.46.030 until the governor files a notice rescinding the notice of noncompliance. [2013 c 225 § 604; 2011 c 120 § 2; 1991 sp.s. c 32 § 26.]

Effective date——2013 c 225: See note following RCW 82.38.010.

RCW 36.70A.345 Sanctions. The governor may impose a sanction or sanctions specified under RCW 36.70A.340 on: (1) A county or city that fails to designate critical areas, agricultural lands, forestlands, or mineral resource lands under RCW 36.70A.170 by the date such action was required to have been taken; (2) a county or city that fails to adopt development regulations under RCW 36.70A.060 protecting critical areas or conserving agricultural lands, forestlands, or mineral resource lands by the date such action was required to have been taken; (3) a county that fails to designate urban growth areas under RCW 36.70A.110 by the date such action was required to have been taken; and (4) a county or city that fails to adopt its comprehensive plan or development regulations when such actions are required to be taken.

Imposition of a sanction or sanctions under this section shall be preceded by written findings by the governor, that either the county or city is not proceeding in good faith to meet the requirements of the act; or that the county or city has unreasonably delayed taking the required action. The governor shall consult with and communicate his or her findings to the growth management hearings board prior to imposing the sanction or sanctions. For those counties or cities that are not required to plan or have not opted in, the governor in imposing sanctions shall consider the size of the jurisdiction relative to the requirements of this chapter and the degree of technical and financial assistance provided. [2010 c 211 § 13; 1994 c 249 § 33; 1993 sp.s. c 6 § 5.]

Effective date—Transfer of power, duties, and functions—2010 c 211: See notes following RCW 36.70A.250.

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 36.70A.350 New fully contained communities. A county required or choosing to plan under RCW 36.70A.040 may establish a process as part of its urban growth areas, that are designated under RCW 36.70A.110, for reviewing proposals to authorize new fully contained communities located outside of the initially designated urban growth areas.

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

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

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

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

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

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

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

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

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

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

(2) New fully contained communities may be approved outside established urban growth areas only if a county reserves a portion of the twenty-year population projection and offsets the urban growth area accordingly for allocation to new fully contained communities that meet the requirements of this chapter. Any county electing to establish a new community reserve shall do so no more often than once

every five years as a part of the designation or review of urban growth areas required by this chapter. The new community reserve shall be allocated on a project-by-project basis, only after specific project approval procedures have been adopted pursuant to this chapter as a development regulation. When a new community reserve is established, urban growth areas designated pursuant to this chapter shall accommodate the unreserved portion of the twenty-year population projection.

Final approval of an application for a new fully contained community shall be considered an adopted amendment to the comprehensive plan prepared pursuant to RCW 36.70A.070 designating the new fully contained community as an urban growth area. [1991 sp.s. c 32 § 16.]

RCW 36.70A.360 Master planned resorts. (1) Counties that are required or choose to plan under RCW 36.70A.040 may permit master planned resorts which may constitute urban growth outside of urban growth areas as limited by this section. A master planned resort means a self-contained and fully integrated planned unit development, in a setting of significant natural amenities, with primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of developed on-site indoor or outdoor recreational facilities.

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

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

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

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

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

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

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

(c) The county includes a finding as a part of the approval process that the land is better suited, and has more long-term

importance, for the master planned resort than for the commercial harvesting of timber or agricultural production, if located on land that otherwise would be designated as forestland or agricultural land under RCW 36.70A.170;

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

(e) On-site and off-site infrastructure and service impacts are fully considered and mitigated. [1998 c 112 § 2; 1991 sp.s. c 32 § 17.]

Intent——1998 c 112: "The primary intent of this act is to give effect to recommendations by the 1994 department of community, trade, and economic development's master planned resort task force by clarifying that master planned resorts may make use of capital facilities, utilities, and services provided by outside service providers, and may enter into agreements for shared facilities with such providers, when all costs directly attributable to the resort, including capacity increases, are fully borne by the resort." [1998 c 112 § 1.]

RCW 36.70A.362 Master planned resorts——Existing resort may be included. Counties that are required or choose to plan under RCW 36.70A.040 may include existing resorts as master planned resorts which may constitute urban growth outside of urban growth areas as limited by this section. An existing resort means a resort in existence on July 1, 1990, and developed, in whole or in part, as a significantly self-contained and integrated development that includes short-term visitor accommodations associated with a range of indoor and outdoor recreational facilities within the property boundaries in a setting of significant natural amenities. An existing resort may include other permanent residential uses, conference facilities, and commercial activities supporting the resort, but only if these other uses are integrated into and consistent with the on-site recreational nature of the resort.

An existing resort may be authorized by a county only if:

(1) The comprehensive plan specifically identifies policies to guide the development of the existing resort;

(2) The comprehensive plan and development regulations include restrictions that preclude new urban or suburban land uses in the vicinity of the existing resort, except in areas otherwise designated for urban growth under RCW 36.70A.110 and *36.70A.360(1);

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

(4) The county finds that the resort plan is consistent with the development regulations established for critical areas; and

(5) On-site and off-site infrastructure impacts are fully considered and mitigated.

A county may allocate a portion of its twenty-year population projection, prepared by the office of financial management, to the master planned resort corresponding to the projected number of

permanent residents within the master planned resort. [1997 c 382 § 1.]

***Reviser's note:** RCW 36.70A.360 was amended by 1998 c 112 § 2, changing subsection (1) to subsection (4)(a).

RCW 36.70A.365 Major industrial developments. A county required or choosing to plan under RCW 36.70A.040 may establish, in consultation with cities consistent with provisions of RCW 36.70A.210, a process for reviewing and approving proposals to authorize siting of specific major industrial developments outside urban growth areas.

(1) "Major industrial development" means a master planned location for a specific manufacturing, industrial, or commercial business that: (a) Requires a parcel of land so large that no suitable parcels are available within an urban growth area; or (b) is a natural resource-based industry requiring a location near agricultural land, forestland, or mineral resource land upon which it is dependent. The major industrial development shall not be for the purpose of retail commercial development or multitenant office parks.

(2) A major industrial development may be approved outside an urban growth area in a county planning under this chapter if criteria including, but not limited to the following, are met:

(a) New infrastructure is provided for and/or applicable impact fees are paid;

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

(c) Buffers are provided between the major industrial development and adjacent nonurban areas;

(d) Environmental protection including air and water quality has been addressed and provided for;

(e) Development regulations are established to ensure that urban growth will not occur in adjacent nonurban areas;

(f) Provision is made to mitigate adverse impacts on designated agricultural lands, forestlands, and mineral resource lands;

(g) The plan for the major industrial development is consistent with the county's development regulations established for protection of critical areas; and

(h) An inventory of developable land has been conducted and the county has determined and entered findings that land suitable to site the major industrial development is unavailable within the urban growth area. Priority shall be given to applications for sites that are adjacent to or in close proximity to the urban growth area.

(3) Final approval of an application for a major industrial development shall be considered an adopted amendment to the comprehensive plan adopted pursuant to RCW 36.70A.070 designating the major industrial development site on the land use map as an urban growth area. Final approval of an application for a major industrial development shall not be considered an amendment to the comprehensive plan for the purposes of RCW 36.70A.130(2) and may be considered at any time. [1995 c 190 § 1.]

RCW 36.70A.367 Major industrial developments—Master planned locations. (1) In addition to the major industrial development allowed under RCW 36.70A.365, a county planning under RCW 36.70A.040 that meets the criteria in subsection (5) of this section may

establish, in consultation with cities consistent with provisions of RCW 36.70A.210, a process for designating a bank of no more than two master planned locations for major industrial activity outside urban growth areas.

(2) A master planned location for major industrial developments may be approved through a two-step process: Designation of an industrial land bank area in the comprehensive plan; and subsequent approval of specific major industrial developments through a local master plan process described under subsection (3) of this section.

(a) The comprehensive plan must identify locations suited to major industrial development due to proximity to transportation or resource assets. The plan must identify the maximum size of the industrial land bank area and any limitations on major industrial developments based on local limiting factors, but does not need to specify a particular parcel or parcels of property or identify any specific use or user except as limited by this section. In selecting locations for the industrial land bank area, priority must be given to locations that are adjacent to, or in close proximity to, an urban growth area.

(b) The environmental review for amendment of the comprehensive plan must be at the programmatic level and, in addition to a threshold determination, must include:

(i) An inventory of developable land as provided in RCW 36.70A.365; and

(ii) An analysis of the availability of alternative sites within urban growth areas and the long-term annexation feasibility of sites outside of urban growth areas.

(c) Final approval of an industrial land bank area under this section must be by amendment to the comprehensive plan adopted under RCW 36.70A.070, and the amendment is exempt from the limitation of RCW 36.70A.130(2) and may be considered at any time. Approval of a specific major industrial development within the industrial land bank area requires no further amendment of the comprehensive plan.

(3) In concert with the designation of an industrial land bank area, a county shall also adopt development regulations for review and approval of specific major industrial developments through a master plan process. The regulations governing the master plan process shall ensure, at a minimum, that:

(a) Urban growth will not occur in adjacent nonurban areas;

(b) Development is consistent with the county's development regulations adopted for protection of critical areas;

(c) Required infrastructure is identified and provided concurrent with development. Such infrastructure, however, may be phased in with development;

(d) Transit-oriented site planning and demand management programs are specifically addressed as part of the master plan approval;

(e) Provision is made for addressing environmental protection, including air and water quality, as part of the master plan approval;

(f) The master plan approval includes a requirement that interlocal agreements between the county and service providers, including cities and special purpose districts providing facilities or services to the approved master plan, be in place at the time of master plan approval;

(g) A major industrial development is used primarily by industrial and manufacturing businesses, and that the gross floor area of all commercial and service buildings or facilities locating within the major industrial development does not exceed ten percent of the

total gross floor area of buildings or facilities in the development. The intent of this provision for commercial or service use is to meet the needs of employees, clients, customers, vendors, and others having business at the industrial site, to attract and retain a quality workforce, and to further other public objectives, such as trip reduction. These uses may not be promoted to attract additional clientele from the surrounding area. Commercial and service businesses must be established concurrently with or subsequent to the industrial or manufacturing businesses;

(h) New infrastructure is provided for and/or applicable impact fees are paid to assure that adequate facilities are provided concurrently with the development. Infrastructure may be achieved in phases as development proceeds;

(i) Buffers are provided between the major industrial development and adjacent rural areas;

(j) Provision is made to mitigate adverse impacts on designated agricultural lands, forestlands, and mineral resource lands; and

(k) An open record public hearing is held before either the planning commission or hearing examiner with notice published at least thirty days before the hearing date and mailed to all property owners within one mile of the site.

(4) For the purposes of this section:

(a) "Major industrial development" means a master planned location suitable for manufacturing or industrial businesses that: (i) Requires a parcel of land so large that no suitable parcels are available within an urban growth area; (ii) is a natural resource-based industry requiring a location near agricultural land, forestland, or mineral resource land upon which it is dependent; or (iii) requires a location with characteristics such as proximity to transportation facilities or related industries such that there is no suitable location in an urban growth area. The major industrial development may not be for the purpose of retail commercial development or multitenant office parks.

(b) "Industrial land bank" means up to two master planned locations, each consisting of a parcel or parcels of contiguous land, sufficiently large so as not to be readily available within the urban growth area of a city, or otherwise meeting the criteria contained in (a) of this subsection, suitable for manufacturing, industrial, or commercial businesses and designated by the county through the comprehensive planning process specifically for major industrial use.

(5) This section and the termination provisions specified in subsection (6) of this section apply to a county that at the time the process is established under subsection (1) of this section:

(a) Has a population greater than two hundred fifty thousand and is part of a metropolitan area that includes a city in another state with a population greater than two hundred fifty thousand;

(b) Has a population greater than one hundred forty thousand and is adjacent to another country;

(c) Has a population greater than forty thousand but less than seventy-five thousand and has an average level of unemployment for the preceding three years that exceeds the average state unemployment for those years by twenty percent; and

(i) Is bordered by the Pacific Ocean;

(ii) Is located in the Interstate 5 or Interstate 90 corridor; or

(iii) Is bordered by Hood Canal;

(d) Is east of the Cascade divide; and

(i) Borders another state to the south; or

(ii) Is located wholly south of Interstate 90 and borders the Columbia river to the east;

(e) Has an average population density of less than one hundred persons per square mile as determined by the office of financial management, and is bordered by the Pacific Ocean and by Hood Canal; or

(f) Meets all of the following criteria:

(i) Has a population greater than forty thousand but fewer than eighty thousand;

(ii) Has an average level of unemployment for the preceding three years that exceeds the average state unemployment for those years by twenty percent; and

(iii) Is located in the Interstate 5 or Interstate 90 corridor.

(6) In order to identify and approve locations for industrial land banks, the county shall take action to designate one or more industrial land banks and adopt conforming regulations as provided by subsection (2) of this section on or before the last date to complete that county's next periodic review under *RCW 36.70A.130(4) that occurs prior to December 31, 2016. The authority to take action to designate a land bank area in the comprehensive plan expires if not acted upon by the county within the time frame provided in this section. Once a land bank area has been identified in the county's comprehensive plan, the authority of the county to process a master plan or site projects within an approved master plan does not expire.

(7) Any county seeking to designate an industrial land bank under this section must:

(a) Provide countywide notice, in conformity with RCW 36.70A.035, of the intent to designate an industrial land bank. Notice must be published in a newspaper or newspapers of general circulation reasonably likely to reach subscribers in all geographic areas of the county. Notice must be provided not less than thirty days prior to commencement of consideration by the county legislative body; and

(b) Make a written determination of the criteria and rationale used by the legislative body as the basis for siting an industrial land bank under this chapter.

(8) Any location included in an industrial land bank pursuant to section 2, chapter 289, Laws of 1998, section 1, chapter 402, Laws of 1997, and section 2, chapter 167, Laws of 1996 shall remain available for major industrial development according to this section as long as the requirements of this section continue to be satisfied. [2014 c 149 § 1; 2007 c 433 § 1; 2004 c 208 § 1; 2003 c 88 § 1; 2002 c 306 § 1; 2001 c 326 § 1; 1998 c 289 § 2; 1997 c 402 § 1; 1996 c 167 § 2.]

***Reviser's note:** RCW 36.70A.130 was amended by 2020 c 113 § 1, deleting subsection (4).

Findings—Purpose—1998 c 289: "The legislature finds that to fulfill the economic development goal of this chapter, it is beneficial to expand the limited authorization for pilot projects for identifying locations for major industrial activity in advance of specific proposals by an applicant. The legislature further finds that land bank availability may provide economically disadvantaged counties the opportunity to attract new industrial activity by offering expeditious siting and therefore promote a community's economic health and vitality. The purpose of this act is to authorize and evaluate additional pilot projects for major industrial activity in economically disadvantaged counties." [1998 c 289 § 1.]

Findings—Purpose—1996 c 167: "In 1995 the legislature addressed the demand for siting of major industrial facilities by passage of Engrossed Senate Bill No. 5019, implementing a process for siting such activities outside urban growth areas. The legislature recognizes that the 1995 act requires consideration of numerous factors necessary to ensure that the community can reasonably accommodate a major industrial development outside an urban growth area.

The legislature finds that the existing case-by-case procedure for evaluating and approving such a site under the 1995 act may operate to a community's economic disadvantage when a firm, for business reasons, must make a business location decision expeditiously. The legislature therefore finds that it would be useful to authorize, on a limited basis, and evaluate a process for identifying locations for major industrial activity in advance of specific proposals by an applicant.

It is the purpose of this act (1) to authorize a pilot project under which a bank of major industrial development locations outside urban growth areas is created for use in expeditiously siting such a development; (2) to evaluate the impact of this process on the county's compliance with chapter 36.70A RCW; and (3) to encourage consolidation and planning, and environmental review procedures under chapter 36.70B RCW." [1996 c 167 § 1.]

Effective date—1996 c 167: "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 [March 28, 1996]." [1996 c 167 § 3.]

RCW 36.70A.368 Major industrial developments—Master planned locations—Reclaimed surface coal mine sites. (1) In addition to the major industrial development allowed under RCW 36.70A.365 and 36.70A.367, a county planning under RCW 36.70A.040 that meets the criteria in subsection (2) of this section may establish, in consultation with cities consistent with RCW 36.70A.210, a process for designating a master planned location for major industrial activity outside urban growth areas on lands formerly used or designated for surface coal mining and supporting uses. Once a master planned location is designated, it shall be considered an urban growth area retained for purposes of promoting major industrial activity.

(2) This section applies to a county that, at the time the process is established in subsection (1) of this section, had a surface coal mining operation in excess of three thousand acres that ceased operation after July 1, 2006, and that is located within fifteen miles of the Interstate 5 corridor.

(3) Designation of a master planned location for major industrial activities is an amendment to the comprehensive plan adopted under RCW 36.70A.070, except that RCW 36.70A.130(2) does not apply so that designation of master planned locations may be considered at any time. The process established under subsection (1) of this section for designating a master planned location for one or more major industrial activities must include, but is not limited to, the following comprehensive plan policy criteria:

(a) The master planned location must be located on lands: Formerly used or designated for surface coal mining and supporting uses; that consist of an aggregation of land of one thousand or more

acres, which is not required to be contiguous; and that are suitable for manufacturing, industrial, or commercial businesses;

(b) New infrastructure is provided for; and

(c) Environmental review of a proposed designation of a master planned location must be at the programmatic level, as long as the environmental review of a proposed designation that is being reviewed concurrent with a proposed major industrial activity is at the project level.

(4) Approval of a specific major industrial activity proposed for a master planned location designated under this section is through a local master plan process and does not require further comprehensive plan amendment. The process for reviewing and approving a specific major industrial activity proposed for a master planned location designated under this section must include the following criteria in adopted development regulations:

(a) The site consists of one hundred or more acres of land formerly used or designated for surface coal mining and supporting uses that has been or will be reclaimed as land suitable for industrial development;

(b) Urban growth will not occur in adjacent nonurban areas;

(c) Environmental review of a specific proposed major industrial activity must be conducted as required in chapter 43.21C RCW. Environmental review may be processed as a planned action, as long as it meets the requirements of *RCW 43.21C.031; and

(d) Commercial development within a master planned location must be directly related to manufacturing or industrial uses. Commercial uses shall not exceed ten percent of the total gross floor area of buildings or facilities in the development.

(5) Final approval of the designation of a master planned location designated under subsection (3) of this section is subject to appeal under this chapter. Approval of a specific major industrial activity under subsection (4) of this section is subject to appeal under chapter 36.70C RCW.

(6) RCW 36.70A.365 and 36.70A.367 do not apply to the designation of master planned locations or the review and approval of specific major industrial activities under this section. [2007 c 194 § 1.]

***Reviser's note:** The requirements for a planned action were moved by 2012 1st sp.s. c 1 from RCW 43.21C.031 to RCW 43.21C.440.

RCW 36.70A.370 Protection of private property. (1) The state attorney general shall establish by October 1, 1991, an orderly, consistent process, including a checklist if appropriate, that better enables state agencies and local governments to evaluate proposed regulatory or administrative actions to assure that such actions do not result in an unconstitutional taking of private property. It is not the purpose of this section to expand or reduce the scope of private property protections provided in the state and federal Constitutions. The attorney general shall review and update the process at least on an annual basis to maintain consistency with changes in case law.

(2) Local governments that are required or choose to plan under RCW 36.70A.040 and state agencies shall utilize the process established by subsection (1) of this section to assure that proposed regulatory or administrative actions do not result in an unconstitutional taking of private property.

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

(4) The process used by government agencies shall be protected by attorney client privilege. Nothing in this section grants a private party the right to seek judicial relief requiring compliance with the provisions of this section. [1991 sp.s. c 32 § 18.]

RCW 36.70A.380 Extension of designation date. The department may extend the date by which a county or city is required to designate agricultural lands, forestlands, mineral resource lands, and critical areas under RCW 36.70A.170, or the date by which a county or city is required to protect such lands and critical areas under RCW 36.70A.060, if the county or city demonstrates that it is proceeding in an orderly fashion, and is making a good faith effort, to meet these requirements. An extension may be for up to an additional one hundred eighty days. The length of an extension shall be based on the difficulty of the effort to conform with these requirements. [1991 sp.s. c 32 § 39.]

RCW 36.70A.385 Environmental planning pilot projects. (1) The legislature intends to determine whether the environmental review process mandated under chapter 43.21C RCW may be enhanced and simplified, and coordination improved, when applied to comprehensive plans mandated by this chapter. The department shall undertake pilot projects on environmental review to determine if the review process can be improved by fostering more coordination and eliminating duplicative environmental analysis which is made to assist decision makers approving comprehensive plans pursuant to this chapter. Such pilot projects should be designed and scoped to consider cumulative impacts resulting from plan decisions, plan impacts on environmental quality, impacts on adjacent jurisdictions, and similar factors in sufficient depth to simplify the analysis of subsequent specific projects being carried out pursuant to the approved plan.

(2) The legislature hereby authorizes the department to establish, in cooperation with business, industry, cities, counties, and other interested parties, at least two but not more than four pilot projects, one of which shall be with a county, on enhanced draft and final nonproject environmental analysis of comprehensive plans prepared pursuant to this chapter, for the purposes outlined in subsection (1) of this section. The department may select appropriate geographic subareas within a comprehensive plan if that will best serve the purposes of this section and meet the requirements of chapter 43.21C RCW.

(3) An enhanced draft and final nonproject environmental analysis prepared pursuant to this section shall follow the rules adopted pursuant to chapter 43.21C RCW.

(4) Not later than December 31, 1993, the department shall evaluate the overall effectiveness of the pilot projects under this section regarding preparing enhanced nonproject environmental analysis for the approval process of comprehensive plans and shall:

(a) Provide an interim report of its findings to the legislature with such recommendations as may be appropriate, including the need, if any, for further legislation;

(b) Consider adoption of any further rules or guidelines as may be appropriate to assist counties and cities in meeting requirements of chapter 43.21C RCW when considering comprehensive plans; and

(c) Prepare and circulate to counties and cities such instructional manuals or other information derived from the pilot projects as will assist all counties and cities in meeting the requirements and objectives of chapter 43.21C RCW in the most expeditious and efficient manner in the process of considering comprehensive plans pursuant to this chapter. [1998 c 245 § 30; 1995 c 399 § 43; 1991 sp.s. c 32 § 20.]

RCW 36.70A.390 Moratoria, interim zoning controls—Public hearing—Limitation on length—Exceptions. 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. [2021 c 254 § 5; 1992 c 207 § 6.]

RCW 36.70A.410 Treatment of residential structures occupied by persons with handicaps. No county or city that plans or elects to plan under this chapter may enact or maintain an ordinance, development regulation, zoning regulation or official control, policy, or administrative practice which treats a residential structure occupied by persons with handicaps differently than a similar residential structure occupied by a family or other unrelated individuals. As used in this section, "handicaps" are as defined in

the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3602). [1993 c 478 § 23.]

RCW 36.70A.420 Transportation projects—Findings—Intent. The legislature recognizes that there are major transportation projects that affect multiple jurisdictions as to economic development, fiscal influence, environmental consequences, land use implications, and mobility of people and goods. The legislature further recognizes that affected jurisdictions have important interests that must be addressed, and that these jurisdictions' present environmental planning and permitting authority may result in multiple local permits and other requirements being specified for the projects.

The legislature finds that the present permitting system may result in segmented and sequential decisions by local governments that do not optimally serve all the parties with an interest in the decisions. The present system may also make more difficult achieving the consistency among plans and actions that is an important aspect of this chapter.

It is the intent of the legislature to provide for more efficiency and equity in the decisions of local governments regarding major transportation projects by encouraging coordination or consolidation of the processes for reviewing environmental planning and permitting requirements for those projects. The legislature intends that local governments coordinate their regulatory decisions by considering together the range of local, state, and federal requirements for major transportation projects. Nothing in RCW 36.70A.420 or 36.70A.430 alters the authority of cities or counties under any other planning or permitting statute. [1994 c 258 § 1.]

Captions not law—1994 c 258: "Section captions used in this act constitute no part of the law." [1994 c 258 § 6.]

RCW 36.70A.430 Transportation projects—Collaborative review process. For counties engaged in planning under this chapter, there shall be established by December 31, 1994, a collaborative process to review and coordinate state and local permits for all transportation projects that cross more than one city or county boundary. This process shall at a minimum, establish a mechanism among affected cities and counties to designate a permit coordinating agency to facilitate multijurisdictional review and approval of such transportation projects. [1994 c 258 § 2.]

Captions not law—1994 c 258: See note following RCW 36.70A.420.

RCW 36.70A.450 Family day-care provider's home facility—County or city may not prohibit in residential or commercial area—Conditions. (1) Except as provided in subsections (2) and (3) of this section, no county or city may enact, enforce, or maintain an ordinance, development regulation, zoning regulation, or official control, policy, or administrative practice that prohibits the use of a residential dwelling, located in an area zoned for residential or commercial use, as a family day-care provider's home facility.

(2) A county or city may require that the facility: (a) Comply with all building, fire, safety, health code, and business licensing requirements; (b) conform to lot size, building size, setbacks, and lot coverage standards applicable to the zoning district except if the structure is a legal nonconforming structure; (c) is certified by the department of children, youth, and families licensor as providing a safe passenger loading area; (d) include signage, if any, that conforms to applicable regulations; and (e) limit hours of operations to facilitate neighborhood compatibility, while also providing appropriate opportunity for persons who use family day-care and who work a nonstandard work shift.

(3) A county or city may also require that the family day-care provider, before state licensing, require proof of written notification by the provider that the immediately adjoining property owners have been informed of the intent to locate and maintain such a facility. If a dispute arises between neighbors and the family day-care provider over licensing requirements, the licensor may provide a forum to resolve the dispute.

(4) Nothing in this section shall be construed to prohibit a county or city from imposing zoning conditions on the establishment and maintenance of a family day-care provider's home in an area zoned for residential or commercial use, so long as such conditions are no more restrictive than conditions imposed on other residential dwellings in the same zone and the establishment of such facilities is not precluded. As used in this section, "family day-care provider" is as defined in RCW 43.216.010. [2018 c 58 § 22; 2007 c 17 § 13; 2003 c 286 § 5; 1995 c 49 § 3; 1994 c 273 § 17.]

Effective date——2018 c 58: See note following RCW 28A.655.080.

RCW 36.70A.460 Watershed restoration projects——Permit processing——Fish habitat enhancement project. (1) A permit required under this chapter for a watershed restoration project as defined in RCW 89.08.460 shall be processed in compliance with RCW 89.08.450 through 89.08.510.

(2) A fish habitat enhancement project meeting the criteria of RCW 77.55.181 shall be reviewed and approved according to the provisions of RCW 77.55.181. [2014 c 120 § 15; 2003 c 39 § 21; 1998 c 249 § 11; 1995 c 378 § 11.]

Findings——Purpose——Report——Effective date——1998 c 249: See notes following RCW 77.55.181.

RCW 36.70A.470 Project review——Amendment suggestion procedure——Definitions. (1) Project review, which shall be conducted pursuant to the provisions of chapter 36.70B RCW, shall be used to make individual project decisions, not land use planning decisions. If, during project review, a county or city planning under RCW 36.70A.040 identifies deficiencies in plans or regulations:

(a) The permitting process shall not be used as a comprehensive planning process;

(b) Project review shall continue; and

(c) The identified deficiencies shall be docketed for possible future plan or development regulation amendments.

(2) Each county and city planning under RCW 36.70A.040 shall include in its development regulations a procedure for any interested person, including applicants, citizens, hearing examiners, and staff of other agencies, to suggest plan or development regulation amendments. The suggested amendments shall be docketed and considered on at least an annual basis, consistent with the provisions of RCW 36.70A.130.

(3) For purposes of this section, a deficiency in a comprehensive plan or development regulation refers to the absence of required or potentially desirable contents of a comprehensive plan or development regulation. It does not refer to whether a development regulation addresses a project's probable specific adverse environmental impacts which the permitting agency could mitigate in the normal project review process.

(4) For purposes of this section, docketing refers to compiling and maintaining a list of suggested changes to the comprehensive plan or development regulations in a manner that will ensure such suggested changes will be considered by the county or city and will be available for review by the public. [1995 c 347 § 102.]

Findings—Intent—1995 c 347 § 102: "The legislature finds that during project review, a county or city planning under RCW 36.70A.040 is likely to discover the need to make various improvements in comprehensive plans and development regulations. There is no current requirement or process for applicants, citizens, or agency staff to ensure that these improvements are considered in the plan review process. The legislature also finds that in the past environmental review and permitting of proposed projects have been used to reopen and make land use planning decisions that should have been made through the comprehensive planning process, in part because agency staff and hearing examiners have not been able to ensure consideration of all issues in the local planning process. The legislature further finds that, while plans and regulations should be improved and refined over time, it is unfair to penalize applicants that have submitted permit applications that meet current requirements. It is the intent of the legislature in enacting RCW 36.70A.470 to establish a means by which cities and counties will docket suggested plan or development regulation amendments and ensure their consideration during the planning process." [1995 c 347 § 101.]

Finding—1995 c 347: "The legislature recognizes by this act that the growth management act is a fundamental building block of regulatory reform. The state and local governments have invested considerable resources in an act that should serve as the integrating framework for all other land-use related laws. The growth management act provides the means to effectively combine certainty for development decisions, reasonable environmental protection, long-range planning for cost-effective infrastructure, and orderly growth and development." [1995 c 347 § 1.]

Severability—1995 c 347: "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." [1995 c 347 § 901.]

Part headings and table of contents not law——1995 c 347: "Part headings and the table of contents as used in this act do not constitute any part of the law." [1995 c 347 § 902.]

RCW 36.70A.480 Shorelines of the state. (1) For shorelines of the state, the goals and policies of the shoreline management act as set forth in RCW 90.58.020 are added as one of the goals of this chapter as set forth in RCW 36.70A.020 without creating an order of priority among the 15 goals. The goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

(2) The shoreline master program shall be adopted pursuant to the procedures of chapter 90.58 RCW rather than the goals, policies, and procedures set forth in this chapter for the adoption of a comprehensive plan or development regulations.

(3)(a) The policies, goals, and provisions of chapter 90.58 RCW and applicable guidelines shall be the sole basis for determining compliance of a shoreline master program with this chapter except as the shoreline master program is required to comply with the internal consistency provisions of RCW 36.70A.070, 36.70A.040(4), 35.63.125, and 35A.63.105.

(b) Except as otherwise provided in (c) of this subsection, development regulations adopted under this chapter to protect critical areas within shorelines of the state apply within shorelines of the state until the department of ecology approves one of the following: A comprehensive master program update, as defined in RCW 90.58.030; a segment of a master program relating to critical areas, as provided in RCW 90.58.090; or a new or amended master program approved by the department of ecology on or after March 1, 2002, as provided in RCW 90.58.080. The adoption or update of development regulations to protect critical areas under this chapter prior to department of ecology approval of a master program update as provided in this subsection is not a comprehensive or segment update to the master program.

(c)(i) Until the department of ecology approves a master program or segment of a master program as provided in (b) of this subsection, a use or structure legally located within shorelines of the state that was established or vested on or before the effective date of the local government's development regulations to protect critical areas may continue as a conforming use and may be redeveloped or modified if: (A) The redevelopment or modification is consistent with the local government's master program; and (B) the local government determines that the proposed redevelopment or modification will result in no net loss of shoreline ecological functions. The local government may waive this requirement if the redevelopment or modification is consistent with the master program and the local government's development regulations to protect critical areas.

(ii) For purposes of this subsection (3)(c), an agricultural activity that does not expand the area being used for the agricultural activity is not a redevelopment or modification. "Agricultural

activity," as used in this subsection (3)(c), has the same meaning as defined in RCW 90.58.065.

(d) Upon department of ecology approval of a shoreline master program or critical area segment of a shoreline master program, critical areas within shorelines of the state are protected under chapter 90.58 RCW and are not subject to the procedural and substantive requirements of this chapter, except as provided in subsection (6) of this section. Nothing in chapter 321, Laws of 2003 or chapter 107, Laws of 2010 is intended to affect whether or to what extent agricultural activities, as defined in RCW 90.58.065, are subject to chapter 36.70A RCW.

(e) The provisions of RCW 36.70A.172 shall not apply to the adoption or subsequent amendment of a local government's shoreline master program and shall not be used to determine compliance of a local government's shoreline master program with chapter 90.58 RCW and applicable guidelines. Nothing in this section, however, is intended to limit or change the quality of information to be applied in protecting critical areas within shorelines of the state, as required by chapter 90.58 RCW and applicable guidelines.

(4) Shoreline master programs shall provide a level of protection to critical areas located within shorelines of the state that assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources as defined by department of ecology guidelines adopted pursuant to RCW 90.58.060.

(5) Shorelines of the state shall not be considered critical areas under this chapter except to the extent that specific areas located within shorelines of the state qualify for critical area designation based on the definition of critical areas provided by *RCW 36.70A.030(6) and have been designated as such by a local government pursuant to RCW 36.70A.060(2).

(6) If a local jurisdiction's master program does not include land necessary for buffers for critical areas that occur within shorelines of the state, as authorized by RCW 90.58.030(2)(d), then the local jurisdiction shall continue to regulate those critical areas and their required buffers pursuant to RCW 36.70A.060(2). [2023 c 228 § 2; 2010 c 107 § 2; 2003 c 321 § 5; 1995 c 347 § 104.]

***Reviser's note:** RCW 36.70A.030 was amended by 2023 c 332 § 2 and 2023 c 228 § 14, changing subsection (6) to subsection (11).

Intent—2010 c 107: "(1) The legislature recognizes that Engrossed Substitute House Bill No. 1933, enacted as chapter 321, Laws of 2003, modified the relationship between the shoreline management act and the growth management act. The legislature recognizes also that its 2003 efforts, while intended to create greater operational clarity between these significant shoreline and land use acts, have been the subject of differing, and occasionally contrary, legal interpretations. This act is intended to affirm and clarify the legislature's intent relating to the provisions of chapter 321, Laws of 2003.

(2) The legislature affirms that development regulations adopted under the growth management act to protect critical areas apply within shorelines of the state as provided in section 2 of this act.

(3) The legislature affirms that the adoption or update of critical area regulations under the growth management act is not automatically an update to the shoreline master program.

(4) The legislature intends for this act to be remedial and curative in nature, and to apply retroactively to July 27, 2003." [2010 c 107 § 1.]

Retroactive application—2010 c 107: "This act is remedial and curative in nature and applies retroactively to July 27, 2003." [2010 c 107 § 5.]

Effective date—2010 c 107: "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 [March 18, 2010]." [2010 c 107 § 6.]

Finding—Intent—2003 c 321: See note following RCW 90.58.030.

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

RCW 36.70A.481 Construction—Chapter 347, Laws of 1995. Nothing in RCW 36.70A.480 shall be construed to authorize a county or city to adopt regulations applicable to shorelands as defined in RCW 90.58.030 that are inconsistent with the provisions of chapter 90.58 RCW. [1995 c 382 § 13.]

RCW 36.70A.490 Growth management planning and environmental review fund—Established. The growth management planning and environmental review fund is hereby established in the state treasury. Moneys may be placed in the fund from the proceeds of bond sales, tax revenues, budget transfers, federal appropriations, gifts, or any other lawful source. Moneys in the fund may be spent only after appropriation. Moneys in the fund shall be used to make grants or loans to local governments for the purposes set forth in RCW 43.21C.240, 43.21C.031, 36.70A.500, 36.70A.600, for costs associated with RCW 36.70A.610, and to cover costs associated with the adoption of optional elements of comprehensive plans consistent with RCW 43.21C.420. Any payment of either principal or interest, or both, derived from loans made from this fund must be deposited into the fund. [2019 c 348 § 8; 2012 1st sp.s. c 1 § 309; 1995 c 347 § 115.]

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

Findings—Purpose—1995 c 347 § 115: "(1) The legislature finds that:

(a) As of July 23, 1995, twenty-nine counties and two hundred eight cities are conducting comprehensive planning under the growth management act, chapter 36.70A RCW, which together comprise over ninety percent of the state's population;

(b) Comprehensive plans for many of the jurisdictions were due by July 1, 1994, and the remaining jurisdictions must complete plans under due dates ranging from October 1994 to September 1997;

(c) Concurrently with these comprehensive planning activities, local governments must conduct several other planning requirements under the growth management act, such as the adoption of capital facilities plans, urban growth areas, and development regulations;

(d) Local governments must also comply with the state environmental policy act, chapter 43.21C RCW, in the development of comprehensive plans and development regulations;

(e) The combined activities of comprehensive planning and the state environmental policy act present a serious fiscal burden upon local governments; and

(f) Detailed environmental analysis integrated with comprehensive plans, subarea plans, and development regulations will facilitate planning for and managing growth, allow greater protection of the environment, and benefit both the general public and private property owners.

(2) In order to provide financial assistance to cities and counties planning under chapter 36.70A RCW and to improve the usefulness of plans and integrated environmental analyses, the legislature has created the fund described in RCW 36.70A.490." [1995 c 347 § 114.]

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

RCW 36.70A.500 Growth management planning and environmental review fund—Awarding of grant or loan—Procedures. (1) The department of commerce shall provide management services for the growth management planning and environmental review fund created by RCW 36.70A.490. The department shall establish procedures for fund management. The department shall encourage participation in the grant or loan program by other public agencies. The department shall develop the grant or loan criteria, monitor the grant or loan program, and select grant or loan recipients in consultation with state agencies participating in the grant or loan program through the provision of grant or loan funds or technical assistance.

(2) A grant or loan may be awarded to a county or city that is required to or has chosen to plan under RCW 36.70A.040 and that is qualified pursuant to this section. The grant or loan shall be provided to assist a county or city in paying for the cost of preparing an environmental analysis under chapter 43.21C RCW, that is integrated with a comprehensive plan, subarea plan, plan element, countywide planning policy, development regulation, monitoring program, or other planning activity adopted under or implementing this chapter that:

(a) Improves the process for project permit review while maintaining environmental quality; or

(b) Encourages use of plans and information developed for purposes of complying with this chapter to satisfy requirements of other state programs.

(3) In order to qualify for a grant or loan, a county or city shall:

(a) Demonstrate that it will prepare an environmental analysis pursuant to chapter 43.21C RCW and subsection (2) of this section that is integrated with a comprehensive plan, subarea plan, plan element, countywide planning policy, development regulations, monitoring program, or other planning activity adopted under or implementing this chapter;

(b) Address environmental impacts and consequences, alternatives, and mitigation measures in sufficient detail to allow the analysis to be adopted in whole or in part by applicants for development permits within the geographic area analyzed in the plan;

(c) Demonstrate that procedures for review of development permit applications will be based on the integrated plans and environmental analysis;

(d) Include mechanisms to monitor the consequences of growth as it occurs in the plan area and to use the resulting data to update the plan, policy, or implementing mechanisms and associated environmental analysis;

(e) Demonstrate substantial progress towards compliance with the requirements of this chapter. A county or city that is more than six months out of compliance with a requirement of this chapter is deemed not to be making substantial progress towards compliance; and

(f) Provide local funding, which may include financial participation by the private sector.

(4) In awarding grants or loans, the department shall give preference to proposals that include one or more of the following elements:

(a) Financial participation by the private sector, or a public/private partnering approach;

(b) Identification and monitoring of system capacities for elements of the built environment, and to the extent appropriate, of the natural environment;

(c) Coordination with state, federal, and tribal governments in project review;

(d) Furtherance of important state objectives related to economic development, protection of areas of statewide significance, and siting of essential public facilities;

(e) Programs to improve the efficiency and effectiveness of the permitting process by greater reliance on integrated plans and prospective environmental analysis;

(f) Programs for effective citizen and neighborhood involvement that contribute to greater likelihood that planning decisions can be implemented with community support;

(g) Programs to identify environmental impacts and establish mitigation measures that provide effective means to satisfy concurrency requirements and establish project consistency with the plans; or

(h) Environmental review that addresses the impacts of increased density or intensity of comprehensive plans, subarea plans, or receiving areas designated by a city or town under the regional transfer of development rights program in chapter 43.362 RCW.

(5) If the local funding includes funding provided by other state functional planning programs, including open space planning and watershed or basin planning, the functional plan shall be integrated into and be consistent with the comprehensive plan.

(6) State agencies shall work with grant or loan recipients to facilitate state and local project review processes that will

implement the projects receiving grants or loans under this section. [2012 1st sp.s. c 1 § 310; 1997 c 429 § 28; 1995 c 347 § 116.]

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

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

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

RCW 36.70A.510 General aviation airports. Adoption and amendment of comprehensive plan provisions and development regulations under this chapter affecting a general aviation airport are subject to RCW 36.70.547. [1996 c 239 § 5.]

RCW 36.70A.520 National historic towns—Designation. Counties that are required or choose to plan under RCW 36.70A.040 may authorize and designate national historic towns that may constitute urban growth outside of urban growth areas as limited by this section. A national historic town means a town or district that has been designated a national historic landmark by the United States secretary of the interior pursuant to 16 U.S.C. 461 et seq., as amended, based on its significant historic urban features, and which historically contained a mix of residential and commercial or industrial uses.

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

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

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

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

urban or suburban land uses in the vicinity of the town, including the additional limited areas, except in areas otherwise designated for urban growth under this chapter;

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

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

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

A county may allocate a portion of its twenty-year population projection, prepared by the office of financial management, to the national historic town corresponding to the projected number of permanent residents within the national historic town. [2000 c 196 § 1.]

RCW 36.70A.530 Land use development incompatible with military installation not allowed—Revision of comprehensive plans and development regulations. (1) Military installations are of particular importance to the economic health of the state of Washington and it is a priority of the state to protect the land surrounding our military installations from incompatible development.

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

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

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

(5)(a) The notice provided under subsection (4) of this section shall request from the commander of the military installation a written recommendation and supporting facts relating to the use of land being considered in the adoption of a comprehensive plan or an amendment to a plan. The notice shall provide sixty days for a response from the commander. If the commander does not submit a response to such request within sixty days, the local government may

presume that implementation of the proposed plan or amendment will not have any adverse effect on the operation of the installation.

(b) When a county or city intends to amend its development regulations to be consistent with the comprehensive plan elements addressed in (a) of this subsection, notice shall be provided to the commander of the military installation consistent with subsection (4) of this section. The notice shall request from the commander of the military installation a written recommendation and supporting facts relating to the use of land being considered in the amendment to the development regulations. The notice shall provide sixty days for a response from the commander to the requesting government. If the commander does not submit a response to such request within sixty days, the local government may presume that implementation of the proposed development regulation or amendment will not have any adverse effect on the operation of the installation. [2004 c 28 § 2.]

***Reviser's note:** RCW 36.70A.130 was amended by 2020 c 113 § 1, deleting subsection (4).

Finding—2004 c 28: "The United States military is a vital component of the Washington state economy. The protection of military installations from incompatible development of land is essential to the health of Washington's economy and quality of life. Incompatible development of land close to a military installation reduces the ability of the military to complete its mission or to undertake new missions, and increases its cost of operating. The department of defense evaluates continued utilization of military installations based upon their operating costs, their ability to carry out missions, and their ability to undertake new missions." [2004 c 28 § 1.]

RCW 36.70A.540 Affordable housing incentive programs—Low-income housing units—Tiny house communities. (1)(a) Any city or county planning under RCW 36.70A.040 may enact or expand affordable housing incentive programs providing for the development of low-income housing units through development regulations or conditions on rezoning or permit decisions, or both, on one or more of the following types of development: Residential; commercial; industrial; or mixed-use. An affordable housing incentive program may include, but is not limited to, one or more of the following:

(i) Density bonuses within the urban growth area;

(ii) Height and bulk bonuses;

(iii) Fee waivers or exemptions;

(iv) Parking reductions; or

(v) Expedited permitting.

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

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

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

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

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

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

(ii) Owner occupancy housing units shall be affordable to and occupied by households with an income of eighty percent or less of the county median family income, adjusted for family size. The legislative authority of a jurisdiction, after holding a public hearing, may establish lower income levels; and

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

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

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

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

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

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

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

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

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

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

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

(d) The jurisdiction may establish a minimum amount of affordable housing that must be provided by all residential developments being built under the revised regulations, consistent with the requirements of this section.

(4) To provide more affordable housing options, tiny house communities may be part of an incentive program permitted under this section. [2022 c 275 § 2; 2009 c 80 § 1; 2006 c 149 § 2.]

Findings—Intent—2022 c 275: "In 2019 the legislature enacted a statutory framework encouraging the construction of tiny houses and tiny house communities. These homes provide a unique opportunity in the affordable housing market. It is the objective of the legislature to facilitate more development of housing that people with lower incomes can own and remove barriers that would prevent the development of tiny houses and tiny house communities." [2022 c 275 § 1.]

Construction—2022 c 275: "This act shall be liberally construed to carry out its purposes and objectives." [2022 c 275 § 3.]

Findings—2006 c 149: "The legislature finds that as new market-rate housing developments are constructed and housing costs rise, there is a significant and growing number of low-income households that cannot afford market-rate housing in Washington state. The legislature finds that assistance to low-income households that cannot afford market-rate housing requires a broad variety of tools to address this serious, statewide problem. The legislature further finds

that absent any incentives to provide low-income housing, market conditions will result in housing developments in many areas that lack units affordable to low-income households, circumstances that can cause adverse socioeconomic effects.

The legislature encourages cities, towns, and counties to enact or expand affordable housing incentive programs, including density bonuses and other incentives, to increase the availability of low-income housing for renter and owner occupancy that is located in largely market-rate housing developments throughout the community, consistent with local needs and adopted comprehensive plans. While this act establishes minimum standards for those cities, towns, and counties choosing to implement or expand upon an affordable housing incentive program, cities, towns, and counties are encouraged to enact programs that address local circumstances and conditions while simultaneously contributing to the statewide need for additional low-income housing." [2006 c 149 § 1.]

Construction—2006 c 149: "The powers granted in this act are supplemental and additional to the powers otherwise held by local governments, and nothing in this act shall be construed as a limit on such powers. The authority granted in this act shall extend to any affordable housing incentive program enacted or expanded prior to June 7, 2006, if the extension is adopted by the applicable local government in an ordinance or resolution." [2006 c 149 § 4.]

RCW 36.70A.545 Increased density bonus for affordable housing located on property owned by a religious organization. (1) Any city or county fully planning under this chapter must allow an increased density bonus consistent with local needs for any affordable housing development of any single-family or multifamily residence located on real property owned or controlled by a religious organization provided that:

(a) The affordable housing development is set aside for or occupied exclusively by low-income households;

(b) The affordable housing development is part of a lease or other binding obligation that requires the development to be used exclusively for affordable housing purposes for at least fifty years, even if the religious organization no longer owns the property; and

(c) The affordable housing development does not discriminate against any person who qualifies as a member of a low-income household based on race, creed, color, national origin, sex, veteran or military status, sexual orientation, or mental or physical disability; or otherwise act in violation of the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.).

(2) A city or county may develop policies to implement this section if it receives a request from a religious organization for an increased density bonus for an affordable housing development.

(3) An affordable housing development created by a religious institution within a city or county fully planning under RCW 36.70A.040 must be located within an urban growth area as defined in RCW 36.70A.110.

(4) The religious organization developing the affordable housing development must pay all fees, mitigation costs, and other charges required through the development of the affordable housing development.

(5) If applicable, the religious organization developing the affordable housing development should work with the local transit agency to ensure appropriate transit services are provided to the affordable housing development.

(6) This section applies to any religious organization rehabilitating an existing affordable housing development.

(7) For purposes of this section:

(a) "Affordable housing development" means a proposed or existing structure in which one hundred percent of all single-family or multifamily residential dwelling units within the development are set aside for or are occupied by low-income households at a sales price or rent amount that may not exceed thirty percent of the income limit for the low-income housing unit;

(b) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is less than eighty percent of the median family income, adjusted for household size, for the county where the affordable housing development is located; and

(c) "Religious organization" has the same meaning as in RCW 36.01.290. [2019 c 218 § 3.]

RCW 36.70A.550 Aquifer conservation zones. (1) Any city coterminous with, and comprised only of, an island that relies solely on groundwater aquifers for its potable water source and does not have reasonable access to a potable water source outside its jurisdiction may designate one or more aquifer conservation zones.

Aquifer conservation zones may only be designated for the purpose of conserving and protecting potable water sources.

(2) Aquifer conservation zones may not be considered critical areas under this chapter except to the extent that specific areas located within aquifer conservation zones qualify for critical area designation and have been designated as such under RCW 36.70A.060(2).

(3) Any city may consider whether an area is within an aquifer conservation zone when determining the residential density of that particular area. The residential densities within conservation zones, in combination with other densities of the city, must be sufficient to accommodate projected population growth under RCW 36.70A.110.

(4) Nothing in this section may be construed to modify the population accommodation obligations required of jurisdictions under this chapter. [2007 c 159 § 1.]

RCW 36.70A.570 Regulation of forest practices. (1) Each county, city, and town assuming regulation of forest practices as provided in RCW 76.09.240 (1) and (2) shall adopt development regulations that:

(a) Protect public resources, as defined in RCW 76.09.020, from material damage or the potential for material damage;

(b) Require appropriate approvals for all phases of the conversion of forestlands, including clearing and grading;

(c) Are guided by the planning goals in RCW 36.70A.020 and by the purposes and policies of the forest practices act as set forth in RCW 76.09.010; and

(d) Are consistent with or supplement development regulations that protect critical areas pursuant to RCW 36.70A.060.

(2) If necessary, each county, city, or town that assumes regulation of forest practices under RCW 76.09.240 shall amend its

comprehensive plan to ensure consistency between its comprehensive plan and development regulations.

(3) Before a county, city, or town may regulate forest practices under RCW 76.09.240 (1) and (2), it shall update its development regulations as required by RCW 36.70A.130 and, if applicable, RCW 36.70A.215. Forest practices regulations adopted under RCW 76.09.240 (1) and (2) may be adopted as part of the legislative action taken under RCW 36.70A.130 or 36.70A.215. [2007 c 236 § 2.]

RCW 36.70A.590 Complying with requirements relating to surface and groundwater resources. For the purposes of complying with the requirements of this chapter relating to surface and groundwater resources, a county or city may rely on or refer to applicable minimum instream flow rules adopted by the department of ecology under chapters 90.22 and 90.54 RCW. Development regulations must ensure that proposed water uses are consistent with RCW 90.44.050 and with applicable rules adopted pursuant to chapters 90.22 and 90.54 RCW when making decisions under RCW 19.27.097 and 58.17.110. [2018 c 1 § 102.]

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

Effective date——2018 c 1: See RCW 90.94.900.

RCW 36.70A.600 Cities planning under RCW 36.70A.040——Increasing residential building capacity——Housing action plan authorized——Grant assistance. (1) A city planning pursuant to RCW 36.70A.040 is encouraged to take the following actions in order to increase its residential building capacity:

(a) Authorize development in one or more areas of not fewer than five hundred acres that include at least one train station served by commuter rail or light rail with an average of at least fifty residential units per acre that require no more than an average of one on-site parking space per two bedrooms in the portions of multifamily zones that are located within the areas;

(b) Authorize development in one or more areas of not fewer than two hundred acres in cities with a population greater than forty thousand or not fewer than one hundred acres in cities with a population less than forty thousand that include at least one bus stop served by scheduled bus service of at least four times per hour for twelve or more hours per day with an average of at least twenty-five residential units per acre that require no more than an average of one on-site parking space per two bedrooms in portions of the multifamily zones that are located within the areas;

(c) Authorize at least one duplex, triplex, quadplex, sixplex, stacked flat, townhouse, or courtyard apartment on each parcel in one or more zoning districts that permit single-family residences unless a city documents a specific infrastructure of physical constraint that would make this requirement unfeasible for a particular parcel;

(d) Authorize a duplex, triplex, quadplex, sixplex, stacked flat, townhouse, or courtyard apartment on one or more parcels for which they are not currently authorized;

(e) Authorize cluster zoning or lot size averaging in all zoning districts that permit single-family residences;

(f) Adopt a subarea plan pursuant to RCW 43.21C.420;

(g) Adopt a planned action pursuant to RCW 43.21C.440(1)(b)(ii), except that an environmental impact statement pursuant to RCW 43.21C.030 is not required for such an action;

(h) Adopt increases in categorical exemptions pursuant to RCW 43.21C.229 for residential or mixed-use development;

(i) Adopt a form-based code in one or more zoning districts that permit residential uses. "Form-based code" means a land development regulation that uses physical form, rather than separation of use, as the organizing principle for the code;

(j) Authorize a duplex on each corner lot within all zoning districts that permit single-family residences;

(k) Allow for the division or redivision of land into the maximum number of lots through the short subdivision process provided in chapter 58.17 RCW;

(l) Authorize a minimum net density of six dwelling units per acre in all residential zones, where the residential development capacity will increase within the city. For purposes of this subsection, the calculation of net density does not include the square footage of areas that are otherwise prohibited from development, such as critical areas, the area of buffers around critical areas, and the area of roads and similar features;

(m) Create one or more zoning districts of medium density in which individual lots may be no larger than three thousand five hundred square feet and single-family residences may be no larger than one thousand two hundred square feet;

(n) Authorize accessory dwelling units in one or more zoning districts in which they are currently prohibited;

(o) Remove minimum residential parking requirements related to accessory dwelling units;

(p) Remove owner occupancy requirements related to accessory dwelling units;

(q) Adopt new square footage requirements related to accessory dwelling units that are less restrictive than existing square footage requirements related to accessory dwelling units;

(r) Adopt maximum allowable exemption levels in WAC 197-11-800(1) as it existed on June 11, 2020, or such subsequent date as may be provided by the department of ecology by rule, consistent with the purposes of this section;

(s) Adopt standards for administrative approval of final plats pursuant to RCW 58.17.100;

(t) Adopt ordinances authorizing administrative review of preliminary plats pursuant to RCW 58.17.095;

(u) Adopt other permit process improvements where it is demonstrated that the code, development regulation, or ordinance changes will result in a more efficient permit process for customers;

(v) Update use matrices and allowable use tables that eliminate conditional use permits and administrative conditional use permits for all housing types, including single-family homes, townhomes, multifamily housing, low-income housing, and senior housing, but excluding essential public facilities;

(w) Allow off-street parking to compensate for lack of on-street parking when private roads are utilized or a parking demand study shows that less parking is required for the project;

(x) Develop a local program that offers homeowners a combination of financing, design, permitting, or construction support to build accessory dwelling units. A city may condition this program on a requirement to provide the unit for affordable home ownership or rent

the accessory dwelling unit for a defined period of time to either tenants in a housing subsidy program as defined in RCW 43.31.605(14) or to tenants whose income is less than eighty percent of the city or county median family income. If the city includes an affordability requirement under the program, it must provide additional incentives, such as:

(i) Density bonuses;

(ii) Height and bulk bonuses;

(iii) Fee waivers or exemptions;

(iv) Parking reductions; or

(v) Expedited permitting; and

(y) Develop a local program that offers homeowners a combination of financing, design, permitting, or construction support to convert a single-family home into a duplex, triplex, or quadplex where those housing types are authorized. A local government may condition this program on a requirement to provide a certain number of units for affordable home ownership or to rent a certain number of the newly created units for a defined period of time to either tenants in a housing subsidy program as defined in RCW 43.31.605(14) or to tenants whose income is less than eighty percent of the city or county median family income. If the city includes an affordability requirement, it must provide additional incentives, such as:

(i) Density bonuses;

(ii) Height and bulk bonuses;

(iii) Fee waivers or exemptions;

(iv) Parking reductions; or

(v) Expedited permitting.

(2) A city planning pursuant to RCW 36.70A.040 may adopt a housing action plan as described in this subsection. The goal of any such housing plan must be to encourage construction of additional affordable and market rate housing in a greater variety of housing types and at prices that are accessible to a greater variety of incomes, including strategies aimed at the for-profit single-family home market. A housing action plan may utilize data compiled pursuant to RCW 36.70A.610. The housing action plan should:

(a) Quantify existing and projected housing needs for all income levels, including extremely low-income households, with documentation of housing and household characteristics, and cost-burdened households;

(b) Develop strategies to increase the supply of housing, and variety of housing types, needed to serve the housing needs identified in (a) of this subsection;

(c) Analyze population and employment trends, with documentation of projections;

(d) Consider strategies to minimize displacement of low-income residents resulting from redevelopment;

(e) Review and evaluate the current housing element adopted pursuant to RCW 36.70A.070, including an evaluation of success in attaining planned housing types and units, achievement of goals and policies, and implementation of the schedule of programs and actions;

(f) Provide for participation and input from community members, community groups, local builders, local realtors, nonprofit housing advocates, and local religious groups; and

(g) Include a schedule of programs and actions to implement the recommendations of the housing action plan.

(3) The adoption of ordinances, development regulations and amendments to such regulations, and other nonproject actions taken by

a city to implement the actions specified in subsection (1) of this section, with the exception of the action specified in subsection (1)(f) of this section, are not subject to administrative or judicial appeal under chapter 43.21C RCW.

(4) Any action taken by a city prior to April 1, 2023, to amend its comprehensive plan or adopt or amend ordinances or development regulations, solely to enact provisions under subsection (1) of this section is not subject to legal challenge under this chapter.

(5) In taking action under subsection (1) of this section, cities are encouraged to utilize strategies that increase residential building capacity in areas with frequent transit service and with the transportation and utility infrastructure that supports the additional residential building capacity.

(6) A city that is planning to take at least two actions under subsection (1) of this section, and that action will occur between July 28, 2019, and April 1, 2021, is eligible to apply to the department for planning grant assistance of up to one hundred thousand dollars, subject to the availability of funds appropriated for that purpose. The department shall develop grant criteria to ensure that grant funds awarded are proportionate to the level of effort proposed by a city, and the potential increase in housing supply or regulatory streamlining that could be achieved. Funding may be provided in advance of, and to support, adoption of policies or ordinances consistent with this section. A city can request, and the department may award, more than one hundred thousand dollars for applications that demonstrate extraordinary potential to increase housing supply or regulatory streamlining.

(7) A city seeking to develop a housing action plan under subsection (2) of this section is eligible to apply to the department for up to one hundred thousand dollars.

(8) The department shall establish grant award amounts under subsections (6) and (7) of this section based on the expected number of cities that will seek grant assistance, to ensure that all cities can receive some level of grant support. If funding capacity allows, the department may consider accepting and funding applications from cities with a population of less than twenty thousand if the actions proposed in the application will create a significant amount of housing capacity or regulatory streamlining and are consistent with the actions in this section.

(9) In implementing chapter 348, Laws of 2019, cities are encouraged to prioritize the creation of affordable, inclusive neighborhoods and to consider the risk of residential displacement, particularly in neighborhoods with communities at high risk of displacement. [2022 c 246 § 1; 2020 c 173 § 1; 2019 c 348 § 1.]

RCW 36.70A.610 Housing supply and affordability report. (1) The Washington center for real estate research at the University of Washington shall produce a series of reports as described in this section that compiles housing supply and affordability metrics for each city planning under RCW 36.70A.040 with a population of ten thousand or more.

(a) The initial report, completed by October 15, 2020, must be a compilation of objective criteria relating to income, employment, housing and rental prices, housing affordability by housing tenure, and other metrics relevant to assessing housing supply and affordability for all income segments, including the percentage of

cost-burdened households of each jurisdiction. This report may also include city-specific median income data for those cities implementing the multifamily tax exemption program under chapter 84.14 RCW.

(b) The report completed by October 15, 2021, must include an analysis of the private rental housing market for each area outlining the number of units, vacancy rates, and rents by unit type, where possible. This analysis should separate market rate multifamily rental housing developments and other smaller scale market rate rental housing. This analysis should also incorporate data from the Washington state housing finance commission on subsidized rental housing in the area consistent with the first report under this subsection.

(c) The report completed by October 15, 2022, must also include data relating to actions taken by cities under chapter 348, Laws of 2019 as well as detailed information on development regulations, levies and fees, and zoning related to housing development.

(d) The report completed by October 15, 2024, and every two years thereafter, must also include relevant data relating to buildable lands reports prepared under RCW 36.70A.215, where applicable, and updates to comprehensive plans under this chapter.

(2) The Washington center for real estate research shall collaborate with the Washington housing finance commission and the office of financial management to develop the metrics compiled in the series of reports under this section.

(3) The series of reports under this section must be submitted, consistent with RCW 43.01.036, to the standing committees of the legislature with jurisdiction over housing issues and this chapter. [2020 c 173 § 6; 2019 c 348 § 3.]

RCW 36.70A.620 Cities planning under RCW 36.70A.040—Minimum residential parking requirements. In counties and cities planning under RCW 36.70A.040, minimum residential parking requirements mandated by municipal zoning ordinances for housing units constructed after July 1, 2019, are subject to the following requirements:

(1) For housing units that are affordable to very low-income or extremely low-income individuals and that are located within one-quarter mile of a transit stop that receives transit service at least two times per hour for twelve or more hours per day, minimum residential parking requirements may be no greater than one parking space per bedroom or .75 space per unit. A city may require a developer to record a covenant that prohibits the rental of a unit subject to this parking restriction for any purpose other than providing for housing for very low-income or extremely low-income individuals. The covenant must address price restrictions and household income limits and policies if the property is converted to a use other than for low-income housing. A city may establish a requirement for the provision of more than one parking space per bedroom or .75 space per unit if the jurisdiction has determined a particular housing unit to be in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible for the unit.

(2) For housing units that are specifically for seniors or people with disabilities, that are located within one-quarter mile of a transit stop that receives transit service at least four times per

hour for twelve or more hours per day, a city may not impose minimum residential parking requirements for the residents of such housing units, subject to the exceptions provided in this subsection. A city may establish parking requirements for staff and visitors of such housing units. A city may establish a requirement for the provision of one or more parking space per bedroom if the jurisdiction has determined a particular housing unit to be in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible for the unit. A city may require a developer to record a covenant that prohibits the rental of a unit subject to this parking restriction for any purpose other than providing for housing for seniors or people with disabilities.

(3) For market rate multifamily housing units that are located within one-quarter mile of a transit stop that receives transit service from at least one route that provides service at least four times per hour for twelve or more hours per day, minimum residential parking requirements may be no greater than one parking space per bedroom or .75 space per unit. A city or county may establish a requirement for the provision of more than one parking space per bedroom or .75 space per unit if the jurisdiction has determined a particular housing unit to be in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible for the unit. [2020 c 173 § 3; 2019 c 348 § 5.]

RCW 36.70A.630 Local design review—Requirements and restrictions. (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) Must include one or more ascertainable guideline, standard, or criterion by which an applicant can determine whether a given building design is permissible under that development regulation; and

(b) May not result in a reduction in density, height, bulk, or scale below the generally applicable development regulations for a development proposal in the applicable zone.

(3) The provisions of subsection (2) of this section do not apply to development regulations that apply only to designated landmarks or historic districts established under a local preservation ordinance.

(4) Any design review process must be conducted concurrently, or otherwise logically integrated, with the consolidated review and decision process for project permits set forth in RCW 36.70B.120(3), and no design review process may include more than one public meeting.

(5) A county or city must comply with the requirements of this section beginning six months after its next periodic comprehensive plan update required under RCW 36.70A.130. [2023 c 333 § 1.]

RCW 36.70A.635 Minimum residential density. (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 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 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) 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 July 23, 2023, 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 July 23, 2023.

(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. [2023 c 332 § 3.]

Finding—2023 c 332: "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." [2023 c 332 § 1.]

RCW 36.70A.636 Department technical assistance—Approval of alternative action. (1)(a) The department is directed to provide

technical assistance to cities as they implement the requirements under RCW 36.70A.635.

(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 July 23, 2023.

(b) In any city subject to RCW 36.70A.635 that has not passed ordinances, regulations, or other official controls within the time frames provided under RCW 36.70A.635(11), the model ordinance supersedes, preempts, and invalidates local development regulations until the city takes all actions necessary to implement RCW 36.70A.635.

(3)(a) The department is directed to establish a process by which cities implementing the requirements of RCW 36.70A.635 may seek approval of alternative local action necessary to meet the requirements of chapter 332, Laws of 2023.

(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 chapter 332, Laws of 2023 and have adopted, or within one year of July 23, 2023, adopts, permanent development regulations that are substantially similar to the requirements of chapter 332, Laws of 2023. 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 chapter 332, Laws of 2023 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 chapter 332, Laws of 2023 if they have adopted, or within one year of July 23, 2023, 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 chapter 332, Laws of 2023 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 chapter 332, Laws of 2023 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 RCW 36.70A.635.

(e) Any local actions approved by the department pursuant to (a) of this subsection to implement the requirements under RCW 36.70A.635 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 RCW 36.70A.635 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 chapter 332, Laws of 2023 can be integrated with the methods used by cities to calculate zoning densities and intensities in local zoning and development regulations. [2023 c 332 § 4.]

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

RCW 36.70A.637 Extension for certain areas. Any city choosing the alternative density requirements in RCW 36.70A.635(4) 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. [2023 c 332 § 5.]

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

RCW 36.70A.638 Extension for lack of infrastructure capacity. (1) Any city choosing the alternative density requirements in RCW 36.70A.635(4) may apply to the department for, and the department may certify, an extension of the implementation timelines established under RCW 36.70A.635(11).

(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 RCW 36.70A.635, 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 July 23, 2023, 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 RCW 36.70A.635. 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 RCW 36.70A.635 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 RCW 36.70A.635, the city may limit the areas subject to the requirements under RCW 36.70A.635 to match current water availability. Nothing in chapter 332, Laws of 2023 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 RCW 36.70A.635 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 chapter 332, Laws of 2023 affects or modifies the responsibilities of cities to plan for or provide urban governmental services as defined in RCW 36.70A.030. [2023 c 332 § 7.]

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

RCW 36.70A.639 Department rules. The department of commerce may establish by rule any standards or procedures necessary to implement RCW 36.70A.030, 36.70A.280, 36.70A.635, 36.70A.636, 36.70A.637, and 36.70A.638. [2023 c 332 § 14.]

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

RCW 36.70A.680 Accessory dwelling units——Local regulation. (1)(a) Cities and counties planning under this chapter must adopt or amend by ordinance, and incorporate into their development regulations, zoning regulations, and other official controls the requirements of this section and of RCW 36.70A.681, to take effect six months after the jurisdiction's next periodic comprehensive plan update required under RCW 36.70A.130.

(b) In any city or county that has not adopted or amended ordinances, regulations, or other official controls as required under this section, the requirements of this section and RCW 36.70A.681 supersede, preempt, and invalidate any conflicting local development regulations.

(2) Ordinances, development regulations, and other official controls adopted or amended pursuant to this section and RCW 36.70A.681 must only apply in the portions of towns, cities, and counties that are within urban growth areas designated under this chapter.

(3) Any action taken by a city or county to comply with the requirements of this section or RCW 36.70A.681 is not subject to legal challenge under this chapter or chapter 43.21C RCW.

(4) Nothing in this section or RCW 36.70A.681 requires or authorizes a city or county to authorize the construction of an accessory dwelling unit in a location where development is restricted under other laws, rules, or ordinances as a result of physical proximity to on-site sewage system infrastructure, critical areas, or other unsuitable physical characteristics of a property.

(5) Nothing in this section or in RCW 36.70A.681 prohibits a city or county from:

(a) Restricting the use of accessory dwelling units for short-term rentals;

(b) Applying public health, safety, building code, and environmental permitting requirements to an accessory dwelling unit that would be applicable to the principal unit, including regulations to protect ground and surface waters from on-site wastewater;

(c) Applying generally applicable development regulations to the construction of an accessory unit, except when the application of such regulations would be contrary to this section or to RCW 36.70A.681;

(d) Prohibiting the construction of accessory dwelling units on lots that are not connected to or served by public sewers; or

(e) Prohibiting or restricting the construction of accessory dwelling units in residential zones with a density of one dwelling unit per acre or less that are within areas designated as wetlands, fish and wildlife habitats, flood plains, or geologically hazardous areas. [2023 c 334 § 3.]

Findings——Intent——2023 c 334: "(1) The legislature makes the following findings:

(a) Washington state is experiencing a housing affordability crisis. Many communities across the state are in need of more housing for renters across the income spectrum.

(b) Many cities dedicate the majority of residentially zoned land to single detached houses that are increasingly financially out of reach for many households. Due to their smaller size, accessory dwelling units can provide a more affordable housing option in those single-family zones.

(c) Localities can start to correct for historic economic and racial exclusion in single-family zones by opening up these neighborhoods to more diverse housing types, including accessory dwelling units, that provide lower cost homes. Increasing housing options in expensive, high-opportunity neighborhoods will give more families access to schools, parks, and other public amenities otherwise accessible to only the wealthy.

(d) Accessory dwelling units are frequently rented below market rate, providing additional affordable housing options for renters.

(e) Accessory dwelling units can also help to provide housing for very low-income households. More than 10 percent of accessory dwelling units in some areas are occupied by tenants who pay no rent at all; among these tenants are grandparents, adult children, family members with disabilities, friends going through life transitions, and community members in need. Accessory dwelling units meet the needs of these people who might otherwise require subsidized housing space and resources.

(f) Accessory dwelling units can meet the needs of Washington's growing senior population, making it possible for this population to age in their communities by offering senior-friendly housing, which prioritizes physical accessibility, in walkable communities near amenities essential to successful aging in place, including transit and grocery stores, without requiring costly renovations of existing housing stock.

(g) Homeowners who add an accessory dwelling unit may benefit from added income and an increased sense of security.

(h) Accessory dwelling units provide environmental benefits. On average they are more energy efficient than single detached houses, and they incentivize adaptive reuse of existing homes and materials.

(i) Siting accessory dwelling units near transit hubs, employment centers, and public amenities can help to reduce greenhouse gas emissions by increasing walkability, shortening household commutes, and curtailing sprawl.

(2) The legislature intends to promote and encourage the creation of accessory dwelling units as a means to address the need for additional affordable housing options." [2023 c 334 § 1.]

RCW 36.70A.681 Accessory dwelling units——Limitations on local regulation. (1) In addition to ordinances, development regulations, and other official controls adopted or amended to comply with this section and RCW 36.70A.680, a city or county must comply with all of the following policies:

(a) The city or county may not assess impact fees on the construction of accessory dwelling units that are greater than 50 percent of the impact fees that would be imposed on the principal unit;

(b) 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;

(c) The city or county must allow at least two accessory dwelling units on all lots that are located in all zoning districts within an urban growth area that allow for single-family homes in the following configurations:

(i) One attached accessory dwelling unit and one detached accessory dwelling unit;

(ii) Two attached accessory dwelling units; or

(iii) Two detached accessory dwelling units, which may be comprised of either one or two detached structures;

(d) The city or county must permit accessory dwelling units in structures detached from the principal unit;

(e) The city or county must allow an accessory dwelling unit on any lot that meets the minimum lot size required for the principal unit;

(f) The city or county may not establish a maximum gross floor area requirement for accessory dwelling units that is less than 1,000 square feet;

(g) The city or county may not establish roof height limits on an accessory dwelling unit of less than 24 feet, unless the height limitation that applies to the principal unit is less than 24 feet, in which case a city or county may not impose roof height limitation on accessory dwelling units that is less than the height limitation that applies to the principal unit;

(h) A city or county may not impose setback requirements, yard coverage limits, tree retention mandates, restrictions on entry door locations, aesthetic requirements, or requirements for design review for accessory dwelling units that are more restrictive than those for principal units;

(i) A city or county must allow detached accessory dwelling units to be sited at a lot line if the lot line abuts a public alley, unless the city or county routinely plows snow on the public alley;

(j) 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;

(k) A city or county may not prohibit the sale or other conveyance of a condominium unit independently of a principal unit solely on the grounds that the condominium unit was originally built as an accessory dwelling unit; and

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

(2)(a) A city or county subject to the requirements of this section may not:

(i) Require off-street parking as a condition of permitting development of accessory dwelling units within one-half mile walking distance of a major transit stop;

(ii) Require more than one off-street parking space per unit as a condition of permitting development of accessory dwelling units on lots smaller than 6,000 square feet before any zero lot line subdivisions or lot splits; and

(iii) Require more than two off-street parking spaces per unit as a condition of permitting development of accessory dwelling units on lots greater than 6,000 square feet before any zero lot line subdivisions or lot splits.

(b) The provisions of (a) of this subsection do not apply:

(i) 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 (a) of this subsection for accessory dwelling units 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 and counties on items to include in the study; or

(ii) To portions of cities within a one mile radius of a commercial airport in Washington with at least 9,000,000 annual enplanements.

(3) When regulating accessory dwelling units, cities and counties may impose a limit of two accessory dwelling units, in addition to the principal unit, on a residential lot of 2,000 square feet or less.

(4) The provisions of this section do not apply to lots designated with critical areas or their buffers as designated in RCW 36.70A.060, or to 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)). [2023 c 334 § 4.]

Findings—Intent—2023 c 334: See note following RCW 36.70A.680.

RCW 36.70A.682 Accessory dwelling units—Department review of comprehensive plans. (1) By December 31, 2023, the department must revise its recommendations for encouraging accessory dwelling units to include the provisions of RCW 36.70A.680 and 36.70A.681.

(2) During each comprehensive plan review required by RCW 36.70A.130, the department must review local government comprehensive plans and development regulations for compliance with RCW 36.70A.680 and 36.70A.681 and the department's recommendations under subsection (1) of this section. [2023 c 334 § 8.]

RCW 36.70A.690 On-site sewage system self-inspection. This chapter does not preclude counties from authorizing inspections of on-site sewage systems to be conducted by a homeowner, a homeowner's family member, or a homeowner's tenant that has completed certification requirements specified by the county. Nothing in this section eliminates the requirement that counties protect water quality consistent with RCW 36.70A.070 (1) and (5). [2017 c 105 § 1.]

RCW 36.70A.695 Development regulations—Jurisdictions specified—Electric vehicle infrastructure. (1) By July 1, 2010, the development regulations of any jurisdiction:

(a) Adjacent to Interstate 5, Interstate 90, Interstate 405, or state route number 520, with a population over twenty thousand, and located in a county with a population over one million five hundred thousand; or

(b) Adjacent to Interstate 5 and located in a county with a population greater than six hundred thousand; or

(c) Adjacent to Interstate 5 and located in a county with a state capitol within its borders;

planning under this chapter must allow electric vehicle infrastructure as a use in all areas except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(2) By July 1, 2011, or six months after the distribution required under RCW 43.31.970 occurs, whichever is later, the development regulations of any jurisdiction adjacent to Interstate 5, Interstate 90, Interstate 405, or state route number 520 planning under this chapter must allow electric vehicle infrastructure as a use in all areas except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(3) By July 1, 2011, or six months after the distribution required under RCW 43.31.970 occurs, whichever is later, the development regulations of any jurisdiction planning under this chapter must allow battery charging stations as a use in all areas except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(4) Cities are authorized to adopt incentive programs to encourage the retrofitting of existing structures with the electrical outlets capable of charging electric vehicles. Incentives may include bonus height, site coverage, floor area ratio, and transferable development rights for use in urban growth areas.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(6) If federal funding for public investment in electric vehicles, electric vehicle infrastructure, or alternative fuel distribution infrastructure is not provided by February 1, 2010, subsection (1) of this section is null and void. [2009 c 459 § 12.]

Finding—Purpose—2009 c 459: See note following RCW 47.80.090.

Regional transportation planning organizations—Electric vehicle infrastructure: RCW 47.80.090.

RCW 36.70A.696 Accessory dwelling units—Definitions. The definitions in this section apply throughout RCW 36.70A.697, 36.70A.698, 36.70A.680, and 36.70A.681 unless the context clearly requires otherwise.

(1) "Accessory dwelling unit" means a dwelling unit located on the same lot as a single-family housing unit, duplex, triplex, townhome, or other housing unit.

(2) "Attached accessory dwelling unit" means an accessory dwelling unit located within or attached to a single-family housing unit, duplex, triplex, townhome, or other housing unit.

(3) "City" means any city, code city, and town located in a county planning under RCW 36.70A.040.

(4) "County" means any county planning under RCW 36.70A.040.

(5) "Detached accessory dwelling unit" means an accessory dwelling unit that consists partly or entirely of a building that is separate and detached from a single-family housing unit, duplex, triplex, townhome, or other housing unit and is on the same property.

(6) "Dwelling unit" means a residential living unit that provides complete independent living facilities for one or more persons and that includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

(7) "Gross floor area" means the interior habitable area of a dwelling unit including basements and attics but not including a garage or accessory structure.

(8) "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, including transitways;

(d) Stops on bus rapid transit routes or routes that run on high occupancy vehicle lanes; or

(e) Stops for a bus or other transit mode providing actual fixed route service at intervals of at least fifteen minutes for at least five hours during the peak hours of operation on weekdays.

(9) "Owner" means any person who has at least 50 percent ownership in a property on which an accessory dwelling unit is located.

(10) "Principal unit" means the single-family housing unit, duplex, triplex, townhome, or other housing unit located on the same lot as an accessory dwelling unit.

(11) "Short-term rental" means a lodging use, that is not a hotel or motel or bed and breakfast, in which a dwelling unit, or portion thereof, is offered or provided to a guest by a short-term rental operator for a fee for fewer than 30 consecutive nights. [2023 c 334 § 2; 2021 c 306 § 2; 2020 c 217 § 2.]

Findings—Intent—2023 c 334: See note following RCW 36.70A.680.

Findings—Intent—2020 c 217: "(1) The legislature makes the following findings:

(a) Washington state is experiencing a housing affordability crisis. Many communities across the state are in need of more housing for renters, across the income spectrum. Accessory dwelling units are frequently rented at below market rate, providing additional affordable housing options for renters.

(b) Accessory dwelling units are often occupied by tenants who pay no rent at all; among these tenants are grandparents, adult children, family members with disabilities, friends going through life transitions, and community members in need. Accessory dwelling units meet the needs of these people who might otherwise require scarce subsidized housing space and resources.

(c) Accessory dwelling units can meet the needs of Washington's growing senior population, making it possible for this population to age in their communities by offering senior-friendly housing, which prioritizes physical accessibility, in walkable communities near amenities essential to successful aging in place, including transit and grocery stores, without requiring costly renovations of existing housing stock.

(d) Homeowners who add an accessory dwelling unit may benefit from added income and an increased sense of security.

(e) Siting accessory dwelling units near transit hubs and near public amenities can help to reduce greenhouse gas emissions by increasing walkability, shortening household commutes, and limiting sprawl.

(2) The legislature intends to promote and encourage the creation of accessory dwelling units as a means to address the need for additional affordable housing options." [2020 c 217 § 1.]

RCW 36.70A.697 Accessory dwelling units——Adoption of requirements. (1) Cities must adopt or amend by ordinance, and incorporate into their development regulations, zoning regulations, and other official controls the requirements of RCW 36.70A.698 to take effect by July 1, 2021.

(2) Beginning July 1, 2021, the requirements of RCW 36.70A.698:

(a) Apply and take effect in any city that has not adopted or amended ordinances, regulations, or other official controls as required under this section; and

(b) Supersede, preempt, and invalidate any local development regulations that conflict with RCW 36.70A.698. [2020 c 217 § 3.]

Findings——Intent——2020 c 217: See note following RCW 36.70A.696.

RCW 36.70A.698 Accessory dwelling units——Off-street parking——When prohibited. (1) Except as provided in subsection[s] (2) and (3) of this section, through ordinances, development regulations, zoning regulations, and other official controls as required under RCW 36.70A.697, cities may not require the provision of off-street parking for accessory dwelling units within one-quarter mile of a major transit stop.

(2) A city may require the provision of off-street parking for an accessory dwelling unit located within one-quarter mile of a major transit stop if the city has determined that the accessory dwelling unit is in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible for the accessory dwelling unit.

(3) A city that has adopted or substantively amended accessory dwelling unit regulations within the four years previous to June 11,

2020, is not subject to the requirements of this section. [2020 c 217 § 4.]

Findings—Intent—2020 c 217: See note following RCW 36.70A.696.

RCW 36.70A.699 Accessory dwelling units—Rights not modified. Nothing in chapter 217, Laws of 2020 modifies or limits any rights or interests legally recorded in the governing documents of associations subject to chapter 64.32, 64.34, 64.38, or 64.90 RCW. [2020 c 217 § 5.]

Findings—Intent—2020 c 217: See note following RCW 36.70A.696.

VOLUNTARY STEWARDSHIP PROGRAM

RCW 36.70A.700 Purpose—Intent—2011 c 360. (1) The purpose of chapter 360, Laws of 2011 is to establish the voluntary stewardship program as recommended in the report submitted by the William D. Ruckelshaus Center to the legislature as required by chapter 353, Laws of 2007 and chapter 203, Laws of 2010.

(2) It is the intent of chapter 360, Laws of 2011 to:

(a) Promote plans to protect and enhance critical areas within the area where agricultural activities are conducted, while maintaining and improving the long-term viability of agriculture in the state of Washington and reducing the conversion of farmland to other uses;

(b) Focus and maximize voluntary incentive programs to encourage good riparian and ecosystem stewardship as an alternative to historic approaches used to protect critical areas;

(c) Rely upon RCW 36.70A.060 for the protection of critical areas for those counties that do not choose to participate in this program;

(d) Leverage existing resources by relying upon existing work and plans in counties and local watersheds, as well as existing state and federal programs to the maximum extent practicable to achieve program goals;

(e) Encourage and foster a spirit of cooperation and partnership among county, tribal, environmental, and agricultural interests to better assure the program success;

(f) Improve compliance with other laws designed to protect water quality and fish habitat; and

(g) Rely upon voluntary stewardship practices as the primary method of protecting critical areas and not require the cessation of agricultural activities. [2011 c 360 § 1.]

RCW 36.70A.702 Construction. Nothing in RCW 36.70A.700 through 36.70A.760 may be construed to:

(1) Interfere with or supplant the ability of any agricultural operator to work cooperatively with a conservation district or participate in state or federal conservation programs;

(2) Require an agricultural operator to discontinue agricultural activities legally existing before July 22, 2011;

(3) Prohibit the voluntary sale or leasing of land for conservation purposes, either in fee or as an easement;

(4) Grant counties or state agencies additional authority to regulate critical areas on lands used for agricultural activities; and

(5) Limit the authority of a state agency, local government, or landowner to carry out its obligations under any other federal, state, or local law. [2011 c 360 § 15.]

RCW 36.70A.703 Definitions. The definitions in this section apply to RCW 36.70A.700 through 36.70A.760 and RCW 36.70A.130 and 36.70A.280 unless the context clearly requires otherwise.

(1) "Agricultural activities" means all agricultural uses and practices as defined in RCW 90.58.065.

(2) "Commission" means the state conservation commission as defined in RCW 89.08.030.

(3) "Director" means the executive director of the state conservation commission.

(4) "Enhance" or "enhancement" means to improve the processes, structure, and functions existing, as of July 22, 2011, of ecosystems and habitats associated with critical areas.

(5) "Participating watershed" means a watershed identified by a county under RCW 36.70A.710(1) to participate in the program.

(6) "Priority watershed" means a geographic area nominated by the county and designated by the commission.

(7) "Program" means the voluntary stewardship program established in RCW 36.70A.705.

(8) "Protect" or "protecting" means to prevent the degradation of functions and values existing as of July 22, 2011.

(9) "Receipt of funding" means the date a county takes legislative action accepting any funds as required in RCW 36.70A.715(1) to implement the program.

(10) "Statewide advisory committee" means the statewide advisory committee created in RCW 36.70A.745.

(11) "Technical panel" means the directors or director designees of the following agencies: The department of fish and wildlife; the department of agriculture; the department of ecology; and the commission.

(12) "Watershed" means a water resource inventory area, salmon recovery planning area, or a subbasin as determined by a county.

(13) "Watershed group" means an entity designated by a county under the provisions of RCW 36.70A.715.

(14) "Work plan" means a watershed work plan developed under the provisions of RCW 36.70A.720. [2011 c 360 § 2.]

RCW 36.70A.705 Voluntary stewardship program established—Administered by commission—Agency participation. (1) The voluntary stewardship program is established to be administered by the commission. The program shall be designed to protect and enhance critical areas on lands used for agricultural activities through voluntary actions by agricultural operators.

(2) In administering the program, the commission must:

(a) Establish policies and procedures for implementing the program;

(b) Administer funding for counties to implement the program including, but not limited to, funding to develop strategies and incentive programs and to establish local guidelines for watershed stewardship programs;

(c) Administer the program's technical assistance funds and coordinate among state agencies and other entities for the implementation of the program;

(d) Establish a technical panel;

(e) In conjunction with the technical panel, review and evaluate: (i) Work plans submitted for approval under RCW 36.70A.720(2)(a); and (ii) reports submitted under RCW 36.70A.720(2)(b);

(f) Review and evaluate the program's success and effectiveness and make appropriate changes to policies and procedures for implementing the program, in consultation with the statewide advisory committee and other affected agencies;

(g) Designate priority watersheds based upon the recommendation of the statewide advisory committee. The commission and the statewide advisory committee may only consider watersheds nominated by counties under RCW 36.70A.710. When designating priority watersheds, the commission and the statewide advisory committee shall consider the statewide significance of the criteria listed in RCW 36.70A.710(3);

(h) Provide administrative support for the program's statewide advisory committee in its work. The administrative support must be in collaboration with the department of ecology and other agencies involved in the program;

(i) Maintain a website about the program that includes times, locations, and agenda information for meetings of the statewide advisory committee;

(j) Report to the legislature on the general status of program implementation by December 1, 2013, and December 1, 2015;

(k) In conjunction with the statewide advisory committee, conduct a review of the program beginning in 2017 and every five years thereafter, and report its findings to the legislature by December 1st; and

(l) Report to the appropriate committees of the legislature in the format provided in RCW 43.01.036.

(3) The department shall assist counties participating in the program to develop plans and development regulations under RCW 36.70A.735(1).

(4) The commission, department, department of agriculture, department of fish and wildlife, department of ecology, and other state agencies as directed by the governor shall:

(a) Cooperate and collaborate to implement the program; and

(b) Develop materials to assist local watershed groups in development of work plans.

(5) State agencies conducting new monitoring to implement the program in a watershed must focus on the goals and benchmarks of the work plan. [2011 c 360 § 3.]

RCW 36.70A.710 Critical areas protection—Alternative to RCW 36.70A.060—County's responsibilities—Procedures. (1)(a) As an alternative to protecting critical areas in areas used for agricultural activities through development regulations adopted under RCW 36.70A.060, the legislative authority of a county may elect to protect such critical areas through the program.

(b) In order to participate in the program, the legislative authority of a county must adopt an ordinance or resolution that:

(i) Elects to have the county participate in the program;

(ii) Identifies the watersheds that will participate in the program; and

(iii) Based on the criteria in subsection (4) of this section, nominates watersheds for consideration by the commission as state priority watersheds.

(2) Before adopting the ordinance or resolution under subsection (1) of this section, the county must (a) confer with tribes, and environmental and agricultural interests; and (b) provide notice following the public participation and notice provisions of RCW 36.70A.035 to property owners and other affected and interested individuals, tribes, government agencies, businesses, school districts, and organizations.

(3) In identifying watersheds to participate in the program, a county must consider:

(a) The role of farming within the watershed, including the number and acreage of farms, the economic value of crops and livestock, and the risk of the conversion of farmland;

(b) The overall likelihood of completing a successful program in the watershed; and

(c) Existing watershed programs, including those of other jurisdictions in which the watershed has territory.

(4) In identifying priority watersheds, a county must consider the following:

(a) The role of farming within the watershed, including the number and acreage of farms, the economic value of crops and livestock, and the risk of the conversion of farmland;

(b) The importance of salmonid resources in the watershed;

(c) An evaluation of the biological diversity of wildlife species and their habitats in the geographic region including their significance and vulnerability;

(d) The presence of leadership within the watershed that is representative and inclusive of the interests in the watershed;

(e) Integration of regional watershed strategies, including the availability of a data and scientific review structure related to all types of critical areas;

(f) The presence of a local watershed group that is willing and capable of overseeing a successful program, and that has the operational structures to administer the program effectively, including professional technical assistance staff, and monitoring and adaptive management structures; and

(g) The overall likelihood of completing a successful program in the watershed.

(5) Except as otherwise provided in subsection (9) of this section, beginning with the effective date of the ordinance or resolution adopted under subsection (1) of this section, the program applies to all unincorporated property upon which agricultural activities occur within a participating watershed.

(6)(a) Except as otherwise provided in (b) of this subsection, within two years after July 22, 2011, a county must review and, if necessary, revise development regulations adopted under this chapter to protect critical areas as they specifically apply to agricultural activities:

(i) If the county has not elected to participate in the program, for all unincorporated areas; or

(ii) If the county has elected to participate in the program, for any watershed not participating in the program.

(b) A county that between July 1, 2003, and June 30, 2007, in accordance with RCW 36.70A.130 completed the review of its development regulations as required by RCW 36.70A.130 to protect critical areas as they specifically apply to agricultural activities is not required to review and revise its development regulations until required by RCW 36.70A.130.

(c) After the review and amendment required under (a) of this subsection, RCW 36.70A.130 applies to the subsequent review and amendment of development regulations adopted under this chapter to protect critical areas as they specifically apply to agricultural activities.

(7)(a) A county that has made the election under subsection (1) of this section may withdraw a participating watershed from the program by adopting an ordinance or resolution withdrawing the watershed from the program. A county may withdraw a watershed from the program at the end of three years, five years, or eight years after receipt of funding, or any time after ten years from receipt of funding.

(b) Within 18 months after withdrawing a participating watershed from the program, the county must review and, if necessary, revise its development regulations that protect critical areas in that watershed as they specifically apply to agricultural activities. The development regulations must protect the critical area functions and values as they existed on July 22, 2011. RCW 36.70A.130 applies to the subsequent review and amendment of development regulations adopted under this chapter to protect critical areas as they specifically apply to agricultural activities.

(8)(a) A county that has made the election under subsection (1) of this section is eligible for a share of the funding made available to implement the program, subject to funding availability from the state.

(b) A county that has made the election under subsection (1) of this section and after July 23, 2023, is eligible for a share of the funding made available to implement the program, subject to funding availability from the state.

(9)(a) A county that has made the election under subsection (1) of this section is not required to implement the program in a participating watershed until adequate funding for the program in that watershed is provided to the county.

(b) A county that has made the election under subsection (1) of this section and after July 23, 2023, is not required to implement the program in a participating watershed until adequate funding for the program in that watershed is provided to the county. The election under subsection (1) of this section may not take effect until new adequate funding for the program in that watershed is provided to the county. [2023 c 187 § 1; 2011 c 360 § 4.]

RCW 36.70A.715 Funding by commission——County's duties——Watershed group established. (1) When the commission makes funds available to a county that has made the election provided in RCW 36.70A.710(1), the county must within sixty days:

(a) Acknowledge the receipt of funds; and

(b) Designate a watershed group and an entity to administer funds for each watershed for which funding has been provided.

(2) A county must confer with tribes and interested stakeholders before designating or establishing a watershed group.

(3) The watershed group must include broad representation of key watershed stakeholders and, at a minimum, representatives of agricultural and environmental groups and tribes that agree to participate. The county should encourage existing lead entities, watershed planning units, or other integrating organizations to serve as the watershed group.

(4) The county may designate itself, a tribe, or another entity to coordinate the local watershed group. [2011 c 360 § 5.]

RCW 36.70A.720 Watershed group's duties—Work plan—Conditional priority funding. (1) A watershed group designated by a county under RCW 36.70A.715 must develop a work plan to protect critical areas while maintaining the viability of agriculture in the watershed. The work plan must include goals and benchmarks for the protection and enhancement of critical areas. In developing and implementing the work plan, the watershed group must:

(a) Review and incorporate applicable water quality, watershed management, farmland protection, and species recovery data and plans;

(b) Seek input from tribes, agencies, and stakeholders;

(c) Develop goals for participation by agricultural operators conducting commercial and noncommercial agricultural activities in the watershed necessary to meet the protection and enhancement benchmarks of the work plan;

(d) Ensure outreach and technical assistance is provided to agricultural operators in the watershed;

(e) Create measurable benchmarks that, within ten years after the receipt of funding, are designed to result in (i) the protection of critical area functions and values and (ii) the enhancement of critical area functions and values through voluntary, incentive-based measures;

(f) Designate the entity or entities that will provide technical assistance;

(g) Work with the entity providing technical assistance to ensure that individual stewardship plans contribute to the goals and benchmarks of the work plan;

(h) Incorporate into the work plan any existing development regulations relied upon to achieve the goals and benchmarks for protection;

(i) Establish baseline monitoring for: (i) Participation activities and implementation of the voluntary stewardship plans and projects; (ii) stewardship activities; and (iii) the effects on critical areas and agriculture relevant to the protection and enhancement benchmarks developed for the watershed;

(j) Conduct periodic evaluations, institute adaptive management, and provide a written report of the status of plans and accomplishments to the county and to the commission within sixty days after the end of each biennium;

(k) Assist state agencies in their monitoring programs; and

(l) Satisfy any other reporting requirements of the program.

(2)(a) The watershed group shall develop and submit the work plan to the director for approval as provided in RCW 36.70A.725.

(b)(i) Not later than five years after the receipt of funding for a participating watershed, the watershed group must report to the director and the county on whether it has met the work plan's protection and enhancement goals and benchmarks.

(ii) If the watershed group determines the protection goals and benchmarks have been met, and the director concurs under RCW 36.70A.730, the watershed group shall continue to implement the work plan.

(iii) If the watershed group determines the protection goals and benchmarks have not been met, it must propose and submit to the director an adaptive management plan to achieve the goals and benchmarks that were not met. If the director does not approve the adaptive management plan under RCW 36.70A.730, the watershed is subject to RCW 36.70A.735.

(iv) If the watershed group determines the enhancement goals and benchmarks have not been met, the watershed group must determine what additional voluntary actions are needed to meet the benchmarks, identify the funding necessary to implement these actions, and implement these actions when funding is provided.

(c)(i) Not later than ten years after receipt of funding for a participating watershed, and every five years thereafter, the watershed group must report to the director and the county on whether it has met the protection and enhancement goals and benchmarks of the work plan.

(ii) If the watershed group determines the protection goals and benchmarks have been met, and the director concurs under RCW 36.70A.730, the watershed group shall continue to implement the work plan.

(iii) If the watershed group determines the protection goals and benchmarks have not been met, the watershed is subject to RCW 36.70A.735.

(iv) If the watershed group determines the enhancement goals and benchmarks have not been met, the watershed group must determine what additional voluntary actions are needed to meet the benchmarks, identify the funding necessary to implement these actions, and implement these actions when funding is provided.

(3) Following approval of a work plan, a county or watershed group may request a state or federal agency to focus existing enforcement authority in that participating watershed, if the action will facilitate progress toward achieving work plan protection goals and benchmarks.

(4) The commission may provide priority funding to any watershed designated under the provisions of RCW 36.70A.705(2)(g). The director, in consultation with the statewide advisory committee, shall work with the watershed group to develop an accelerated implementation schedule for watersheds that receive priority funding.

(5) Commercial and noncommercial agricultural operators participating in the program are eligible to receive funding and assistance under watershed programs. [2011 c 360 § 6.]

RCW 36.70A.725 Technical review of work plan—Time frame for action by director. (1) Upon receipt of a work plan submitted to the director under RCW 36.70A.720(2)(a), the director must submit the work plan to the technical panel for review.

(2) The technical panel shall review the work plan and report to the director within ninety days after the director receives the work plan. The technical panel shall assess whether at the end of ten years after receipt of funding, the work plan, in conjunction with other existing plans and regulations, will protect critical areas while maintaining and enhancing the viability of agriculture in the watershed.

(3)(a) If the technical panel determines the proposed work plan will protect critical areas while maintaining and enhancing the viability of agriculture in the watershed:

(i) It must recommend approval of the work plan; and

(ii) The director must approve the work plan.

(b) If the technical panel determines the proposed work plan will not protect critical areas while maintaining and enhancing the viability of agriculture in the watershed:

(i) It must identify the reasons for its determination; and

(ii) The director must advise the watershed group of the reasons for disapproval.

(4) The watershed group may modify and resubmit its work plan for review and approval consistent with this section.

(5) If the director does not approve a work plan submitted under this section within two years and nine months after receipt of funding, the director shall submit the work plan to the statewide advisory committee for resolution. If the statewide advisory committee recommends approval, the director must approve the work plan.

(6) If the director does not approve a work plan for a watershed within three years after receipt of funding, the provisions of RCW 36.70A.735(2) apply to the watershed. [2017 3rd sp.s. c 1 § 961; 2011 c 360 § 7.]

Effective date——2017 3rd sp.s. c 1: See note following RCW 43.41.455.

RCW 36.70A.730 Report by watershed group——Director consults with statewide advisory committee. (1) Upon receipt of a report by a watershed group under RCW 36.70A.720(2)(b) that the work plan goals and benchmarks have been met, the director must consult with the statewide advisory committee. If the director concurs with the watershed group report, the watershed group shall continue to implement the work plan. If the director does not concur with the watershed group report, the director shall consult with the statewide advisory committee following the procedures in subsection (2) of this section.

(2) If either the director, following receipt of a report under subsection (1) of this section, or the watershed group, in the report submitted to the director under RCW 36.70A.720(2)(b), concludes that the work plan goals and benchmarks for protection have not been met, the director must consult with the statewide advisory committee for a recommendation on how to proceed. If the director, acting upon recommendation from the statewide advisory committee, determines that the watershed is likely to meet the goals and benchmarks with an additional six months of planning and implementation time, the director must grant an extension. If the director, acting upon a recommendation from the statewide advisory committee, determines that

the watershed is unlikely to meet the goals and benchmarks within six months, the watershed is subject to RCW 36.70A.735.

(3) A watershed that fails to meet its goals and benchmarks for protection within the six-month time extension under subsection (2) of this section is subject to RCW 36.70A.735. [2011 c 360 § 8.]

RCW 36.70A.735 When work plan is not approved, fails, or is unfunded—County's duties—Rules. (1) Within eighteen months after one of the events in subsection (2) of this section, a county must:

(a) Develop, adopt, and implement a watershed work plan approved by the department that protects critical areas in areas used for agricultural activities while maintaining the viability of agriculture in the watershed. The department shall consult with the departments of agriculture, ecology, and fish and wildlife and the commission, and other relevant state agencies before approving or disapproving the proposed work plan. The appeal of the department's decision under this subsection is subject to appeal under RCW 36.70A.280;

(b) Adopt development regulations previously adopted under this chapter by another local government for the purpose of protecting critical areas in areas used for agricultural activities. Regulations adopted under this subsection (1)(b) must be from a region with similar agricultural activities, geography, and geology and must: (i) Be from Clallam, Clark, King, or Whatcom counties; or (ii) have been upheld by a growth management hearings board or court after July 1, 2011, where the board or court determined that the provisions adequately protected critical areas functions and values in areas used for agricultural activities;

(c) Adopt development regulations certified by the department as protective of critical areas in areas used for agricultural activities as required by this chapter. The county may submit existing or amended regulations for certification. The department must make its decision on whether to certify the development regulations within ninety days after the county submits its request. If the department denies the certification, the county shall take an action under (a), (b), or (d) of this subsection. The department must consult with the departments of agriculture, ecology, and fish and wildlife and the commission before making a certification under this section. The appeal of the department's decision under this subsection (1)(c) is subject to appeal under RCW 36.70A.280; or

(d) Review and, if necessary, revise development regulations adopted under this chapter to protect critical areas as they relate to agricultural activities.

(2) A participating watershed is subject to this section if:

(a) The work plan is not approved by the director as provided in RCW 36.70A.725;

(b) The work plan's goals and benchmarks for protection have not been met as provided in RCW 36.70A.720;

(c) The commission has determined under RCW 36.70A.740 that the county, department, commission, or departments of agriculture, ecology, or fish and wildlife have not received adequate funding to implement a program in the watershed; or

(d) The commission has determined under RCW 36.70A.740 that the watershed has not received adequate funding to implement the program.

(3) The department shall adopt rules to implement subsection (1)(a) and (c) of this section. [2011 c 360 § 9.]

RCW 36.70A.740 Commission's duties——Timelines. (1) The commission must:

(a) In consultation with each county that has elected under RCW 36.70A.710 to participate in the program, determine which participating watersheds received adequate funding to establish and implement the program in a participating watershed; and

(b) In consultation with other state agencies, for each participating watershed determine whether state agencies required to take action under the provisions of RCW 36.70A.700 through 36.70A.760 have received adequate funding to support the program.

(2) By July 31, 2023, and every two years thereafter, in consultation with each county that has elected under RCW 36.70A.710 to participate in the program and other state agencies, the commission shall determine for each participating watershed whether adequate funding to implement the program was provided during the preceding biennium as provided in subsection (1) of this section.

(3) If the commission determines under subsection (1) or (2) of this section that a participating watershed has not received adequate funding, the watershed is subject to the provisions of RCW 36.70A.735.

(4) In consultation with the statewide advisory committee and other state agencies, not later than August 31, 2015, and each August 31st every two years thereafter, the commission shall report to the legislature and each county that has elected under RCW 36.70A.710 to participate in the program on the participating watersheds that have received adequate funding to establish and implement the program. [2023 c 187 § 2; 2011 c 360 § 10.]

RCW 36.70A.745 Statewide advisory committee——Membership. (1)(a) From the nominations made under (b) of this subsection, the commission shall appoint a statewide advisory committee, consisting of: Two persons representing county government, two persons representing agricultural organizations, and two persons representing environmental organizations. The commission, in conjunction with the governor's office, shall also invite participation by two representatives of tribal governments.

(b) Organizations representing county, agricultural, and environmental organizations shall submit nominations of their representatives to the commission within ninety days of July 22, 2011. Members of the statewide advisory committee shall serve two-year terms except that for the first year, one representative from each of the sectors shall be appointed to the statewide advisory committee for a term of one year. Members may be reappointed by the commission for additional two-year terms and replacement members shall be appointed in accordance with the process for selection of the initial members of the statewide advisory committee.

(c) Upon notification of the commission by an appointed member, the appointed member may designate a person to serve as an alternate.

(d) The executive director of the commission shall serve as a nonvoting chair of the statewide advisory committee.

(e) Members of the statewide advisory committee shall serve without compensation and, unless serving as a state officer or employee, are not eligible for reimbursement for subsistence, lodging, and travel expenses under RCW 43.03.050 and 43.03.060.

(2) The role of the statewide advisory committee is to advise the commission and other agencies involved in development and operation of the program. [2011 c 360 § 11.]

RCW 36.70A.750 Agricultural operators—Individual stewardship plan. (1) Agricultural operators implementing an individual stewardship plan consistent with a work plan are presumed to be working toward the protection and enhancement of critical areas.

(2) If the watershed group determines that additional or different practices are needed to achieve the work plan's goals and benchmarks, the agricultural operator may not be required to implement those practices but may choose to implement the revised practices on a voluntary basis and is eligible for funding to revise the practices. [2011 c 360 § 12.]

RCW 36.70A.755 Implementing the work plan. In developing stewardship practices to implement the work plan, to the maximum extent practical the watershed group should:

(1) Avoid management practices that may have unintended adverse consequences for other habitats, species, and critical areas functions and values; and

(2) Administer the program in a manner that allows participants to be eligible for public or private environmental protection and enhancement incentives while protecting and enhancing critical area functions and values. [2011 c 360 § 13.]

RCW 36.70A.760 Agricultural operators—Withdrawal from program. An agricultural operator participating in the program may withdraw from the program and is not required to continue voluntary measures after the expiration of an applicable contract. The watershed group must account for any loss of protection resulting from withdrawals when establishing goals and benchmarks for protection and a work plan under RCW 36.70A.720. [2011 c 360 § 14.]

RCW 36.70A.800 Role of growth strategies commission. The growth strategies commission created by executive order shall:

(1) Analyze different methods for assuring that county and city comprehensive plans adopted under chapter 36.70A RCW are consistent with the planning goals under RCW 36.70A.020 and with other requirements of chapter 36.70A RCW;

(2) Recommend to the legislature and the governor by October 1, 1990, a specific structure or process that, among other things:

(a) Ensures county and city comprehensive plans adopted under chapter 36.70A RCW are coordinated and comply with planning goals and other requirements under chapter 36.70A RCW;

(b) Requires state agencies to comply with this chapter and to consider and be consistent with county and city comprehensive plans in actions by state agencies, including the location, financing, and expansion of transportation systems and other public facilities;

(c) Defines the state role in growth management;

(d) Addresses lands and resources of statewide significance, including to:

(i) Protect these lands and resources of statewide significance by developing standards for their preservation and protection and suggesting the appropriate structure to monitor and enforce the preservation of these lands and resources; and

(ii) Consider the environmental, economic, and social values of the lands and resources with statewide significance;

(e) Identifies potential state funds that may be withheld and incentives that promote county and city compliance with chapter 36.70A RCW;

(f) Increases affordable housing statewide and promotes linkages between land use and transportation;

(g) Addresses vesting of rights; and

(h) Addresses short subdivisions; and

(3) Develop recommendations to provide for the resolution of disputes over urban growth areas between counties and cities, including incorporations and annexations. [1990 1st ex.s. c 17 § 86.]

RCW 36.70A.900 Severability——1990 1st ex.s. c 17. 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. [1990 1st ex.s. c 17 § 88.]

RCW 36.70A.901 Part, section headings not law——1990 1st ex.s. c 17. Part and section headings as used in this act do not constitute any part of the law. [1990 1st ex.s. c 17 § 89.]

RCW 36.70A.902 Section headings not law——1991 sp.s. c 32. Section headings as used in this act do not constitute any part of the law. [1991 sp.s. c 32 § 40.]

RCW 36.70A.903 Transfer of powers, duties, and functions. (1) The powers, duties, and functions of the growth management hearings board are hereby transferred to the environmental and land use hearings office.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the growth management hearings board shall be delivered to the custody of the environmental and land use hearings office. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the growth management hearings board shall be made available to the environmental and land use hearings office. All funds, credits, or other assets held by the growth management hearings board shall be assigned to the environmental and land use hearings office.

(b) Any appropriations made to the growth management hearings board shall, on July 1, 2011, be transferred and credited to the environmental and land use hearings office.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of

financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the growth management hearings board are transferred to the jurisdiction of the environmental and land use hearings office. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the environmental and land use hearings office to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All existing rules and all pending cases before the growth management hearings board shall be continued and acted upon by the growth management hearings board located within the environmental and land use hearings office. All pending business, existing contracts, and obligations shall remain in full force and shall be performed by the environmental and land use hearings office.

(5) The transfer of the powers, duties, functions, and personnel of the growth management hearings board shall not affect the validity of any act performed before July 1, 2011.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification. [2010 c 210 § 43.]

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

RCW 36.70A.904 Conflict with federal requirements—2011 c 360. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state. [2011 c 360 § 21.]