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.

(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. [2026 c 247 s 1; 2023 c 225 s 2; 2017 3rd sp.s. c 18 s 3; 2014 c 147 s 2; 2005 c 423 s 3; 1998 c 286 s 5; 1991 sp.s. c 32 s 21; 1990 1st ex.s. c 17 s 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 s 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.