



**PACIFIC CITY COUNCIL AGENDA**  
**Council Chambers - City Hall. 100 3<sup>rd</sup> Ave. SE**

**June 5, 2023**  
**Monday**

**Committee of the Whole Meeting**  
**6:30 p.m.**

- 1. CALL TO ORDER/PLEDGE OF ALLEGIANCE**
- 2. ROLL CALL OF COUNCIL MEMBERS**
- 3. ADDITIONS TO/APPROVAL OF AGENDA**
- 4. DISCUSSION**
  - A. PARK BOARD**
  - B. PUBLIC SAFETY**
    1. Helmets
  - C. COMMUNITY DEVELOPMENT**
    1. Legislative Updates
- 5. ADJOURN**

(02)



# 2023 LEGISLATIVE UPDATE – *THE YEAR OF HOUSING*

June 5, 2023

DEPARTMENT OF COMMUNITY DEVELOPMENT

Mark Newman, AICP – Community Development Director

## BILLS SIGNED INTO LAW:

EFFECTIVE JULY 23, 2023

- HB 1110 – Missing Middle Housing (signed May 8, 2023)
- HB 1042 – Internal ADUs (signed May 4, 2023)
- HB 1337 – ADUs per Lot (signed May 8, 2023)
- SB 5258 – Condominiumization (signed May 8, 2023)
- SB 5058 – Condo Definition (signed May 4, 2023)
- HB 1181- Climate Change in GMA (signed May 3, 2023)

# HB 1110 (MISSING MIDDLE HOUSING)

- Aims to increase middle housing in areas traditionally dedicated to single-family detached housing, in order to meet the goal of 1,000,000 new homes in the state by 2044.
- Will allow duplexes in all single-family zoning in the City of Pacific.
  - Does not waive critical area, lot coverage, setbacks, OSS, and stormwater regulations.
  - Requires 2 off-street parking spaces per unit on lots 6,000SF or greater.
  - Must go into effect six months after the City's next periodic comprehensive plan update, i.e. in June 2025.



## HB 1110 (MISSING MIDDLE HOUSING) (EXEMPTIONS)

- Homeowner associations and other “common interest communities” that have internal contracts or documents governing their zoning rules. Common interest communities include both large planned unit developments and smaller subdivisions and condos.
- Homeowner associations and common interest communities have preexisting, legally binding contracts regarding their zoning rules, and the Legislature can’t change those.
- The bill does explicitly bar homeowner associations from making new contracts or agreements to try to prohibit duplexes and other kinds of middle housing. But it only applies to future agreements after the law becomes effective. It is silent on preexisting agreements.
- And, because the law is scheduled to go into effect in **mid-July**, there could still be about three months for enterprising homeowner associations to enact new restrictions to limit middle housing.

Source: Seattle Times: [WA’s New Ban on Single-Family Zoning Exempts Some of Seattle’s Wealthiest Neighborhoods](#)

## HB 1110 (MISSING MIDDLE HOUSING) (EXTENSIONS)

Extensions. Cities may apply for extensions of the timelines established. Extensions may only be applied to specific areas where a city can demonstrate that water, sewer, or stormwater services lack capacity to accommodate the increased density (concurrency), and the city has:

- Included an improvement within its capital facilities plan to increase capacity; or identified which special district is responsible for providing the necessary infrastructure, if the infrastructure is provided by a special purpose district.

A granted extension remains in effect until one of the following occurs:

- The infrastructure is improved to accommodate the capacity;
- The city completes its next periodic comprehensive plan update; or the city submits its next five-year implementation progress report for their comprehensive plan.

# HB 1110 REQUIRED CODE CHANGES

## Chapter 20.40 RS – ~~SINGLE-FAMILY~~ RESIDENTIAL DISTRICTS

Sections:

[20.40.010 Description and purpose.](#)

[20.40.020 Permitted buildings and uses.](#)

[20.40.030 Buildings and uses permitted conditionally.](#)

[20.40.040 Principal building development standards – Lot area, lot width, yard setbacks, building lot coverage and building height.](#)

[20.40.050 Accessory building development standards – Yard setbacks, lot coverage and building height.](#)

[20.40.060 Parking.](#)

[20.40.070 Repealed.](#)

[20.40.080 Repealed.](#)

[20.40.090 Repealed.](#)

[20.40.100 Repealed.](#)

[20.40.110 Signs.](#)

[20.40.120 Recodified.](#)

### 20.40.010 Description and purpose. SHARE

The RS ~~single-family~~ residential districts are intended for medium density, urban ~~single-family~~ residential use. A stable and healthful environment, together with the full range of urban services, makes this the most important land use of the community. (Ord. 1488 § 1, 2001; Ord. 485 § 4.01, 1971).

C. Agricultural uses, limited to the following:

1. Berry and bush crops;
2. Flower gardening;
3. Orchards, tree crops, the raising and harvesting of;
4. Truck gardening, the raising and harvesting of vegetables for home consumption;

D. DUPLEXES

DE. Churches, subject to PMC [20.68.660](#);

EE. Electric vehicle infrastructure, levels 1 and 2 only, subject to the provisions of Chapter [20.76](#) PMC;

FG. Family day care;

GH. Home occupations, subject to PMC [20.68.180](#);

HJ. Parks, private and public, playgrounds, golf courses, driving ranges, or community centers, subject to PMC [20.68.670](#);

IJ. Public and semipublic buildings, essential to the physical and economic welfare of an area, such as fire stations, substations and pump stations. Rear and side yards for these uses shall be a minimum of 25 feet in width. No stockpiling or storage of materials shall be allowed;

JK. Utility or Public Maintenance Facilities 1 and 2. Rear and side yards for these uses shall be a minimum of 25 feet in width. Any outside storage shall be screened by 20 feet of Type I landscaping and by building/s located onsite.



## 20.72.130 Parking spaces required. [SHARE](#)

The number of off-street parking spaces required shall be no less than as set forth in the following:

Use	Parking Space Required
<b>Residential Types</b>	
A. Dwelling, single-family	Two for each dwelling unit on a single lot, plus one additional space required for each employee or contractor working within the dwelling more than 20 hours per week for a period exceeding 60 days, who are not residents of the dwelling.
B(i). Dwellings, two-family <del>DUPLEX</del> or (ii). <del>multiple</del> <u>MULTIPLE</u>	Two for each dwelling unit <u>ON A SINGLE LOT 6,000SF IN LOT AREA AND OVER</u> <u>TWO FOR EACH DWELLING UNIT</u> where fractioned, next highest full unit

## HB 1042 (INTERNAL ADUS)

Concerning the use of existing buildings for residential purposes. The bill prohibits cities from imposing certain restrictions on new housing units constructed within an existing building envelope that is located in a zone that permits multifamily housing.

Cities cannot add permit conditions, such as requiring:

- Additional off-street parking
- A traffic study
- Design standards, setbacks, FAR, lot coverage, height,
- Energy Code updates to entire building
- Fixing legal-nonconformities
- A traffic study



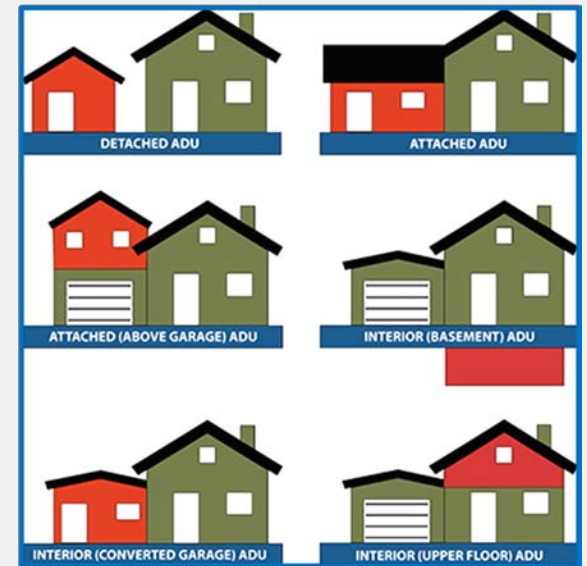
# HB 1337 (ADUS)

- Requires the City of Pacific to allow accessory dwelling units (ADUs) in residential zones by right. HB 1337 also prohibits certain restrictive ADU regulations.
- Allows two ADUs per residential lot, i.e. 3 dwelling units total per lot.
  - One attached accessory dwelling unit and one detached accessory dwelling unit (DADU);
  - Two attached accessory dwelling units; or
  - Two detached accessory dwelling units, which may be comprised of either one or two detached structures.
- Prevents cities from circumventing this law through burdensome regulations on floor area ratio, setbacks, design standards, etc.
- The city or county must allow a minimum ADU size of 1,000SF.
- The city must cap impact fees at 50% of that of a new SFR/principal unit.
- The city cannot require the property owner to live on site and/or reside in either the primary residence or ADU.
- If the lot becomes condominiumized, the deed restriction for the ADU must be removed, i.e. the ADU can be sold separately as a condo.



# HB 1337 (ADUS) (CONTINUED)

- The city 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, i.e. principal structure and ADU must have same height limits.
- The city 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.
- The city must allow detached accessory dwelling units to be sited at a lot line if the lot line abuts a public alley unless the city plows snow on the public alley.
- HB 1337 does **NOT** waive critical area, lot coverage, setbacks, OSS, and stormwater regulations. ADUs **can be prohibited** on lots served by OSS and are not connected to SS.
- The city cannot require public street improvements to be made as a condition of permitting an ADU.
- By December 31, 2023, the City must revise its recommendations for encouraging accessory dwelling units to include the provisions of sections 3 and 4 of this act.
- This law must go into effect six months after its next periodic comprehensive plan update, i.e by June 2025.



# HB 1042 (INTERNAL ADUS) HB 1337 (ADUS) REQUIRED CODE CHANGES

## 20.92.010 Purpose. SHARE

The purpose of this chapter is to:

- A. Create affordable housing units;
- B. Allow related people to live in close proximity while maintaining separate dwelling units;
- C. Provide homeowners with a means of companionship and security;
- D. Provide increased choice of housing for a variety of lifestyles, including young families and retirees;
- E. Increase density in order to better utilize existing streets, utilities, transit, and other public infrastructure; and
- F. Ensure that accessory dwelling units (ADUs) are designed so as not to destabilize neighborhoods or lower property values. (Ord. 1894 § 1, 2015; Ord. 1504 § 1, 2001).

**G. AMEND DESIGN AND DEVELOPMENT STANDARDS FOR ACCESSORY DWELLING UNITS, AS OUTLINED IN HB 1337.**



HB 1042 (INTERNAL ADUS)  
HB 1337 (ADUS)

REQUIRED CODE CHANGES (CONTINUED)

~~20.92.054 Neighborhood notification.~~ 

~~Prior to issuance of the final decision on an ADU application, the city shall notify the neighbors within 300 feet (plus any right-of-way widths, with the exception of SR 167) of the proposed ADU site. The applicant shall supply the names and addresses of all legal property owners as listed in either the King County or Pierce County assessor's offices. The applicant shall supply the necessary envelopes and stamps for the notification of adjacent property owners. (Ord. 1894 § 3, 2015; Ord. 1558 § 1, 2003).~~

## 20.92.058 Accessory dwelling unit built within existing accessory building. SHARE

An accessory dwelling unit may be built within or added to any existing accessory building ~~built prior to July 31, 2001~~; provided, that the existing accessory building is set back at least five feet from the rear and side property line of the subject lot. ~~In addition, any expansion to the foundation of the existing accessory building must conform to the setback requirements pertaining to the principal building.~~ No accessory dwelling unit may be built within or added to any existing accessory building under this section unless it also complies with all of the requirements for accessory dwelling units in this chapter. (Ord. 1952 § 28, 2017).

## 20.92.060 Design standards.

Accessory dwelling units shall meet the following standards for approval:

A. Be on the same lot as a ~~larger,~~ principal dwelling unit, whether attached to it or detached;

B. The size of an attached or detached ADU shall meet all of the following requirements:

~~1. Contain no more than 45 percent of the floor area of the principal dwelling if located in the principal residence. Garage and staircase areas shall not be included in the calculations.~~

~~2. Shall be no more than 800 square feet if detached from the principal dwelling and located within the RS-6 (single-family residential, 6,000 square feet) zoning district.~~

3. Shall ~~be no more than 1,000~~ AT LEAST A MINIMUM SIZE OF 1,000 square feet, if ~~detached from the principal dwelling and located within the RS-11 (single-family residential, 11,000 square feet) zoning district.~~

~~4. If attached to the principal dwelling, the ADU shall be no greater than 45 percent of the principal dwelling or have a floor area of 800 square feet whichever is the smaller area;~~



C. Be equipped with two off-street parking spaces if the DETACHED ADU has two bedrooms ON A LOT GREATER THAN 6,000 SQUARE FEET and one off-street parking space if the DETACHED ADU has one bedroom or it is a studio ADU ON A LOT LESS THAN 6,000 SQUARE FEET. These spaces shall be in addition to the spaces required for the principal dwelling unit;

~~D. Be allowed only so long as the owner or contract purchaser of the lot resides in the accessory or principal dwelling unit;~~

ED. Meet all building, electrical, fire, plumbing and other applicable code requirements;

~~F. Be designed to maintain the appearance of the existing single-family residence;~~

~~G. Be consistent with the color, roof pitch, siding and windows of the principal residence, whether the accessory dwelling unit is attached or detached;~~

~~H. The ADU entrances shall be on the side or rear of the building, not visible from the street;~~

IE. The maximum height of an ADU shall be THAT OF THE PRIMARY RESIDENCE OR A MAXIMUM OF 24" ~~25 feet. (Ord. 1894 § 7, 2015; Ord. 1504 § 1, 2001).~~

F. NO MORE THAN TWO ACCESSORY DWELLING UNITS, IN ADDITION TO THE PRINCIPAL UNIT, SHALL BE ALLOWED ON A LOT OF 2,000 SQUARE FEET OR LESS.

## 20.92.070 Deed restriction. SHARE

The property owner shall record with the appropriate county recording office a notarized deed restriction. Such deed restriction shall be in a form specified by the director, and shall include the restrictions and limitations contained in this chapter and any further conditions attached to the accessory dwelling unit permit. The property owner shall submit proof that the deed restriction has been recorded prior to issuance of a certificate of occupancy. (Ord. 1894 § 8, 2015; Ord. 1504 § 1, 2001).

THE DEED RESTRICTION, ALSO KNOWN AS A NOTICE ON TITLE, SHALL REMAIN IN EFFECT, UNLESS THE PROPERTY IS SUBDIVIDED OR CONDOMINIUMIZED.

## SB 5258 (CONDO SUPPLY)

The goal of SB 5258 is to increase the supply and affordability of condominium units, cottages, and townhouses as an option for homeownership.

*Condominium reform unlocks the potential for other housing efforts. There is systemic litigation for condominium construction that are not seen in other construction projects due to the complexities of statutory warranties. Clarification of the right to cure and exclusion from the statutory warranty should be adopted. This bill will incentivize condo owners to work with builder to get to a solution that works for both. This bill will protect consumers and encourage first time home buyers by waiving excise taxes, reducing impact fees, and rolling back some of the red tape to build them.*

Conover Commons Cottages - Redmond, WA



## SB 5058 (CONDO DEFINITION)

- Exempting buildings with 12 or fewer units that are no more than two stories from the definition of multiunit residential building.
- [Senate Bill 5058](#), sponsored by Sen. Mike Padden, D-Spokane, would exempt buildings with 12 or fewer units that are no more than two stories high from the definition of “multiunit residential building,” essentially bringing regulations for small condo buildings in line with those for townhouses or single-family homes.

## 2050 GROWTH TARGETS FOR PACIFIC

POPULATION	2020 ACTUAL	2050 TARGET	+Change	%Change
	7,235	7,586	+351*	4.85%

HOUSING	2018 ACTUAL	2050 TARGET	+Change	%Change
	2,462	2,597	+135*	5.48%

EMPLOYMENT	2018 ACTUAL	2050 TARGET	+Change	%Change
	2,839	3,552	+713	25.11%

\*Denotes growth in King County only. Pierce County target set to 0.



# HB 1181 (CLIMATE CHANGE IN GMA)

HB 1181's goal is improving the state's response to climate change by updating the state's planning framework. This bill would add Climate Change and Resiliency as the 14th goal of the GMA. It could be added as an element to a city's comprehensive plan plus or woven into the fabric of other elements. It must also be incorporated into other City long-range plans (sewer, water, transportation, capital facilities, etc.)

The City needs to prepare and adopt a climate change and resiliency element designed to result in reductions in overall greenhouse gas emissions and addresses resiliency to 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. The plan must include long-range targets, projections, and modeling scenarios.

The Department of Commerce shall first publish the full set of guidelines no later than December 31, 2025. Meaning this would not go into effect until the next Comprehensive Plan Update in 2032.

## Comprehensive Plan Chapters

[Table of Contents](#)

[Chapter 1 Introduction](#)

[Chapter 2 Comprehensive Plan: Land Use](#)

- [BERK Consultants Land Capacity Technical Memo](#)

[Chapter 3 Comprehensive Plan: Natural Environment](#)

- [Lower White River Biodiversity Management Area \(BMA\) Stewardship Plan](#)

### **CHAPTER 4 CLIMATE CHANGE**

[Chapter 45 Community Character](#)

[Chapter 56 Comprehensive Plan: Housing](#)

[Chapter 67 Economic Development](#)

[Chapter 78 Park, Open Space, Recreation & Trails](#)

[Chapter 89 Comprehensive Plan: Transportation Plan](#)

[Chapter 910 Comprehensive Plan: Utilities](#)

[Chapter 110 Comprehensive Plan: Capital Facilities](#)

- [CIP TABLES](#)

[Sumner-Pacific MIC Subarea Plan](#)

# HB 1181 (CLIMATE CHANGE UPDATES REQUIRED)

## **Climate change and resiliency**

Ensure that comprehensive plans, development regulations, and regional policies, plans, and strategies 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.

## **Transportation**

- Encourage efficient multimodal transportation systems that will reduce greenhouse gas emissions and per capita vehicle miles traveled.
- 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;
- An active transportation component must be added 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.
- If LOS fails in a traffic study due to a new development proposal, mitigation can be provided through active transportation, ride-share, vanpools, TDM, etc.

## **ADA**

- A transition plan for transportation is 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.

## Land Use/Wildfires

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 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.





# THANK YOU

I am happy to answer any questions at this time.

I will provide Council updates as we learn more from the MSRC, King County Planning Directors Group, and the Department of Commerce.



CERTIFICATION OF ENROLLMENT

**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1110**

Chapter 332, Laws of 2023

68th Legislature  
2023 Regular Session

GROWTH MANAGEMENT ACT—MINIMUM DEVELOPMENT DENSITIES IN RESIDENTIAL  
ZONES

EFFECTIVE DATE: July 23, 2023

Passed by the House April 18, 2023  
Yeas 79 Nays 18

LAURIE JINKINS

**Speaker of the House of  
Representatives**

Passed by the Senate April 11, 2023  
Yeas 35 Nays 14

DENNY HECK

**President of the Senate**

Approved May 8, 2023 1:11 PM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1110** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

**Chief Clerk**

FILED

May 10, 2023

**Secretary of State  
State of Washington**

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**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1110**

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AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Bateman, Barkis, Reed, Taylor, Riccelli, Berry, Fitzgibbon, Peterson, Duerr, Lekanoff, Alvarado, Street, Ryu, Ramel, Cortes, Doglio, Macri, Mena, Gregerson, Thai, Bergquist, Farivar, Wylie, Stonier, Pollet, Santos, Fosse, and Ormsby)

READ FIRST TIME 02/24/23.

1 AN ACT Relating to creating more homes for Washington by  
2 increasing middle housing in areas traditionally dedicated to single-  
3 family detached housing; amending RCW 36.70A.030, 36.70A.280,  
4 43.21C.495, and 43.21C.450; adding new sections to chapter 36.70A  
5 RCW; adding a new section to chapter 64.34 RCW; adding a new section  
6 to chapter 64.32 RCW; adding a new section to chapter 64.38 RCW;  
7 adding a new section to chapter 64.90 RCW; and creating new sections.

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

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

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

20 There is continued need for the development of housing at all  
21 income levels, including middle housing that will provide a wider

1 variety of housing options and configurations to allow Washingtonians  
2 to live near where they work.

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

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

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

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

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

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

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

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

36 ((+2)) (3) "Affordable housing" means, unless the context  
37 clearly indicates otherwise, residential housing whose monthly costs,  
38 including utilities other than telephone, do not exceed thirty  
39 percent of the monthly income of a household whose income is:

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

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

9 ~~((3))~~ (4) "Agricultural land" means land primarily devoted to  
10 the commercial production of horticultural, viticultural,  
11 floricultural, dairy, apiary, vegetable, or animal products or of  
12 berries, grain, hay, straw, turf, seed, Christmas trees not subject  
13 to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish  
14 in upland hatcheries, or livestock, and that has long-term commercial  
15 significance for agricultural production.

16 ~~((4))~~ (5) "City" means any city or town, including a code city.

17 ~~((5))~~ (6) "Comprehensive land use plan," "comprehensive plan,"  
18 or "plan" means a generalized coordinated land use policy statement  
19 of the governing body of a county or city that is adopted pursuant to  
20 this chapter.

21 ~~((6))~~ (7) "Cottage housing" means residential units on a lot  
22 with a common open space that either: (a) Is owned in common; or (b)  
23 has units owned as condominium units with property owned in common  
24 and a minimum of 20 percent of the lot size as open space.

25 (8) "Courtyard apartments" means up to four attached dwelling  
26 units arranged on two or three sides of a yard or court.

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

36 ~~((7))~~ (10) "Department" means the department of commerce.

37 ~~((8))~~ (11) "Development regulations" or "regulation" means the  
38 controls placed on development or land use activities by a county or  
39 city, including, but not limited to, zoning ordinances, critical  
40 areas ordinances, shoreline master programs, official controls,

1 planned unit development ordinances, subdivision ordinances, and  
2 binding site plan ordinances together with any amendments thereto. A  
3 development regulation does not include a decision to approve a  
4 project permit application, as defined in RCW 36.70B.020, even though  
5 the decision may be expressed in a resolution or ordinance of the  
6 legislative body of the county or city.

7 ~~((9))~~ (12) "Emergency housing" means temporary indoor  
8 accommodations for individuals or families who are homeless or at  
9 imminent risk of becoming homeless that is intended to address the  
10 basic health, food, clothing, and personal hygiene needs of  
11 individuals or families. Emergency housing may or may not require  
12 occupants to enter into a lease or an occupancy agreement.

13 ~~((10))~~ (13) "Emergency shelter" means a facility that provides  
14 a temporary shelter for individuals or families who are currently  
15 homeless. Emergency shelter may not require occupants to enter into a  
16 lease or an occupancy agreement. Emergency shelter facilities may  
17 include day and warming centers that do not provide overnight  
18 accommodations.

19 ~~((11))~~ (14) "Extremely low-income household" means a single  
20 person, family, or unrelated persons living together whose adjusted  
21 income is at or below thirty percent of the median household income  
22 adjusted for household size, for the county where the household is  
23 located, as reported by the United States department of housing and  
24 urban development.

25 ~~((12))~~ (15) "Forestland" means land primarily devoted to  
26 growing trees for long-term commercial timber production on land that  
27 can be economically and practically managed for such production,  
28 including Christmas trees subject to the excise tax imposed under RCW  
29 84.33.100 through 84.33.140, and that has long-term commercial  
30 significance. In determining whether forestland is primarily devoted  
31 to growing trees for long-term commercial timber production on land  
32 that can be economically and practically managed for such production,  
33 the following factors shall be considered: (a) The proximity of the  
34 land to urban, suburban, and rural settlements; (b) surrounding  
35 parcel size and the compatibility and intensity of adjacent and  
36 nearby land uses; (c) long-term local economic conditions that affect  
37 the ability to manage for timber production; and (d) the availability  
38 of public facilities and services conducive to conversion of  
39 forestland to other uses.

1       (~~(13)~~) (16) "Freight rail dependent uses" means buildings and  
2 other infrastructure that are used in the fabrication, processing,  
3 storage, and transport of goods where the use is dependent on and  
4 makes use of an adjacent short line railroad. Such facilities are  
5 both urban and rural development for purposes of this chapter.  
6 "Freight rail dependent uses" does not include buildings and other  
7 infrastructure that are used in the fabrication, processing, storage,  
8 and transport of coal, liquefied natural gas, or "crude oil" as  
9 defined in RCW 90.56.010.

10       (~~(14)~~) (17) "Geologically hazardous areas" means areas that  
11 because of their susceptibility to erosion, sliding, earthquake, or  
12 other geological events, are not suited to the siting of commercial,  
13 residential, or industrial development consistent with public health  
14 or safety concerns.

15       (~~(15)~~) (18) "Long-term commercial significance" includes the  
16 growing capacity, productivity, and soil composition of the land for  
17 long-term commercial production, in consideration with the land's  
18 proximity to population areas, and the possibility of more intense  
19 uses of the land.

20       (~~(16)~~) (19) "Low-income household" means a single person,  
21 family, or unrelated persons living together whose adjusted income is  
22 at or below eighty percent of the median household income adjusted  
23 for household size, for the county where the household is located, as  
24 reported by the United States department of housing and urban  
25 development.

26       (~~(17)~~) (20) "Major transit stop" means:

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

29       (b) Commuter rail stops;

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

31       (d) Stops on bus rapid transit routes.

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

37       (22) "Minerals" include gravel, sand, and valuable metallic  
38 substances.

39       (~~(18)~~) (23) "Moderate-income household" means a single person,  
40 family, or unrelated persons living together whose adjusted income is

1 at or below 120 percent of the median household income adjusted for  
2 household size, for the county where the household is located, as  
3 reported by the United States department of housing and urban  
4 development.

5 ~~((19))~~ (24) "Permanent supportive housing" is subsidized,  
6 leased housing with no limit on length of stay that prioritizes  
7 people who need comprehensive support services to retain tenancy and  
8 utilizes admissions practices designed to use lower barriers to entry  
9 than would be typical for other subsidized or unsubsidized rental  
10 housing, especially related to rental history, criminal history, and  
11 personal behaviors. Permanent supportive housing is paired with on-  
12 site or off-site voluntary services designed to support a person  
13 living with a complex and disabling behavioral health or physical  
14 health condition who was experiencing homelessness or was at imminent  
15 risk of homelessness prior to moving into housing to retain their  
16 housing and be a successful tenant in a housing arrangement, improve  
17 the resident's health status, and connect the resident of the housing  
18 with community-based health care, treatment, or employment services.  
19 Permanent supportive housing is subject to all of the rights and  
20 responsibilities defined in chapter 59.18 RCW.

21 ~~((20))~~ (25) "Public facilities" include streets, roads,  
22 highways, sidewalks, street and road lighting systems, traffic  
23 signals, domestic water systems, storm and sanitary sewer systems,  
24 parks and recreational facilities, and schools.

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

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

34 ~~((23))~~ (28) "Rural character" refers to the patterns of land  
35 use and development established by a county in the rural element of  
36 its comprehensive plan:

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

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



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

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

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

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

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

12 ~~((24))~~ (29) "Rural development" refers to development outside  
13 the urban growth area and outside agricultural, forest, and mineral  
14 resource lands designated pursuant to RCW 36.70A.170. Rural  
15 development can consist of a variety of uses and residential  
16 densities, including clustered residential development, at levels  
17 that are consistent with the preservation of rural character and the  
18 requirements of the rural element. Rural development does not refer  
19 to agriculture or forestry activities that may be conducted in rural  
20 areas.

21 ~~((25))~~ (30) "Rural governmental services" or "rural services"  
22 include those public services and public facilities historically and  
23 typically delivered at an intensity usually found in rural areas, and  
24 may include domestic water systems~~((7))~~ and fire and police  
25 protection services~~((, transportation and public transit services,~~  
26 ~~and other public utilities))~~ associated with rural development and  
27 normally not associated with urban areas. Rural services do not  
28 include storm or sanitary sewers, except as otherwise authorized by  
29 RCW 36.70A.110(4).

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

33 ~~((27))~~ (32) "Single-family zones" means those zones where  
34 single-family detached housing is the predominant land use.

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

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

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

8        ~~((28))~~ (36) "Urban growth" refers to growth that makes  
9 intensive use of land for the location of buildings, structures, and  
10 impermeable surfaces to such a degree as to be incompatible with the  
11 primary use of land for the production of food, other agricultural  
12 products, or fiber, or the extraction of mineral resources, rural  
13 uses, rural development, and natural resource lands designated  
14 pursuant to RCW 36.70A.170. A pattern of more intensive rural  
15 development, as provided in RCW 36.70A.070(5)(d), is not urban  
16 growth. When allowed to spread over wide areas, urban growth  
17 typically requires urban governmental services. "Characterized by  
18 urban growth" refers to land having urban growth located on it, or to  
19 land located in relationship to an area with urban growth on it as to  
20 be appropriate for urban growth.

21        ~~((29))~~ (37) "Urban growth areas" means those areas designated  
22 by a county pursuant to RCW 36.70A.110.

23        ~~((30))~~ (38) "Very low-income household" means a single person,  
24 family, or unrelated persons living together whose adjusted income is  
25 at or below fifty percent of the median household income adjusted for  
26 household size, for the county where the household is located, as  
27 reported by the United States department of housing and urban  
28 development.

29        ~~((31))~~ (39) "Wetland" or "wetlands" means areas that are  
30 inundated or saturated by surface water or groundwater at a frequency  
31 and duration sufficient to support, and that under normal  
32 circumstances do support, a prevalence of vegetation typically  
33 adapted for life in saturated soil conditions. Wetlands generally  
34 include swamps, marshes, bogs, and similar areas. Wetlands do not  
35 include those artificial wetlands intentionally created from  
36 nonwetland sites, including, but not limited to, irrigation and  
37 drainage ditches, grass-lined swales, canals, detention facilities,  
38 wastewater treatment facilities, farm ponds, and landscape amenities,  
39 or those wetlands created after July 1, 1990, that were  
40 unintentionally created as a result of the construction of a road,

1 street, or highway. Wetlands may include those artificial wetlands  
2 intentionally created from nonwetland areas created to mitigate  
3 conversion of wetlands.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A  
5 RCW to read as follows:

6 (1) Except as provided in subsection (4) of this section, any  
7 city that is required or chooses to plan under RCW 36.70A.040 must  
8 provide by ordinance and incorporate into its development  
9 regulations, zoning regulations, and other official controls,  
10 authorization for the following:

11 (a) For cities with a population of at least 25,000 but less than  
12 75,000 based on office of financial management population estimates:

13 (i) The development of at least two units per lot on all lots  
14 zoned predominantly for residential use, unless zoning permitting  
15 higher densities or intensities applies;

16 (ii) The development of at least four units per lot on all lots  
17 zoned predominantly for residential use, unless zoning permitting  
18 higher densities or intensities applies, within one-quarter mile  
19 walking distance of a major transit stop; and

20 (iii) The development of at least four units per lot on all lots  
21 zoned predominantly for residential use, unless zoning permitting  
22 higher densities or intensities applies, if at least one unit is  
23 affordable housing.

24 (b) For cities with a population of at least 75,000 based on  
25 office of financial management population estimates:

26 (i) The development of at least four units per lot on all lots  
27 zoned predominantly for residential use, unless zoning permitting  
28 higher densities or intensities applies;

29 (ii) The development of at least six units per lot on all lots  
30 zoned predominantly for residential use, unless zoning permitting  
31 higher densities or intensities applies, within one-quarter mile  
32 walking distance of a major transit stop; and

33 (iii) The development of at least six units per lot on all lots  
34 zoned predominantly for residential use, unless zoning permitting  
35 higher densities or intensities applies, if at least two units are  
36 affordable housing.

37 (c) For cities with a population of less than 25,000, that are  
38 within a contiguous urban growth area with the largest city in a  
39 county with a population of more than 275,000, based on office of

1 financial management population estimates the development of at least  
2 two units per lot on all lots zoned predominantly for residential  
3 use, unless zoning permitting higher densities or intensities  
4 applies.

5 (2) (a) To qualify for the additional units allowed under  
6 subsection (1) of this section, the applicant must commit to renting  
7 or selling the required number of units as affordable housing. The  
8 units must be maintained as affordable for a term of at least 50  
9 years, and the property must satisfy that commitment and all required  
10 affordability and income eligibility conditions adopted by the local  
11 government under this chapter. A city must require the applicant to  
12 record a covenant or deed restriction that ensures the continuing  
13 rental of units subject to these affordability requirements  
14 consistent with the conditions in chapter 84.14 RCW for a period of  
15 no less than 50 years. The covenant or deed restriction must also  
16 address criteria and policies to maintain public benefit if the  
17 property is converted to a use other than which continues to provide  
18 for permanently affordable housing.

19 (b) The units dedicated as affordable must be provided in a range  
20 of sizes comparable to other units in the development. To the extent  
21 practicable, the number of bedrooms in affordable units must be in  
22 the same proportion as the number of bedrooms in units within the  
23 entire development. The affordable units must generally be  
24 distributed throughout the development and have substantially the  
25 same functionality as the other units in the development.

26 (c) If a city has enacted a program under RCW 36.70A.540, the  
27 terms of that program govern to the extent they vary from the  
28 requirements of this subsection.

29 (3) If a city has enacted a program under RCW 36.70A.540,  
30 subsection (1) of this section does not preclude the city from  
31 requiring any development, including development described in  
32 subsection (1) of this section, to provide affordable housing, either  
33 on-site or through an in-lieu payment, nor limit the city's ability  
34 to expand such a program or modify its requirements.

35 (4) (a) As an alternative to the density requirements in  
36 subsection (1) of this section, a city may implement the density  
37 requirements in subsection (1) of this section for at least 75  
38 percent of lots in the city that are primarily dedicated to single-  
39 family detached housing units.

1 (b) The 25 percent of lots for which the requirements of  
2 subsection (1) of this section are not implemented must include but  
3 are not limited to:

4 (i) Any areas within the city for which the department has  
5 certified an extension of the implementation timelines under section  
6 5 of this act due to the risk of displacement;

7 (ii) Any areas within the city for which the department has  
8 certified an extension of the implementation timelines under section  
9 7 of this act due to a lack of infrastructure capacity;

10 (iii) Any lots designated with critical areas or their buffers  
11 that are exempt from the density requirements as provided in  
12 subsection (8) of this section;

13 (iv) Any portion of a city within a one-mile radius of a  
14 commercial airport with at least 9,000,000 annual enplanements that  
15 is exempt from the parking requirements under subsection (7)(b) of  
16 this section; and

17 (v) Any areas subject to sea level rise, increased flooding,  
18 susceptible to wildfires, or geological hazards over the next 100  
19 years.

20 (c) Unless identified as at higher risk of displacement under RCW  
21 36.70A.070(2)(g), the 25 percent of lots for which the requirements  
22 of subsection (1) of this section are not implemented may not  
23 include:

24 (i) Any areas for which the exclusion would further racially  
25 disparate impacts or result in zoning with a discriminatory effect;

26 (ii) Any areas within one-half mile walking distance of a major  
27 transit stop; or

28 (iii) Any areas historically covered by a covenant or deed  
29 restriction excluding racial minorities from owning property or  
30 living in the area, as known to the city at the time of each  
31 comprehensive plan update.

32 (5) A city must allow at least six of the nine types of middle  
33 housing to achieve the unit density required in subsection (1) of  
34 this section. A city may allow accessory dwelling units to achieve  
35 the unit density required in subsection (1) of this section. Cities  
36 are not required to allow accessory dwelling units or middle housing  
37 types beyond the density requirements in subsection (1) of this  
38 section. A city must also allow zero lot line short subdivision where  
39 the number of lots created is equal to the unit density required in  
40 subsection (1) of this section.

1 (6) Any city subject to the requirements of this section:

2 (a) If applying design review for middle housing, only  
3 administrative design review shall be required;

4 (b) Except as provided in (a) of this subsection, shall not  
5 require through development regulations any standards for middle  
6 housing that are more restrictive than those required for detached  
7 single-family residences, but may apply any objective development  
8 regulations that are required for detached single-family residences,  
9 including, but not limited to, set-back, lot coverage, stormwater,  
10 clearing, and tree canopy and retention requirements to ensure  
11 compliance with existing ordinances intended to protect critical  
12 areas and public health and safety;

13 (c) Shall apply to middle housing the same development permit and  
14 environmental review processes that apply to detached single-family  
15 residences, unless otherwise required by state law including, but not  
16 limited to, shoreline regulations under chapter 90.58 RCW, building  
17 codes under chapter 19.27 RCW, energy codes under chapter 19.27A RCW,  
18 or electrical codes under chapter 19.28 RCW;

19 (d) Shall not require off-street parking as a condition of  
20 permitting development of middle housing within one-half mile walking  
21 distance of a major transit stop;

22 (e) Shall not require more than one off-street parking space per  
23 unit as a condition of permitting development of middle housing on  
24 lots smaller than 6,000 square feet before any zero lot line  
25 subdivisions or lot splits;

26 (f) Shall not require more than two off-street parking spaces per  
27 unit as a condition of permitting development of middle housing on  
28 lots greater than 6,000 square feet before any zero lot line  
29 subdivisions or lot splits; and

30 (g) Are not required to achieve the per unit density under this  
31 act on lots after subdivision below 1,000 square feet unless the city  
32 chooses to enact smaller allowable lot sizes.

33 (7) The provisions of subsection (6)(d) through (f) of this  
34 section do not apply:

35 (a) If a local government submits to the department an empirical  
36 study prepared by a credentialed transportation or land use planning  
37 expert that clearly demonstrates, and the department finds and  
38 certifies, that the application of the parking limitations of  
39 subsection (6)(d) through (f) of this section for middle housing will  
40 be significantly less safe for vehicle drivers or passengers,

1 pedestrians, or bicyclists than if the jurisdiction's parking  
2 requirements were applied to the same location for the same number of  
3 detached houses. The department must develop guidance to assist  
4 cities on items to include in the study; or

5 (b) To portions of cities within a one-mile radius of a  
6 commercial airport in Washington with at least 9,000,000 annual  
7 enplanements.

8 (8) The provisions of this section do not apply to:

9 (a) Lots designated with critical areas designated under RCW  
10 36.70A.170 or their buffers as required by RCW 36.70A.170;

11 (b) A watershed serving a reservoir for potable water if that  
12 watershed is or was listed, as of the effective date of this section,  
13 as impaired or threatened under section 303(d) of the federal clean  
14 water act (33 U.S.C. Sec. 1313(d)); or

15 (c) Lots that have been designated urban separators by countywide  
16 planning policies as of the effective date of this section.

17 (9) Nothing in this section prohibits a city from permitting  
18 detached single-family residences.

19 (10) Nothing in this section requires a city to issue a building  
20 permit if other federal, state, and local requirements for a building  
21 permit are not met.

22 (11) A city must comply with the requirements of this section on  
23 the latter of:

24 (a) Six months after its next periodic comprehensive plan update  
25 required under RCW 36.70A.130 if the city meets the population  
26 threshold based on the 2020 office of financial management population  
27 data; or

28 (b) 12 months after their next implementation progress report  
29 required under RCW 36.70A.130 after a determination by the office of  
30 financial management that the city has reached a population threshold  
31 established under this section.

32 (12) A city complying with this section and not granted a  
33 timeline extension under section 7 of this act does not have to  
34 update its capital facilities plan element required by RCW  
35 36.70A.070(3) to accommodate the increased housing required by this  
36 act until the first periodic comprehensive plan update required for  
37 the city under RCW 36.70A.130(5) that occurs on or after June 30,  
38 2034.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A

2 RCW to read as follows:

3 (1)(a) The department is directed to provide technical assistance  
4 to cities as they implement the requirements under section 3 of this  
5 act.

6 (b) The department shall prioritize such technical assistance to  
7 cities demonstrating the greatest need.

8 (2)(a) The department shall publish model middle housing  
9 ordinances no later than six months following the effective date of  
10 this section.

11 (b) In any city subject to section 3 of this act that has not  
12 passed ordinances, regulations, or other official controls within the  
13 time frames provided under section 3(11) of this act, the model  
14 ordinance supersedes, preempts, and invalidates local development  
15 regulations until the city takes all actions necessary to implement  
16 section 3 of this act.

17 (3)(a) The department is directed to establish a process by which  
18 cities implementing the requirements of section 3 of this act may  
19 seek approval of alternative local action necessary to meet the  
20 requirements of this act.

21 (b) The department may approve actions under this section for  
22 cities that have, by January 1, 2023, adopted a comprehensive plan  
23 that is substantially similar to the requirements of this act and  
24 have adopted, or within one year of the effective date of this  
25 section adopts, permanent development regulations that are  
26 substantially similar to the requirements of this act. In determining  
27 whether a city's adopted comprehensive plan and permanent development  
28 regulations are substantially similar, the department must find as  
29 substantially similar plans and regulations that:

30 (i) Result in an overall increase in housing units allowed in  
31 single-family zones that is at least 75 percent of the increase in  
32 housing units allowed in single-family zones if the specific  
33 provisions of this act were adopted;

34 (ii) Allow for middle housing throughout the city, rather than  
35 just in targeted locations; and

36 (iii) Allow for additional density near major transit stops, and  
37 for projects that incorporate dedicated affordable housing.

38 (c) The department may also approve actions under this section  
39 for cities that have, by January 1, 2023, adopted a comprehensive  
40 plan or development regulations that have significantly reduced or



1 eliminated residentially zoned areas that are predominantly single  
2 family. The department must find that a city's actions are  
3 substantially similar to the requirements of this act if they have  
4 adopted, or within one year of the effective date of this section  
5 adopts, permanent development regulations that:

6 (i) Result in an overall increase in housing units allowed in  
7 single-family zones that is at least 75 percent of the increase in  
8 housing units allowed in single-family zones if the specific  
9 provisions of this act were adopted;

10 (ii) Allow for middle housing throughout the city, rather than  
11 just in targeted locations; and

12 (iii) Allow for additional density near major transit stops, and  
13 for projects that incorporate dedicated affordable housing.

14 (d) The department may determine that a comprehensive plan and  
15 development regulations that do not meet these criteria are otherwise  
16 substantially similar to the requirements of this act if the city can  
17 clearly demonstrate that the regulations adopted will allow for a  
18 greater increase in middle housing production within single family  
19 zones than would be allowed through implementation of section 3 of  
20 this act.

21 (e) Any local actions approved by the department pursuant to (a)  
22 of this subsection to implement the requirements under section 3 of  
23 this act are exempt from appeals under this chapter and chapter  
24 43.21C RCW.

25 (f) The department's final decision to approve or reject actions  
26 by cities implementing section 3 of this act may be appealed to the  
27 growth management hearings board by filing a petition as provided in  
28 RCW 36.70A.290.

29 (4) The department may issue guidance for local jurisdictions to  
30 ensure that the levels of middle housing zoning under this act can be  
31 integrated with the methods used by cities to calculate zoning  
32 densities and intensities in local zoning and development  
33 regulations.

34 NEW SECTION. **Sec. 5.** A new section is added to chapter 36.70A  
35 RCW to read as follows:

36 Any city choosing the alternative density requirements in section  
37 3(4) of this act may apply to the department for, and the department  
38 may certify, an extension for areas at risk of displacement as  
39 determined by the antidisplacement analysis that a jurisdiction is

1 required to complete under RCW 36.70A.070(2). The city must create a  
2 plan for implementing antidisplacement policies by their next  
3 implementation progress report required by RCW 36.70A.130(9). The  
4 department may certify one further extension based on evidence of  
5 significant ongoing displacement risk in the impacted area.

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

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

10 (a) That, except as provided otherwise by this subsection, a  
11 state agency, county, or city planning under this chapter is not in  
12 compliance with the requirements of this chapter, chapter 90.58 RCW  
13 as it relates to the adoption of shoreline master programs or  
14 amendments thereto, or chapter 43.21C RCW as it relates to plans,  
15 development regulations, or amendments, adopted under RCW 36.70A.040  
16 or chapter 90.58 RCW. Nothing in this subsection authorizes the board  
17 to hear petitions alleging noncompliance with RCW 36.70A.5801;

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

21 (c) That the approval of a work plan adopted under RCW  
22 36.70A.735(1)(a) is not in compliance with the requirements of the  
23 program established under RCW 36.70A.710;

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

27 (e) That a department certification under RCW 36.70A.735(1)(c) is  
28 erroneous; or

29 (f) That the department's final decision to approve or reject  
30 actions by a city implementing section 3 of this act is clearly  
31 erroneous.

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

38 (3) For purposes of this section "person" means any individual,  
39 partnership, corporation, association, state agency, governmental

1 subdivision or unit thereof, or public or private organization or  
2 entity of any character.

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

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

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

14 If adjusted by the board, a county growth management planning  
15 population projection shall only be used for the planning purposes  
16 set forth in this chapter and shall be known as the "board adjusted  
17 population projection." None of these changes shall affect the  
18 official state and county population forecasts prepared by the office  
19 of financial management, which shall continue to be used for state  
20 budget and planning purposes.

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

23 (1) Any city choosing the alternative density requirements in  
24 section 3(4) of this act may apply to the department for, and the  
25 department may certify, an extension of the implementation timelines  
26 established under section 3(11) of this act.

27 (2) An extension certified under this section may be applied only  
28 to specific areas where a city can demonstrate that water, sewer,  
29 stormwater, transportation infrastructure, including facilities and  
30 transit services, or fire protection services lack capacity to  
31 accommodate the density required in section 3 of this act, and the  
32 city has:

33 (a) Included one or more improvements, as needed, within its  
34 capital facilities plan to adequately increase capacity; or

35 (b) Identified which special district is responsible for  
36 providing the necessary infrastructure if the infrastructure is  
37 provided by a special purpose district.

38 (3) If an extension of the implementation timelines is requested  
39 due to lack of water supply from the city or the purveyors who serve

1 water within the city, the department's evaluation of the extension  
2 must be based on the applicable water system plans in effect and  
3 approved by the department of health. Water system plan updates  
4 initiated after the effective date of this section must include  
5 consideration of water supply requirements for middle housing types.

6 (4) An extension granted under this section remains in effect  
7 until the earliest of:

8 (a) The infrastructure is improved to accommodate the capacity;

9 (b) The city's deadline to complete its next periodic  
10 comprehensive plan update under RCW 36.70A.130; or

11 (c) The city's deadline to complete its implementation progress  
12 report to the department as required under RCW 36.70A.130(9).

13 (5) A city that has received an extension under this section may  
14 reapply for any needed extension with its next periodic comprehensive  
15 plan update under RCW 36.70A.130 or its implementation progress  
16 report to the department under RCW 36.70A.130(9). The application for  
17 an additional extension must include a list of infrastructure  
18 improvements necessary to meet the capacity required in section 3 of  
19 this act. Such additional extension must only be to address  
20 infrastructure deficiency that a city is not reasonably able to  
21 address within the first extension.

22 (6) The department may establish by rule any standards or  
23 procedures necessary to implement this section.

24 (7) The department must provide the legislature with a list of  
25 projects identified in a city's capital facilities plan that were the  
26 basis for the extension under this section, including planning level  
27 estimates. Additionally, the city must contact special purpose  
28 districts to identify additional projects associated with extensions  
29 under this section.

30 (8) A city granted an extension for a specific area must allow  
31 development as provided under section 3 of this act if the developer  
32 commits to providing the necessary water, sewer, or stormwater  
33 infrastructure.

34 (9) If an area zoned predominantly for residential use is  
35 currently served only by private wells, group B water systems or  
36 group A water systems with less than 50 connections, or a city or  
37 water providers within the city do not have an adequate water supply  
38 or available connections to serve the zoning increase required under  
39 section 3 of this act, the city may limit the areas subject to the  
40 requirements under section 3 of this act to match current water

1 availability. Nothing in this act affects or modifies the  
2 responsibilities of cities to plan for or provide urban governmental  
3 services as defined in RCW 36.70A.030 or affordable housing as  
4 required by RCW 36.70A.070.

5 (10) No city shall approve a building permit for housing under  
6 section 3 of this act without compliance with the adequate water  
7 supply requirements of RCW 19.27.097.

8 (11) If an area zoned predominantly for residential use is  
9 currently served only by on-site sewage systems, development may be  
10 limited to two units per lot, until either the landowner or local  
11 government provides sewer service or demonstrates a sewer system will  
12 serve the development at the time of construction. Nothing in this  
13 act affects or modifies the responsibilities of cities to plan for or  
14 provide urban governmental services as defined in RCW 36.70A.030.

15 **Sec. 8.** RCW 43.21C.495 and 2022 c 246 s 3 are each amended to  
16 read as follows:

17 (1) Adoption of ordinances, development regulations and  
18 amendments to such regulations, and other nonproject actions taken by  
19 a city to implement: The actions specified in section 2, chapter 246,  
20 Laws of 2022 unless the adoption of such ordinances, development  
21 regulations and amendments to such regulations, or other nonproject  
22 actions has a probable significant adverse impact on fish habitat;  
23 and the increased residential building capacity actions identified in  
24 RCW 36.70A.600(1), with the exception of the action specified in RCW  
25 36.70A.600(1)(f), are not subject to administrative or judicial  
26 appeals under this chapter.

27 (2) Amendments to development regulations and other nonproject  
28 actions taken by a city to implement the requirements under section 3  
29 of this act pursuant to section 4(3)(b) of this act are not subject  
30 to administrative or judicial appeals under this chapter.

31 **Sec. 9.** RCW 43.21C.450 and 2012 1st sp.s. c 1 s 307 are each  
32 amended to read as follows:

33 The following nonproject actions are categorically exempt from  
34 the requirements of this chapter:

35 (1) Amendments to development regulations that are required to  
36 ensure consistency with an adopted comprehensive plan pursuant to RCW  
37 36.70A.040, where the comprehensive plan was previously subjected to  
38 environmental review pursuant to this chapter and the impacts

1 associated with the proposed regulation were specifically addressed  
2 in the prior environmental review;

3 (2) Amendments to development regulations that are required to  
4 ensure consistency with a shoreline master program approved pursuant  
5 to RCW 90.58.090, where the shoreline master program was previously  
6 subjected to environmental review pursuant to this chapter and the  
7 impacts associated with the proposed regulation were specifically  
8 addressed in the prior environmental review;

9 (3) Amendments to development regulations that, upon  
10 implementation of a project action, will provide increased  
11 environmental protection, limited to the following:

12 (a) Increased protections for critical areas, such as enhanced  
13 buffers or setbacks;

14 (b) Increased vegetation retention or decreased impervious  
15 surface areas in shoreline jurisdiction; and

16 (c) Increased vegetation retention or decreased impervious  
17 surface areas in critical areas;

18 (4) Amendments to technical codes adopted by a county, city, or  
19 town to ensure consistency with minimum standards contained in state  
20 law, including the following:

21 (a) Building codes required by chapter 19.27 RCW;

22 (b) Energy codes required by chapter 19.27A RCW; and

23 (c) Electrical codes required by chapter 19.28 RCW.

24 (5) Amendments to development regulations to remove requirements  
25 for parking from development proposed to fill in an urban growth area  
26 designated according to RCW 36.70A.110.

27 NEW SECTION. Sec. 10. A new section is added to chapter 64.34  
28 RCW to read as follows:

29 A declaration created after the effective date of this section  
30 and applicable to an area within a city subject to the middle housing  
31 requirements in section 3 of this act may not actively or effectively  
32 prohibit the construction, development, or use of additional housing  
33 units as required in section 3 of this act.

34 NEW SECTION. Sec. 11. A new section is added to chapter 64.32  
35 RCW to read as follows:

36 A declaration created after the effective date of this section  
37 and applicable to an association of apartment owners located within  
38 an area of a city subject to the middle housing requirements in

1 section 3 of this act may not actively or effectively prohibit the  
2 construction, development, or use of additional housing units as  
3 required in section 3 of this act.

4 NEW SECTION. **Sec. 12.** A new section is added to chapter 64.38  
5 RCW to read as follows:

6 Governing documents of associations within cities subject to the  
7 middle housing requirements in section 3 of this act that are created  
8 after the effective date of this section may not actively or  
9 effectively prohibit the construction, development, or use of  
10 additional housing units as required in section 3 of this act.

11 NEW SECTION. **Sec. 13.** A new section is added to chapter 64.90  
12 RCW to read as follows:

13 Declarations and governing documents of a common interest  
14 community within cities subject to the middle housing requirements in  
15 section 3 of this act that are created after the effective date of  
16 this section may not actively or effectively prohibit the  
17 construction, development, or use of additional housing units as  
18 required in section 3 of this act.

19 NEW SECTION. **Sec. 14.** The department of commerce may establish  
20 by rule any standards or procedures necessary to implement sections 2  
21 through 7 of this act.

22 NEW SECTION. **Sec. 15.** If specific funding for the purposes of  
23 this act, referencing this act by bill or chapter number, is not  
24 provided by June 30, 2023, in the omnibus appropriations act, this  
25 act is null and void.

Passed by the House April 18, 2023.  
Passed by the Senate April 11, 2023.  
Approved by the Governor May 8, 2023.  
Filed in Office of Secretary of State May 10, 2023.

--- END ---

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE HOUSE BILL 1042**

Chapter 285, Laws of 2023

68th Legislature  
2023 Regular Session

USE OF EXISTING BUILDINGS FOR RESIDENTIAL PURPOSES

EFFECTIVE DATE: July 23, 2023

Passed by the House April 14, 2023  
Yeas 96 Nays 0

LAURIE JINKINS

**Speaker of the House of  
Representatives**

Passed by the Senate April 5, 2023  
Yeas 45 Nays 3

DENNY HECK

**President of the Senate**

Approved May 4, 2023 3:07 PM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1042** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

**Chief Clerk**

FILED

May 5, 2023

**Secretary of State  
State of Washington**



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**ENGROSSED SUBSTITUTE HOUSE BILL 1042**

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AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

**State of Washington                      68th Legislature                      2023 Regular Session**

**By** House Housing (originally sponsored by Representatives Walen, Ryu, Barkis, Simmons, Duerr, Goodman, Bateman, Reed, Ramel, Peterson, Pollet, Doglio, Macri, Reeves, Mena, Tharinger, Wylie, Gregerson, Springer, Bergquist, Thai, Kloba, Santos, and Ormsby)

READ FIRST TIME 01/23/23.

1            AN ACT Relating to the creation of additional housing units in  
2 existing buildings; amending RCW 43.21C.450; adding a new section to  
3 chapter 35A.21 RCW; adding a new section to chapter 35.21 RCW; and  
4 adding a new section to chapter 19.27A RCW.

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

6            NEW SECTION.    **Sec. 1.**    A new section is added to chapter 35A.21  
7 RCW to read as follows:

8            (1)(a) Code cities must adopt or amend by ordinance, and  
9 incorporate into their development regulations, zoning regulations,  
10 and other official controls the requirements of subsection (2) of  
11 this section for buildings that are zoned for commercial or mixed use  
12 no later than six months after its next periodic comprehensive plan  
13 update required under RCW 36.70A.130.

14            (b) The requirements of subsection (2) of this section apply and  
15 take effect in any code city that has not adopted or amended  
16 ordinances, regulations, or other official controls as required under  
17 this section by the timeline in (a) of this subsection and supersede,  
18 preempt, and invalidate any conflicting local development  
19 regulations.

1 (2) Through ordinances, development regulations, zoning  
2 regulations, or other official controls as required under subsection  
3 (1) of this section, code cities may not:

4 (a) Impose a restriction on housing unit density that prevents  
5 the addition of housing units at a density up to 50 percent more than  
6 what is allowed in the underlying zone if constructed entirely within  
7 an existing building envelope in a building located within a zone  
8 that permits multifamily housing, provided that generally applicable  
9 health and safety standards, including but not limited to building  
10 code standards and fire and life safety standards, can be met within  
11 the building;

12 (b) Impose parking requirements on the addition of dwelling units  
13 or living units added within an existing building, however, cities  
14 may require the retention of existing parking that is required to  
15 satisfy existing residential parking requirements under local laws  
16 and for nonresidential uses that remain after the new units are  
17 added;

18 (c) With the exception of emergency housing and transitional  
19 housing uses, impose permitting requirements on the use of an  
20 existing building for residential purposes beyond those requirements  
21 generally applicable to all residential development within the  
22 building's zone;

23 (d) Impose design standard requirements, including setbacks, lot  
24 coverage, and floor area ratio requirements, on the use of an  
25 existing building for residential purposes beyond those requirements  
26 generally applicable to all residential development within the  
27 building's zone;

28 (e) Impose exterior design or architectural requirements on the  
29 residential use of an existing building beyond those necessary for  
30 health and safety of the use of the interior of the building or to  
31 preserve character-defining streetscapes, unless the building is a  
32 designated landmark or is within a historic district established  
33 through a local preservation ordinance;

34 (f) Prohibit the addition of housing units in any specific part  
35 of a building except ground floor commercial or retail that is along  
36 a major pedestrian corridor as defined by the code city, unless the  
37 addition of the units would violate applicable building codes or  
38 health and safety standards;

39 (g) Require unchanged portions of an existing building used for  
40 residential purposes to meet the current energy code solely because

1 of the addition of new dwelling units within the building, however,  
2 if any portion of an existing building is converted to new dwelling  
3 units, each of those new units must meet the requirements of the  
4 current energy code;

5 (h) Deny a building permit application for the addition of  
6 housing units within an existing building due to nonconformity  
7 regarding parking, height, setbacks, elevator size for gurney  
8 transport, or modulation, unless the code city official with  
9 decision-making authority makes written findings that the  
10 nonconformity is causing a significant detriment to the surrounding  
11 area; or

12 (i) Require a transportation concurrency study under RCW  
13 36.70A.070 or an environmental study under chapter 43.21C RCW based  
14 on the addition of residential units within an existing building.

15 (3) Nothing in this section requires a code city to approve a  
16 building permit application for the addition of housing units  
17 constructed entirely within an existing building envelope in a  
18 building located within a zone that permits multifamily housing in  
19 cases in which the building cannot satisfy life safety standards.

20 (4) For the purpose of this section, "existing building" means a  
21 building that received a certificate of occupancy at least three  
22 years prior to the permit application to add housing units.

23 NEW SECTION. **Sec. 2.** A new section is added to chapter 35.21  
24 RCW to read as follows:

25 (1)(a) Cities must adopt or amend by ordinance, and incorporate  
26 into their development regulations, zoning regulations, and other  
27 official controls the requirements of subsection (2) of this section  
28 for buildings that are zoned for commercial or mixed use no later  
29 than six months after its next periodic comprehensive plan update  
30 required under RCW 36.70A.130.

31 (b) The requirements of subsection (2) of this section apply and  
32 take effect in any city that has not adopted or amended ordinances,  
33 regulations, or other official controls as required under this  
34 section by the timeline in (a) of this subsection and supersede,  
35 preempt, and invalidate any conflicting local development  
36 regulations.

37 (2) Through ordinances, development regulations, zoning  
38 regulations, or other official controls as required under subsection  
39 (1) of this section, cities may not:

1 (a) Impose a restriction on housing unit density that prevents  
2 the addition of housing units at a density up to 50 percent more than  
3 what is allowed in the underlying zone if constructed entirely within  
4 an existing building envelope in a building located within a zone  
5 that permits multifamily housing, provided that generally applicable  
6 health and safety standards, including but not limited to building  
7 code standards and fire and life safety standards, can be met within  
8 the building;

9 (b) Impose parking requirements on the addition of dwelling units  
10 or living units added within an existing building, however, cities  
11 may require the retention of existing parking that is required to  
12 satisfy existing residential parking requirements under local laws  
13 and for nonresidential uses that remain after the new units are  
14 added;

15 (c) With the exception of emergency housing and transitional  
16 housing uses, impose permitting requirements on the use of an  
17 existing building for residential purposes beyond those requirements  
18 generally applicable to all residential development within the  
19 building's zone;

20 (d) Impose design standard requirements, including setbacks, lot  
21 coverage, and floor area ratio requirements, on the use of an  
22 existing building for residential purposes beyond those requirements  
23 generally applicable to all residential development within the  
24 building's zone;

25 (e) Impose exterior design or architectural requirements on the  
26 residential use of an existing building beyond those necessary for  
27 health and safety of the use of the interior of the building or to  
28 preserve character-defining streetscapes, unless the building is a  
29 designated landmark or is within a historic district established  
30 through a local preservation ordinance;

31 (f) Prohibit the addition of housing units in any specific part  
32 of a building except ground floor commercial or retail that is along  
33 a major pedestrian corridor as defined by each city, unless the  
34 addition of the units would violate applicable building codes or  
35 health and safety standards;

36 (g) Require unchanged portions of an existing building used for  
37 residential purposes to meet the current energy code solely because  
38 of the addition of new dwelling units within the building, however,  
39 if any portion of an existing building is converted to new dwelling

1 units, each of those new units must meet the requirements of the  
2 current energy code;

3 (h) Deny a building permit application for the addition of  
4 housing units within an existing building due to nonconformity  
5 regarding parking, height, setbacks, elevator size for gurney  
6 transport, or modulation, unless the city official with decision-  
7 making authority makes written findings that the nonconformity is  
8 causing a significant detriment to the surrounding area; or

9 (i) Require a transportation concurrency study under RCW  
10 36.70A.070 or an environmental study under chapter 43.21C RCW based  
11 on the addition of residential units within an existing building.

12 (3) Nothing in this section requires a city to approve a building  
13 permit application for the addition of housing units constructed  
14 entirely within an existing building envelope in a building located  
15 within a zone that permits multifamily housing in cases in which the  
16 building cannot satisfy life safety standards.

17 (4) For the purpose of this section, "existing building" means a  
18 building that received a certificate of occupancy at least three  
19 years prior to the permit application to add housing units.

20 NEW SECTION. **Sec. 3.** A new section is added to chapter 19.27A  
21 RCW to read as follows:

22 By January 1, 2024, the state building code council shall adopt  
23 by rule an amendment to the current energy code that waives the  
24 requirement for unchanged portions of an existing building used for  
25 residential purposes to meet the current energy code solely because  
26 of the addition of new dwelling units within the building. New  
27 dwelling units created within the existing building must meet the  
28 requirements of the current energy code.

29 **Sec. 4.** RCW 43.21C.450 and 2012 1st sp.s. c 1 s 307 are each  
30 amended to read as follows:

31 The following nonproject actions are categorically exempt from  
32 the requirements of this chapter:

33 (1) Amendments to development regulations that are required to  
34 ensure consistency with an adopted comprehensive plan pursuant to RCW  
35 36.70A.040, where the comprehensive plan was previously subjected to  
36 environmental review pursuant to this chapter and the impacts  
37 associated with the proposed regulation were specifically addressed  
38 in the prior environmental review;

1 (2) Amendments to development regulations that are required to  
2 ensure consistency with a shoreline master program approved pursuant  
3 to RCW 90.58.090, where the shoreline master program was previously  
4 subjected to environmental review pursuant to this chapter and the  
5 impacts associated with the proposed regulation were specifically  
6 addressed in the prior environmental review;

7 (3) Amendments to development regulations that, upon  
8 implementation of a project action, will provide increased  
9 environmental protection, limited to the following:

10 (a) Increased protections for critical areas, such as enhanced  
11 buffers or setbacks;

12 (b) Increased vegetation retention or decreased impervious  
13 surface areas in shoreline jurisdiction; and

14 (c) Increased vegetation retention or decreased impervious  
15 surface areas in critical areas;

16 (4) Amendments to technical codes adopted by a county, city, or  
17 town to ensure consistency with minimum standards contained in state  
18 law, including the following:

19 (a) Building codes required by chapter 19.27 RCW;

20 (b) Energy codes required by chapter 19.27A RCW; and

21 (c) Electrical codes required by chapter 19.28 RCW.

22 (5) Adoption or amendment of ordinances, development regulations,  
23 zoning regulations, and other official controls necessary to comply  
24 with sections 1 and 2 of this act.

Passed by the House April 14, 2023.

Passed by the Senate April 5, 2023.

Approved by the Governor May 4, 2023.

Filed in Office of Secretary of State May 5, 2023.

--- END ---

CERTIFICATION OF ENROLLMENT

**ENGROSSED HOUSE BILL 1337**

Chapter 334, Laws of 2023

(partial veto)

68th Legislature  
2023 Regular Session

GROWTH MANAGEMENT ACT—ACCESSORY DWELLING UNITS—URBAN GROWTH AREAS

EFFECTIVE DATE: July 23, 2023

Passed by the House April 14, 2023  
Yeas 85 Nays 11

LAURIE JINKINS

**Speaker of the House of  
Representatives**

Passed by the Senate April 6, 2023  
Yeas 39 Nays 7

DENNY HECK

**President of the Senate**

Approved May 8, 2023 1:13 PM with the  
exception of section 5, which is  
vetoed.

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the  
House of Representatives of the  
State of Washington, do hereby  
certify that the attached is  
**ENGROSSED HOUSE BILL 1337** as passed  
by the House of Representatives and  
the Senate on the dates hereon set  
forth.

BERNARD DEAN

**Chief Clerk**

FILED

May 10, 2023

**Secretary of State  
State of Washington**

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**ENGROSSED HOUSE BILL 1337**

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AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

**State of Washington                      68th Legislature                      2023 Regular Session**

**By** Representatives Gregerson, Barkis, Berry, Christian, Duerr, Fitzgibbon, Taylor, Ramel, Reeves, Simmons, Walen, Graham, Bateman, Reed, Lekanoff, Doglio, Tharinger, Cortes, Macri, and Stonier

Read first time 01/16/23. Referred to Committee on Housing.

1            AN ACT Relating to expanding housing options by easing barriers  
2 to the construction and use of accessory dwelling units; amending RCW  
3 36.70A.696, 43.21C.495, and 36.70A.280; adding new sections to  
4 chapter 36.70A RCW; adding a new section to chapter 64.34 RCW; adding  
5 a new section to chapter 64.32 RCW; adding a new section to chapter  
6 64.38 RCW; adding a new section to chapter 64.90 RCW; creating a new  
7 section; and repealing RCW 35.63.210, 35A.63.230, 36.70A.400,  
8 36.70.677, and 43.63A.215.

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

10            NEW SECTION.    **Sec. 1.**    (1) The legislature makes the following  
11 findings:

12            (a) Washington state is experiencing a housing affordability  
13 crisis. Many communities across the state are in need of more housing  
14 for renters across the income spectrum.

15            (b) Many cities dedicate the majority of residentially zoned land  
16 to single detached houses that are increasingly financially out of  
17 reach for many households. Due to their smaller size, accessory  
18 dwelling units can provide a more affordable housing option in those  
19 single-family zones.

20            (c) Localities can start to correct for historic economic and  
21 racial exclusion in single-family zones by opening up these



1 neighborhoods to more diverse housing types, including accessory  
2 dwelling units, that provide lower cost homes. Increasing housing  
3 options in expensive, high-opportunity neighborhoods will give more  
4 families access to schools, parks, and other public amenities  
5 otherwise accessible to only the wealthy.

6 (d) Accessory dwelling units are frequently rented below market  
7 rate, providing additional affordable housing options for renters.

8 (e) Accessory dwelling units can also help to provide housing for  
9 very low-income households. More than 10 percent of accessory  
10 dwelling units in some areas are occupied by tenants who pay no rent  
11 at all; among these tenants are grandparents, adult children, family  
12 members with disabilities, friends going through life transitions,  
13 and community members in need. Accessory dwelling units meet the  
14 needs of these people who might otherwise require subsidized housing  
15 space and resources.

16 (f) Accessory dwelling units can meet the needs of Washington's  
17 growing senior population, making it possible for this population to  
18 age in their communities by offering senior-friendly housing, which  
19 prioritizes physical accessibility, in walkable communities near  
20 amenities essential to successful aging in place, including transit  
21 and grocery stores, without requiring costly renovations of existing  
22 housing stock.

23 (g) Homeowners who add an accessory dwelling unit may benefit  
24 from added income and an increased sense of security.

25 (h) Accessory dwelling units provide environmental benefits. On  
26 average they are more energy efficient than single detached houses,  
27 and they incentivize adaptive reuse of existing homes and materials.

28 (i) Siting accessory dwelling units near transit hubs, employment  
29 centers, and public amenities can help to reduce greenhouse gas  
30 emissions by increasing walkability, shortening household commutes,  
31 and curtailing sprawl.

32 (2) The legislature intends to promote and encourage the creation  
33 of accessory dwelling units as a means to address the need for  
34 additional affordable housing options.

35 **Sec. 2.** RCW 36.70A.696 and 2021 c 306 s 2 are each amended to  
36 read as follows:

37 The definitions in this section apply throughout RCW 36.70A.697  
38 ~~((and)),~~ 36.70A.698, and sections 3 and 4 of this act unless the  
39 context clearly requires otherwise.

1 (1) "Accessory dwelling unit" means a dwelling unit located on  
2 the same lot as a single-family housing unit, duplex, triplex,  
3 townhome, or other housing unit.

4 (2) "Attached accessory dwelling unit" means an accessory  
5 dwelling unit located within or attached to a single-family housing  
6 unit, duplex, triplex, townhome, or other housing unit.

7 (3) "City" means any city, code city, and town located in a  
8 county planning under RCW 36.70A.040.

9 (4) "County" means any county planning under RCW 36.70A.040.

10 (5) "Detached accessory dwelling unit" means an accessory  
11 dwelling unit that consists partly or entirely of a building that is  
12 separate and detached from a single-family housing unit, duplex,  
13 triplex, townhome, or other housing unit and is on the same property.

14 (6) "Dwelling unit" means a residential living unit that provides  
15 complete independent living facilities for one or more persons and  
16 that includes permanent provisions for living, sleeping, eating,  
17 cooking, and sanitation.

18 (7) "Gross floor area" means the interior habitable area of a  
19 dwelling unit including basements and attics but not including a  
20 garage or accessory structure.

21 (8) "Major transit stop" means:

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

24 (b) Commuter rail stops;

25 (c) Stops on rail or fixed guideway systems, including  
26 transitways;

27 (d) Stops on bus rapid transit routes or routes that run on high  
28 occupancy vehicle lanes; or

29 (e) Stops for a bus or other transit mode providing actual fixed  
30 route service at intervals of at least fifteen minutes for at least  
31 five hours during the peak hours of operation on weekdays.

32 ~~((+8))~~ (9) "Owner" means any person who has at least 50 percent  
33 ownership in a property on which an accessory dwelling unit is  
34 located.

35 ~~((+9))~~ (10) "Principal unit" means the single-family housing  
36 unit, duplex, triplex, townhome, or other housing unit located on the  
37 same lot as an accessory dwelling unit.

38 (11) "Short-term rental" means a lodging use, that is not a hotel  
39 or motel or bed and breakfast, in which a dwelling unit, or portion

1 thereof, is offered or provided to a guest by a short-term rental  
2 operator for a fee for fewer than 30 consecutive nights.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A  
4 RCW to read as follows:

5 (1) (a) Cities and counties planning under this chapter must adopt  
6 or amend by ordinance, and incorporate into their development  
7 regulations, zoning regulations, and other official controls the  
8 requirements of this section and of section 4 of this act, to take  
9 effect six months after the jurisdiction's next periodic  
10 comprehensive plan update required under RCW 36.70A.130.

11 (b) In any city or county that has not adopted or amended  
12 ordinances, regulations, or other official controls as required under  
13 this section, the requirements of this section and section 4 of this  
14 act supersede, preempt, and invalidate any conflicting local  
15 development regulations.

16 (2) Ordinances, development regulations, and other official  
17 controls adopted or amended pursuant to this section and section 4 of  
18 this act must only apply in the portions of towns, cities, and  
19 counties that are within urban growth areas designated under this  
20 chapter.

21 (3) Any action taken by a city or county to comply with the  
22 requirements of this section or section 4 of this act is not subject  
23 to legal challenge under this chapter or chapter 43.21C RCW.

24 (4) Nothing in this section or section 4 of this act requires or  
25 authorizes a city or county to authorize the construction of an  
26 accessory dwelling unit in a location where development is restricted  
27 under other laws, rules, or ordinances as a result of physical  
28 proximity to on-site sewage system infrastructure, critical areas, or  
29 other unsuitable physical characteristics of a property.

30 (5) Nothing in this section or in section 4 of this act prohibits  
31 a city or county from:

32 (a) Restricting the use of accessory dwelling units for short-  
33 term rentals;

34 (b) Applying public health, safety, building code, and  
35 environmental permitting requirements to an accessory dwelling unit  
36 that would be applicable to the principal unit, including regulations  
37 to protect ground and surface waters from on-site wastewater;

38 (c) Applying generally applicable development regulations to the  
39 construction of an accessory unit, except when the application of

1 such regulations would be contrary to this section or to section 4 of  
2 this act;

3 (d) Prohibiting the construction of accessory dwelling units on  
4 lots that are not connected to or served by public sewers; or

5 (e) Prohibiting or restricting the construction of accessory  
6 dwelling units in residential zones with a density of one dwelling  
7 unit per acre or less that are within areas designated as wetlands,  
8 fish and wildlife habitats, flood plains, or geologically hazardous  
9 areas.

10 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A  
11 RCW to read as follows:

12 (1) In addition to ordinances, development regulations, and other  
13 official controls adopted or amended to comply with this section and  
14 section 3 of this act, a city or county must comply with all of the  
15 following policies:

16 (a) The city or county may not assess impact fees on the  
17 construction of accessory dwelling units that are greater than 50  
18 percent of the impact fees that would be imposed on the principal  
19 unit;

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

23 (c) The city or county must allow at least two accessory dwelling  
24 units on all lots that are located in all zoning districts within an  
25 urban growth area that allow for single-family homes in the following  
26 configurations:

27 (i) One attached accessory dwelling unit and one detached  
28 accessory dwelling unit;

29 (ii) Two attached accessory dwelling units; or

30 (iii) Two detached accessory dwelling units, which may be  
31 comprised of either one or two detached structures;

32 (d) The city or county must permit accessory dwelling units in  
33 structures detached from the principal unit;

34 (e) The city or county must allow an accessory dwelling unit on  
35 any lot that meets the minimum lot size required for the principal  
36 unit;

37 (f) The city or county may not establish a maximum gross floor  
38 area requirement for accessory dwelling units that is less than 1,000  
39 square feet;

1 (g) The city or county may not establish roof height limits on an  
2 accessory dwelling unit of less than 24 feet, unless the height  
3 limitation that applies to the principal unit is less than 24 feet,  
4 in which case a city or county may not impose roof height limitation  
5 on accessory dwelling units that is less than the height limitation  
6 that applies to the principal unit;

7 (h) A city or county may not impose setback requirements, yard  
8 coverage limits, tree retention mandates, restrictions on entry door  
9 locations, aesthetic requirements, or requirements for design review  
10 for accessory dwelling units that are more restrictive than those for  
11 principal units;

12 (i) A city or county must allow detached accessory dwelling units  
13 to be sited at a lot line if the lot line abuts a public alley,  
14 unless the city or county routinely plows snow on the public alley;

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

19 (k) A city or county may not prohibit the sale or other  
20 conveyance of a condominium unit independently of a principal unit  
21 solely on the grounds that the condominium unit was originally built  
22 as an accessory dwelling unit; and

23 (l) A city or county may not require public street improvements  
24 as a condition of permitting accessory dwelling units.

25 (2)(a) A city or county subject to the requirements of this  
26 section may not:

27 (i) Require off-street parking as a condition of permitting  
28 development of accessory dwelling units within one-half mile walking  
29 distance of a major transit stop;

30 (ii) Require more than one off-street parking space per unit as a  
31 condition of permitting development of accessory dwelling units on  
32 lots smaller than 6,000 square feet before any zero lot line  
33 subdivisions or lot splits; and

34 (iii) Require more than two off-street parking spaces per unit as  
35 a condition of permitting development of accessory dwelling units on  
36 lots greater than 6,000 square feet before any zero lot line  
37 subdivisions or lot splits.

38 (b) The provisions of (a) of this subsection do not apply:

39 (i) If a local government submits to the department an empirical  
40 study prepared by a credentialed transportation or land use planning

1 expert that clearly demonstrates, and the department finds and  
2 certifies, that the application of the parking limitations of (a) of  
3 this subsection for accessory dwelling units will be significantly  
4 less safe for vehicle drivers or passengers, pedestrians, or  
5 bicyclists than if the jurisdiction's parking requirements were  
6 applied to the same location for the same number of detached houses.  
7 The department must develop guidance to assist cities and counties on  
8 items to include in the study; or

9 (ii) To portions of cities within a one mile radius of a  
10 commercial airport in Washington with at least 9,000,000 annual  
11 enplanements.

12 (3) When regulating accessory dwelling units, cities and counties  
13 may impose a limit of two accessory dwelling units, in addition to  
14 the principal unit, on a residential lot of 2,000 square feet or  
15 less.

16 (4) The provisions of this section do not apply to lots  
17 designated with critical areas or their buffers as designated in RCW  
18 36.70A.060, or to a watershed serving a reservoir for potable water  
19 if that watershed is or was listed, as of the effective date of this  
20 section, as impaired or threatened under section 303(d) of the  
21 federal clean water act (33 U.S.C. Sec. 1313(d)).

22 **\*NEW SECTION. Sec. 5. A new section is added to chapter 36.70A**  
23 **RCW to read as follows:**

24 **To encourage the use of accessory dwelling units for long-term**  
25 **housing, cities and counties may adopt ordinances, development**  
26 **regulations, and other official controls which waive or defer fees,**  
27 **including impact fees, defer the payment of taxes, or waive specific**  
28 **regulations. Cities and counties may only offer such reduced or**  
29 **deferred fees, deferred taxes, waivers, or other incentives for the**  
30 **development or construction of accessory dwelling units if:**

31 **(1) The units are located within an urban growth area; and**

32 **(2) The units are subject to a program adopted by the city or**  
33 **county with effective binding commitments or covenants that the units**  
34 **will be primarily utilized for long-term housing consistent with the**  
35 **public purpose for this authorization.**

**\*Sec. 5 was vetoed. See message at end of chapter.**

36 **Sec. 6.** RCW 43.21C.495 and 2022 c 246 s 3 are each amended to  
37 read as follows:

1       (1) Adoption of ordinances, development regulations and  
2 amendments to such regulations, and other nonproject actions taken by  
3 a city to implement: The actions specified in section 2, chapter 246,  
4 Laws of 2022 unless the adoption of such ordinances, development  
5 regulations and amendments to such regulations, or other nonproject  
6 actions has a probable significant adverse impact on fish habitat;  
7 and the increased residential building capacity actions identified in  
8 RCW 36.70A.600(1), with the exception of the action specified in RCW  
9 36.70A.600(1)(f), are not subject to administrative or judicial  
10 appeals under this chapter.

11       (2) Adoption of ordinances, development regulations and  
12 amendments to such regulations, and other nonproject actions taken by  
13 a city or county consistent with the requirements of sections 3 and 4  
14 of this act are not subject to administrative or judicial appeals  
15 under this chapter.

16       **Sec. 7.** RCW 36.70A.280 and 2011 c 360 s 17 are each amended to  
17 read as follows:

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

20       (a) That, except as provided otherwise by this subsection, a  
21 state agency, county, or city planning under this chapter is not in  
22 compliance with the requirements of this chapter, chapter 90.58 RCW  
23 as it relates to the adoption of shoreline master programs or  
24 amendments thereto, or chapter 43.21C RCW as it relates to plans,  
25 development regulations, or amendments, adopted under RCW 36.70A.040  
26 or chapter 90.58 RCW. Nothing in this subsection authorizes the board  
27 to hear petitions alleging noncompliance (~~with RCW 36.70A.5801~~)  
28 based on a city or county's actions taken to implement the  
29 requirements of sections 3 and 4 of this act within an urban growth  
30 area;

31       (b) That the (~~twenty~~) 20-year growth management planning  
32 population projections adopted by the office of financial management  
33 pursuant to RCW 43.62.035 should be adjusted;

34       (c) That the approval of a work plan adopted under RCW  
35 36.70A.735(1)(a) is not in compliance with the requirements of the  
36 program established under RCW 36.70A.710;

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

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

3 (2) A petition may be filed only by: (a) The state, or a county  
4 or city that plans under this chapter; (b) a person who has  
5 participated orally or in writing before the county or city regarding  
6 the matter on which a review is being requested; (c) a person who is  
7 certified by the governor within (~~sixty~~) 60 days of filing the  
8 request with the board; or (d) a person qualified pursuant to RCW  
9 34.05.530.

10 (3) For purposes of this section "person" means any individual,  
11 partnership, corporation, association, state agency, governmental  
12 subdivision or unit thereof, or public or private organization or  
13 entity of any character.

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

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

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

25 If adjusted by the board, a county growth management planning  
26 population projection shall only be used for the planning purposes  
27 set forth in this chapter and shall be known as the "board adjusted  
28 population projection." None of these changes shall affect the  
29 official state and county population forecasts prepared by the office  
30 of financial management, which shall continue to be used for state  
31 budget and planning purposes.

32 NEW SECTION. **Sec. 8.** A new section is added to chapter 36.70A  
33 RCW to read as follows:

34 (1) By December 31, 2023, the department must revise its  
35 recommendations for encouraging accessory dwelling units to include  
36 the provisions of sections 3 and 4 of this act.

37 (2) During each comprehensive plan review required by RCW  
38 36.70A.130, the department must review local government comprehensive  
39 plans and development regulations for compliance with sections 3 and



1 4 of this act and the department's recommendations under subsection  
2 (1) of this section.

3 NEW SECTION. **Sec. 9.** A new section is added to chapter 64.34  
4 RCW to read as follows:

5 (1) Except a declaration created to protect public health and  
6 safety, and ground and surface waters from on-site wastewater, a  
7 declaration created after the effective date of this section and  
8 applicable to a property located within an urban growth area may not  
9 impose any restriction or prohibition on the construction,  
10 development, or use on a lot of an accessory dwelling unit that the  
11 city or county in which the urban growth area is located would be  
12 prohibited from imposing under section 4 of this act.

13 (2) For the purposes of this section, "urban growth area" has the  
14 same meaning as in RCW 36.70A.030.

15 (3) A city or county issuing a permit for the construction of an  
16 accessory dwelling unit may not be held civilly liable on the basis  
17 that the construction of the accessory dwelling unit would violate a  
18 restrictive covenant or deed restriction.

19 NEW SECTION. **Sec. 10.** A new section is added to chapter 64.32  
20 RCW to read as follows:

21 (1) Except a declaration created to protect public health and  
22 safety, and ground and surface waters from on-site wastewater, a  
23 declaration created after the effective date of this section and  
24 applicable to a property located within an urban growth area may not  
25 impose any restriction or prohibition on the construction,  
26 development, or use on a lot of an accessory dwelling unit that the  
27 city or county in which the urban growth area is located would be  
28 prohibited from imposing under section 4 of this act.

29 (2) For the purposes of this section, "urban growth area" has the  
30 same meaning as in RCW 36.70A.030.

31 (3) A city or county issuing a permit for the construction of an  
32 accessory dwelling unit may not be held civilly liable on the basis  
33 that the construction of the accessory dwelling unit would violate a  
34 restrictive covenant or deed restriction.

35 NEW SECTION. **Sec. 11.** A new section is added to chapter 64.38  
36 RCW to read as follows:

1 (1) Except governing documents of associations created to protect  
2 public health and safety, and ground and surface waters from on-site  
3 wastewater, governing documents of associations created after the  
4 effective date of this section and applicable to a property located  
5 within an urban growth area may not impose any restriction or  
6 prohibition on the construction, development, or use on a lot of an  
7 accessory dwelling unit that the city or county in which the urban  
8 growth area is located would be prohibited from imposing under  
9 section 4 of this act.

10 (2) For the purposes of this section, "urban growth area" has the  
11 same meaning as in RCW 36.70A.030.

12 (3) A city or county issuing a permit for the construction of an  
13 accessory dwelling unit may not be held civilly liable on the basis  
14 that the construction of the accessory dwelling unit would violate a  
15 restrictive covenant or deed restriction.

16 NEW SECTION. **Sec. 12.** A new section is added to chapter 64.90  
17 RCW to read as follows:

18 (1) Except declarations and governing documents of common  
19 interest communities created to protect public health and safety, and  
20 ground and surface waters from on-site wastewater, declarations and  
21 governing documents of common interest communities created after the  
22 effective date of this section and applicable to a property located  
23 within an urban growth area may not impose any restriction or  
24 prohibition on the construction, development, or use on a lot of an  
25 accessory dwelling unit that the city or county in which the urban  
26 growth area is located would be prohibited from imposing under  
27 section 4 of this act.

28 (2) For the purposes of this section, "urban growth area" has the  
29 same meaning as in RCW 36.70A.030.

30 (3) A city or county issuing a permit for the construction of an  
31 accessory dwelling unit may not be held civilly liable on the basis  
32 that the construction of the accessory dwelling unit would violate a  
33 restrictive covenant or deed restriction.

34 NEW SECTION. **Sec. 13.** The following acts or parts of acts are  
35 each repealed:

36 (1) RCW 35.63.210 (Accessory apartments) and 1993 c 478 s 8;

37 (2) RCW 35A.63.230 (Accessory apartments) and 1993 c 478 s 9;

38 (3) RCW 36.70A.400 (Accessory apartments) and 1993 c 478 s 11;

1 (4) RCW 36.70.677 (Accessory apartments) and 1993 c 478 s 10; and  
2 (5) RCW 43.63A.215 (Accessory apartments—Development and  
3 placement—Local governments) and 1993 c 478 s 7.

Passed by the House April 14, 2023.

Passed by the Senate April 6, 2023.

Approved by the Governor May 8, 2023, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 10, 2023.

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

"I am returning herewith, without my approval as to Section 5, Engrossed House Bill No. 1337 entitled:

"AN ACT Relating to expanding housing options by easing barriers to the construction and use of accessory dwelling units."

Section 5 of the bill gives local governments authority to waive or defer fees, defer payment of taxes, or waive other regulations for the development of accessory dwelling units (ADUs) if specified conditions are met. The specified conditions are that the ADU must be located within an urban growth area, and the ADU must be subject to a locally adopted covenant program ensuring that the ADU will be primarily utilized for long-term housing. Current law allows local governments to waive fees, taxes, and to establish various incentives for the construction of ADUs without requiring the creation of a local covenant program. The administrative costs necessary to administer a new covenant program for ADUs may cause some cities to discontinue current incentive programs.

For these reasons I have vetoed Section 5 of Engrossed House Bill No. 1337.

With the exception of Section 5, Engrossed House Bill No. 1337 is approved."

--- END ---

CERTIFICATION OF ENROLLMENT

**ENGROSSED SECOND SUBSTITUTE SENATE BILL 5258**

Chapter 337, Laws of 2023

68th Legislature  
2023 Regular Session

CONDOMINIUMS AND TOWNHOUSES—CONSTRUCTION AND SALE—VARIOUS PROVISIONS

EFFECTIVE DATE: July 23, 2023—Except for section 9, which takes effect January 1, 2024.

Passed by the Senate April 21, 2023  
Yeas 49 Nays 0

DENNY HECK

**President of the Senate**

Passed by the House April 20, 2023  
Yeas 98 Nays 0

Laurie Jinkins

**Speaker of the House of  
Representatives**

Approved May 8, 2023 1:16 PM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5258** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

**Secretary**

FILED

May 10, 2023

**Secretary of State  
State of Washington**

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**ENGROSSED SECOND SUBSTITUTE SENATE BILL 5258**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2023 Regular Session

**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Shewmake, Gildon, Billig, Llias, Lovick, Nguyen, Nobles, Randall, and Wellman)

1 AN ACT Relating to increasing the supply and affordability of  
2 condominium units and townhouses as an option for homeownership;  
3 amending RCW 64.35.105, 64.50.010, 64.50.020, 64.50.040, 64.90.250,  
4 64.90.605, 64.90.645, 82.02.060, 58.17.060, and 64.55.160; reenacting  
5 and amending RCW 64.38.010; adding a new section to chapter 82.45  
6 RCW; creating a new section; and providing an effective date.

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

8 **Sec. 1.** RCW 64.35.105 and 2004 c 201 s 101 are each amended to  
9 read as follows:

10 The definitions in this section apply throughout this chapter  
11 unless the context clearly requires otherwise.

- 12 (1) "Affiliate" has the meaning in RCW (~~(64.34.020)~~) 64.90.010.  
13 (2) "Association" has the meaning in RCW (~~(64.34.020)~~) 64.90.010.  
14 (3) "Building envelope" means the assemblies, components, and  
15 materials of a building that are intended to separate and protect the  
16 interior space of the building from the adverse effects of exterior  
17 climatic conditions.  
18 (4) "Common element" has the meaning in RCW (~~(64.34.020)~~)  
19 64.90.010.  
20 (5) "Condominium" has the meaning in RCW (~~(64.34.020)~~) 64.90.010.  
21 (6) "Construction professional" has the meaning in RCW 64.50.010.

1 (7) "Conversion condominium" has the meaning in RCW (~~(64.34.020)~~)  
2 64.90.010.

3 (8) "Declarant" has the meaning in RCW (~~(64.34.020)~~) 64.90.010.

4 (9) "Declarant control" has the meaning in RCW (~~(64.34.020)~~)  
5 64.90.010.

6 (10) "Defect" means any aspect of a condominium unit or common  
7 element which constitutes a breach of the implied warranties set  
8 forth in RCW 64.34.445 or 64.90.670.

9 (11) "Limited common element" has the meaning in RCW  
10 (~~(64.34.020)~~) 64.90.010.

11 (12) "Material" means substantive, not simply formal; significant  
12 to a reasonable person; not trivial or insignificant. When used with  
13 respect to a particular construction defect, "material" does not  
14 require that the construction defect render the unit or common  
15 element unfit for its intended purpose or uninhabitable.

16 (13) "Mediation" means a collaborative process in which two or  
17 more parties meet and attempt, with the assistance of a mediator, to  
18 resolve issues in dispute between them.

19 (14) "Mediation session" means a meeting between two or more  
20 parties to a dispute during which they are engaged in mediation.

21 (15) "Mediator" means a neutral and impartial facilitator with no  
22 decision-making power who assists parties in negotiating a mutually  
23 acceptable settlement of issues in dispute between them.

24 (16) "Person" has the meaning in RCW (~~(64.34.020)~~) 64.90.010.

25 (17) "Public offering statement" has the meaning in (~~RCW~~  
26 ~~64.34.410~~) chapter 64.90 RCW.

27 (18) "Qualified insurer" means an entity that holds a certificate  
28 of authority under RCW 48.05.030, or an eligible insurer under  
29 chapter 48.15 RCW.

30 (19) "Qualified warranty" means an insurance policy issued by a  
31 qualified insurer that complies with the requirements of this  
32 chapter. A qualified warranty includes coverage for repair of  
33 physical damage caused by the defects covered by the qualified  
34 warranty, except to the extent of any exclusions and limitations  
35 under this chapter.

36 (20) "Resale certificate" means the statement to be delivered by  
37 the association under (~~RCW 64.34.425~~) chapter 64.90 RCW.

38 (21) "Transition date" means the date on which the declarant is  
39 required to deliver to the association the property of the  
40 association under RCW (~~(64.34.312)~~) 64.90.420.

1 (22) "Unit" has the meaning in RCW ((64.34.020)) 64.90.010.

2 (23) "Unit owner" has the meaning in RCW ((64.34.020)) 64.90.010.

3 **Sec. 2.** RCW 64.38.010 and 2021 c 227 s 9 are each reenacted and  
4 amended to read as follows:

5 For purposes of this chapter:

6 (1) "Assessment" means all sums chargeable to an owner by an  
7 association in accordance with RCW 64.38.020.

8 (2) "Baseline funding plan" means establishing a reserve funding  
9 goal of maintaining a reserve account balance above ((zero-dollars))  
10 \$0 throughout the ((thirty-year)) 30-year study period described  
11 under RCW 64.38.065.

12 (3) "Board of directors" or "board" means the body, regardless of  
13 name, with primary authority to manage the affairs of the  
14 association.

15 (4) "Common areas" means property owned, or otherwise maintained,  
16 repaired or administered by the association.

17 (5) "Common expense" means the costs incurred by the association  
18 to exercise any of the powers provided for in this chapter.

19 (6) "Contribution rate" means, in a reserve study as described in  
20 RCW 64.38.065, the amount contributed to the reserve account so that  
21 the association will have cash reserves to pay major maintenance,  
22 repair, or replacement costs without the need of a special  
23 assessment.

24 (7) "Effective age" means the difference between the estimated  
25 useful life and remaining useful life.

26 (8) "Electronic transmission" or "electronically transmitted"  
27 means any electronic communication not directly involving the  
28 physical transfer of a writing in a tangible medium, but that may be  
29 retained, retrieved, and reviewed by the sender and the recipient of  
30 the communication, and that may be directly reproduced in a tangible  
31 medium by a sender and recipient.

32 (9) "Full funding plan" means setting a reserve funding goal of  
33 achieving one hundred percent fully funded reserves by the end of the  
34 ((thirty-year)) 30-year study period described under RCW 64.38.065,  
35 in which the reserve account balance equals the sum of the  
36 deteriorated portion of all reserve components.

37 (10) "Fully funded balance" means the current value of the  
38 deteriorated portion, not the total replacement value, of all the  
39 reserve components. The fully funded balance for each reserve

1 component is calculated by multiplying the current replacement cost  
2 of the reserve component by its effective age, then dividing the  
3 result by the reserve component's useful life. The sum total of all  
4 reserve components' fully funded balances is the association's fully  
5 funded balance.

6 (11) "Governing documents" means the articles of incorporation,  
7 bylaws, plat, declaration of covenants, conditions, and restrictions,  
8 rules and regulations of the association, or other written instrument  
9 by which the association has the authority to exercise any of the  
10 powers provided for in this chapter or to manage, maintain, or  
11 otherwise affect the property under its jurisdiction.

12 (12) "Homeowners' association" or "association" means a  
13 corporation, unincorporated association, or other legal entity, each  
14 member of which is an owner of residential real property located  
15 within the association's jurisdiction, as described in the governing  
16 documents, and by virtue of membership or ownership of property is  
17 obligated to pay real property taxes, insurance premiums, maintenance  
18 costs, or for improvement of real property other than that which is  
19 owned by the member. "Homeowners' association" does not mean an  
20 association created under chapter 64.32 (~~( $\text{\textcircled{e}}$ )~~), 64.34, or 64.90 RCW.

21 (13) "Lot" means a physical portion of the real property located  
22 within an association's jurisdiction designated for separate  
23 ownership.

24 (14) "Owner" means the owner of a lot, but does not include a  
25 person who has an interest in a lot solely as security for an  
26 obligation. "Owner" also means the vendee, not the vendor, of a lot  
27 under a real estate contract.

28 (15) "Remaining useful life" means the estimated time, in years,  
29 before a reserve component will require major maintenance, repair, or  
30 replacement to perform its intended function.

31 (16) "Replacement cost" means the current cost of replacing,  
32 repairing, or restoring a reserve component to its original  
33 functional condition.

34 (17) "Reserve component" means a common element whose cost of  
35 maintenance, repair, or replacement is infrequent, significant, and  
36 impractical to include in an annual budget.

37 (18) "Reserve study professional" means an independent person who  
38 is suitably qualified by knowledge, skill, experience, training, or  
39 education to prepare a reserve study in accordance with RCW 64.38.065  
40 and 64.38.070.



1 (19) "Residential real property" means any real property, the use  
2 of which is limited by law, covenant or otherwise to primarily  
3 residential or recreational purposes.

4 (20) "Significant assets" means that the current replacement  
5 value of the major reserve components is (~~seventy-five~~) 75 percent  
6 or more of the gross budget of the association, excluding the  
7 association's reserve account funds.

8 (21) "Tangible medium" means a writing, copy of a writing,  
9 facsimile, or a physical reproduction, each on paper or on other  
10 tangible material.

11 (22) "Useful life" means the estimated time, between years, that  
12 major maintenance, repair, or replacement is estimated to occur.

13 **Sec. 3.** RCW 64.50.010 and 2020 c 18 s 23 are each amended to  
14 read as follows:

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

17 (1) "Action" means any civil lawsuit or action in contract or  
18 tort for damages or indemnity brought against a construction  
19 professional to assert a claim, whether by complaint, counterclaim,  
20 or cross-claim, for damage or the loss of use of real or personal  
21 property caused by a defect in the construction of a residence or in  
22 the substantial remodel of a residence. "Action" does not include any  
23 civil action in tort alleging personal injury or wrongful death to a  
24 person or persons resulting from a construction defect.

25 (2) "Association" means an association, master association, or  
26 subassociation as defined and provided for in RCW 64.34.020(4),  
27 64.34.276, 64.34.278, (~~and~~) 64.38.010(~~(11)~~) (12), and  
28 64.90.010(4).

29 (3) "Claimant" means a homeowner or association who asserts a  
30 claim against a construction professional concerning a defect in the  
31 construction of a residence or in the substantial remodel of a  
32 residence.

33 (4) "Construction defect professional" means an architect,  
34 builder, builder vendor, contractor, subcontractor, engineer,  
35 inspector, or such other person with verifiable training and  
36 experience related to the defects or conditions identified in any  
37 report included with a notice of claim as set forth in RCW  
38 64.50.020(1)(a).

1        (5) "Construction professional" means an architect, builder,  
2 builder vendor, contractor, subcontractor, engineer, or inspector,  
3 including, but not limited to, a dealer as defined in RCW 64.34.020  
4 and a declarant as defined in RCW 64.34.020, performing or furnishing  
5 the design, supervision, inspection, construction, or observation of  
6 the construction of any improvement to real property, whether  
7 operating as a sole proprietor, partnership, corporation, or other  
8 business entity.

9        ~~((+5))~~ (6) "Homeowner" means: (a) Any person, company, firm,  
10 partnership, corporation, or association who contracts with a  
11 construction professional for the construction, sale, or construction  
12 and sale of a residence; and (b) an "association" as defined in this  
13 section. "Homeowner" includes, but is not limited to, a subsequent  
14 purchaser of a residence from any homeowner.

15        ~~((+6))~~ (7) "Residence" means a single-family house, duplex,  
16 triplex, quadraplex, or a unit in a multiunit residential structure  
17 in which title to each individual unit is transferred to the owner  
18 under a condominium or cooperative system, and shall include common  
19 elements as defined in RCW 64.34.020 and common areas as defined in  
20 RCW 64.38.010(4).

21        ~~((+7))~~ (8) "Serve" or "service" means personal service or  
22 delivery by certified mail to the last known address of the  
23 addressee.

24        ~~((+8))~~ (9) "Substantial remodel" means a remodel of a residence,  
25 for which the total cost exceeds one-half of the assessed value of  
26 the residence for property tax purposes at the time the contract for  
27 the remodel work was made.

28        **Sec. 4.** RCW 64.50.020 and 2002 c 323 s 3 are each amended to  
29 read as follows:

30        (1) In every construction defect action brought against a  
31 construction professional, the claimant shall, no later than ~~((forty-~~  
32 ~~five))~~ 45 days before filing an action, serve written notice of claim  
33 on the construction professional.

34        (a) The notice of claim shall state that the claimant asserts a  
35 construction defect claim against the construction professional and  
36 shall describe the claim in reasonable detail sufficient to determine  
37 the general nature of the defect.

38        (b) If the claimant is a condominium association created after  
39 the effective date of this section, the written notice of claim shall

1 include a written report from a construction defect professional. In  
2 addition to describing the claim in reasonable detail sufficient to  
3 determine the general nature of the defect the written report shall  
4 state the construction defect professional's qualifications, the  
5 manner and type of inspection upon which the report was based, and  
6 the general location of the defect.

7 (2) Within (~~twenty-one~~) 14 days after service of the notice of  
8 claim, the construction professional may serve a written response  
9 demanding a meeting with the claimant and its expert, including the  
10 construction defect professional who authored the report required in  
11 subsection (1)(b) of this section to confer regarding the report and  
12 its contents. The meeting shall take place within 14 days of service  
13 of the construction professional's demand or at such later date as  
14 mutually agreed to by the parties.

15 (3) Within 14 days after the meeting referenced in subsection (2)  
16 of this section or, in the absence of a demand for such meeting,  
17 within 21 days after service of the notice of claim, whichever is  
18 later, the construction professional shall serve a written response  
19 on the claimant by registered mail or personal service. The written  
20 response shall:

21 (a) Propose to inspect the residence that is the subject of the  
22 claim and to complete the inspection within a specified time frame.  
23 The proposal shall include the statement that the construction  
24 professional shall, based on the inspection, offer to remedy the  
25 defect, compromise by payment, or dispute the claim;

26 (b) Offer to compromise and settle the claim by monetary payment  
27 without inspection. A construction professional's offer under this  
28 subsection (~~(2)~~) (3)(b) to compromise and settle a homeowner's  
29 claim may include, but is not limited to, an express offer to  
30 purchase the claimant's residence that is the subject of the claim,  
31 and to pay the claimant's reasonable relocation costs; or

32 (c) State that the construction professional disputes the claim  
33 and will neither remedy the construction defect nor compromise and  
34 settle the claim.

35 (~~(3)~~) (4)(a) If the construction professional disputes the  
36 claim or does not respond to the claimant's notice of claim within  
37 the time stated in subsection (~~(2)~~) (3) of this section, the  
38 claimant may bring an action against the construction professional  
39 for the claim described in the notice of claim without further  
40 notice.

1 (b) If the claimant rejects the inspection proposal or the  
2 settlement offer made by the construction professional pursuant to  
3 subsection ~~((2))~~ (3) of this section, the claimant shall serve  
4 written notice of the claimant's rejection on the construction  
5 professional. After service of the rejection, the claimant may bring  
6 an action against the construction professional for the construction  
7 defect claim described in the notice of claim. If the construction  
8 professional has not received from the claimant, within ~~((thirty))~~ 30  
9 days after the claimant's receipt of the construction professional's  
10 response, either an acceptance or rejection of the inspection  
11 proposal or settlement offer, then at anytime thereafter the  
12 construction professional may terminate the proposal or offer by  
13 serving written notice to the claimant, and the claimant may  
14 thereafter bring an action against the construction professional for  
15 the construction defect claim described in the notice of claim.

16 ~~((4))~~ (5)(a) If the claimant elects to allow the construction  
17 professional to inspect in accordance with the construction  
18 professional's proposal pursuant to subsection ~~((2))~~ (3)(a) of this  
19 section, the claimant shall provide the construction professional and  
20 its contractors or other agents reasonable access to the claimant's  
21 residence during normal working hours to inspect the premises and the  
22 claimed defect.

23 (b) Within ~~((fourteen))~~ 14 days following completion of the  
24 inspection, the construction professional shall serve on the  
25 claimant:

26 (i) A written offer to remedy the construction defect at no cost  
27 to the claimant, including a report of the scope of the inspection,  
28 the findings and results of the inspection, a description of the  
29 additional construction necessary to remedy the defect described in  
30 the claim, and a timetable for the completion of such construction;

31 (ii) A written offer to compromise and settle the claim by  
32 monetary payment pursuant to subsection ~~((2))~~ (3)(b) of this  
33 section; or

34 (iii) A written statement that the construction professional will  
35 not proceed further to remedy the defect.

36 (c) If the construction professional does not proceed further to  
37 remedy the construction defect within the agreed timetable, or if the  
38 construction professional fails to comply with the provisions of (b)  
39 of this subsection, the claimant may bring an action against the

1 construction professional for the claim described in the notice of  
2 claim without further notice.

3 (d) If the claimant rejects the offer made by the construction  
4 professional pursuant to (b)(i) or (ii) of this subsection to either  
5 remedy the construction defect or to compromise and settle the claim  
6 by monetary payment, the claimant shall serve written notice of the  
7 claimant's rejection on the construction professional. After service  
8 of the rejection notice, the claimant may bring an action against the  
9 construction professional for the construction defect claim described  
10 in the notice of claim. If the construction professional has not  
11 received from the claimant, within (~~(thirty)~~) 30 days after the  
12 claimant's receipt of the construction professional's response,  
13 either an acceptance or rejection of the offer made pursuant to  
14 (b)(i) or (ii) of this subsection, then at anytime thereafter the  
15 construction professional may terminate the offer by serving written  
16 notice to the claimant.

17 (~~(5)~~) (6)(a) Any claimant accepting the offer of a construction  
18 professional to remedy the construction defect pursuant to subsection  
19 (~~(4)~~) (5)(b)(i) of this section shall do so by serving the  
20 construction professional with a written notice of acceptance within  
21 a reasonable time period after receipt of the offer, and no later  
22 than (~~(thirty)~~) 30 days after receipt of the offer. The claimant  
23 shall provide the construction professional and its contractors or  
24 other agents reasonable access to the claimant's residence during  
25 normal working hours to perform and complete the construction by the  
26 timetable stated in the offer.

27 (b) The claimant and construction professional may, by written  
28 mutual agreement, alter the extent of construction or the timetable  
29 for completion of construction stated in the offer, including, but  
30 not limited to, repair of additional defects.

31 (~~(6)~~) (7) Any action commenced by a claimant prior to  
32 compliance with the requirements of this section shall be subject to  
33 dismissal without prejudice, and may not be recommenced until the  
34 claimant has complied with the requirements of this section.

35 (~~(7)~~) (8) Nothing in this section may be construed to prevent a  
36 claimant from commencing an action on the construction defect claim  
37 described in the notice of claim if the construction professional  
38 fails to perform the construction agreed upon, fails to remedy the  
39 defect, or fails to perform by the timetable agreed upon pursuant to  
40 subsection (~~(2)~~) (3)(a) or (~~(5)~~) (6) of this section.

1       ~~((8))~~ (9) Prior to commencing any action alleging a  
2 construction defect, or after the dismissal of any action without  
3 prejudice pursuant to subsection ~~((6))~~ (7) of this section, the  
4 claimant may amend the notice of claim to include construction  
5 defects discovered after the service of the original notice of claim,  
6 and must otherwise comply with the requirements of this section for  
7 the additional claims. The service of an amended notice of claim  
8 shall relate back to the original notice of claim for purposes of  
9 tolling statutes of limitations and repose. Claims for defects  
10 discovered after the commencement or recommencement of an action may  
11 be added to such action only after providing notice to the  
12 construction professional of the defect and allowing for response  
13 under subsection ~~((2))~~ (3) of this section.

14       (10) If the claimant is an association, and notwithstanding any  
15 contrary provisions in the association's governing documents, the  
16 association's board of director's ability to incur expenses to  
17 prepare and serve a notice of claim and any related reports and  
18 otherwise comply with the requirements of this chapter shall not be  
19 restricted.

20       **Sec. 5.** RCW 64.50.040 and 2002 c 323 s 5 are each amended to  
21 read as follows:

22       (1)(a) In the event the board of directors, pursuant to RCW  
23 64.34.304(1)(d) or 64.38.020(4), institutes an action asserting  
24 defects in the construction of two or more residences, common  
25 elements, or common areas, this section shall apply. For purposes of  
26 this section, "action" has the same meaning as set forth in RCW  
27 64.50.010.

28       (b) The board of directors shall substantially comply with the  
29 provisions of this section.

30       (2)(a) Prior to the service of the summons and complaint on any  
31 defendant with respect to an action governed by this section, the  
32 board of directors shall mail or deliver written notice of the  
33 commencement or anticipated commencement of such action to each  
34 homeowner at the last known address described in the association's  
35 records.

36       (b) The notice required by (a) of this subsection shall state a  
37 general description of the following:

38       (i) The nature of the action and the relief sought; ~~((and))~~

1       (ii) To the extent applicable, the existence of the report  
2 required in RCW 64.50.020(1)(a), which shall be made available to  
3 each homeowner upon request;

4       (iii) A summary of the construction professional's response  
5 pursuant to RCW 64.50.020(3), if any; and

6       (iv) The expenses and fees that the board of directors  
7 anticipates will be incurred in prosecuting the action.

8       (3) Nothing in this section may be construed to:

9       (a) Require the disclosure in the notice or the disclosure to a  
10 unit owner of attorney-client communications or other privileged  
11 communications;

12       (b) Permit the notice to serve as a basis for any person to  
13 assert the waiver of any applicable privilege or right of  
14 confidentiality resulting from, or to claim immunity in connection  
15 with, the disclosure of information in the notice; or

16       (c) Limit or impair the authority of the board of directors to  
17 contract for legal services, or limit or impair the ability to  
18 enforce such a contract for legal services.

19       **Sec. 6.** RCW 64.90.250 and 2018 c 277 s 211 are each amended to  
20 read as follows:

21       (1) To exercise any development right reserved under RCW  
22 64.90.225(1)(~~(h)~~) (g), the declarant must prepare, execute, and  
23 record any amendments to the declaration and map in accordance with  
24 the requirements of RCW 64.90.245 and 64.90.285(3). The declarant is  
25 the unit owner of any units created. The amendment to the declaration  
26 must assign an identifying number to each new unit created and,  
27 except in the case of subdivision, combination, or conversion of  
28 units described in subsection (3) of this section, reallocate the  
29 allocated interests among all units. The amendment must describe any  
30 common elements and any limited common elements created and, in the  
31 case of limited common elements, designate the unit to which each is  
32 allocated to the extent required under RCW 64.90.240. The amendments  
33 are effective upon recording.

34       (2) Development rights may be reserved within any real estate  
35 added to the common interest community if the amendment to the  
36 declaration adding that real estate includes all matters required  
37 under RCW 64.90.225 and 64.90.230 and the amendment to the map  
38 includes all matters required under RCW 64.90.245. This subsection

1 does not extend the time limit on the exercise of development rights  
2 imposed by the declaration pursuant to RCW 64.90.225(1) (h).

3 (3) When a declarant exercises a development right to subdivide,  
4 combine, or convert a unit previously created into additional units  
5 or common elements, or both:

6 (a) If the declarant converts the unit entirely into common  
7 elements, the amendment to the declaration must reallocate all the  
8 allocated interests of that unit among the other units as if that  
9 unit had been taken by condemnation under RCW 64.90.030; or

10 (b) If the declarant subdivides the unit into two or more units,  
11 whether or not any part of the unit is converted into common  
12 elements, the amendment to the declaration must reallocate all the  
13 allocated interests of the unit among the units created by the  
14 subdivision in any reasonable manner prescribed by the declarant.

15 (4) If the declaration provides, pursuant to RCW 64.90.225(1) (h),  
16 that all or a portion of the real estate is subject to a right of  
17 withdrawal:

18 (a) If all the real estate is subject to withdrawal, and the  
19 declaration or map or amendment to the declaration or map does not  
20 describe separate portions of real estate subject to that right, none  
21 of the real estate may be withdrawn if a unit in that real estate has  
22 been conveyed to a purchaser; or

23 (b) If any portion of the real estate is subject to withdrawal as  
24 described in the declaration or map or amendment to the declaration  
25 or map, none of that portion of the real estate may be withdrawn if a  
26 unit in that portion has been conveyed to a purchaser.

27 (5) If the declarant combines two or more units into a lesser  
28 number of units, whether or not any part of a unit is converted into  
29 common elements or common elements are converted units, the amendment  
30 to the declaration must reallocate all of the allocated interests of  
31 the units being combined into the unit or units created by the  
32 combination in any reasonable manner prescribed by the declarant.

33 (6) A unit conveyed to a purchaser may not be withdrawn pursuant  
34 to subsection (4) (a) or (b) of this section without the consent of  
35 the unit owner of that unit and the holder of a security interest in  
36 the unit.

37 **Sec. 7.** RCW 64.90.605 and 2018 c 277 s 402 are each amended to  
38 read as follows:



1 (1) Except as provided otherwise in subsection (2) of this  
2 section, a declarant required to deliver a public offering statement  
3 pursuant to subsection (3) of this section must prepare a public  
4 offering statement conforming to the requirements of RCW 64.90.610,  
5 64.90.615, and 64.90.620.

6 (2) A declarant may transfer responsibility for preparation of  
7 all or a part of the public offering statement to a successor  
8 declarant or to a dealer who intends to offer units in the  
9 (~~condominium~~) common interest community.

10 (3) (a) Any declarant or dealer who offers to convey a unit for  
11 the person's own account to a purchaser must provide the purchaser of  
12 the unit with a copy of a public offering statement and all material  
13 amendments to the public offering statement before conveyance of that  
14 unit.

15 (b) Any agent, attorney, or other person assisting the declarant  
16 or dealer in preparing the public offering statement may rely upon  
17 information provided by the declarant or dealer without independent  
18 investigation. The agent, attorney, or other person is not liable for  
19 any material misrepresentation in or omissions of material facts from  
20 the public offering statement unless the person had actual knowledge  
21 of the misrepresentation or omission at the time the public offering  
22 statement was prepared.

23 (c) The declarant or dealer is liable for any misrepresentation  
24 contained in the public offering statement or for any omission of  
25 material fact from the public offering statement if the declarant or  
26 dealer had actual knowledge of the misrepresentation or omission or,  
27 in the exercise of reasonable care, should have known of the  
28 misrepresentation or omission.

29 (4) If a unit is part of a common interest community and is part  
30 of any other real estate regime in connection with the sale of which  
31 the delivery of a public offering statement is required under the  
32 laws of this state, a single public offering statement conforming to  
33 the requirements of RCW 64.90.610, 64.90.615, and 64.90.620 as those  
34 requirements relate to each regime in which the unit is located, and  
35 to any other requirements imposed under the laws of this state, may  
36 be prepared and delivered in lieu of providing two or more public  
37 offering statements.

38 (5) A declarant is not required to prepare and deliver a public  
39 offering statement in connection with the sale of any unit owned by  
40 the declarant, or to obtain for or provide to the purchaser a report

1 or statement required under RCW 64.90.610(1)(oo), 64.90.620(1), or  
2 64.90.655, upon the later of:

3 (a) The termination or expiration of all special declarant  
4 rights;

5 (b) The expiration of all periods within which claims or actions  
6 for a breach of warranty arising from defects involving the common  
7 elements under RCW 64.90.680 must be filed or commenced,  
8 respectively, by the association against the declarant; or

9 (c) The time when the declarant ceases to meet the definition of  
10 a dealer under RCW 64.90.010.

11 (6) After the last to occur of any of the events described in  
12 subsection (5) of this section, a declarant must deliver to the  
13 purchaser of a unit owned by the declarant a resale certificate under  
14 RCW 64.90.640(2) together with:

15 (a) The identification of any real property not in the common  
16 interest community that unit owners have a right to use and a  
17 description of the terms of such use;

18 (b) A brief description or a copy of any express construction  
19 warranties to be provided to the purchaser;

20 (c) A statement of any litigation brought by an owners'  
21 association, unit owner, or governmental entity in which the  
22 declarant or any affiliate of the declarant has been a defendant  
23 arising out of the construction, sale, or administration of any  
24 common interest community within the state of Washington within the  
25 previous five years, together with the results of the litigation, if  
26 known;

27 (d) Whether timesharing is permitted or prohibited, and, if  
28 permitted, a statement that the purchaser of a time share unit is  
29 entitled to receive the disclosure document required under chapter  
30 64.36 RCW; and

31 (e) Any other information and cross-references that the declarant  
32 believes will be helpful in describing the common interest community  
33 to the purchaser, all of which may be included or not included at the  
34 option of the declarant.

35 (7) A declarant is not liable to a purchaser for the failure or  
36 delay of the association to provide the resale certificate in a  
37 timely manner, but the purchase contract is voidable by the purchaser  
38 of a unit sold by the declarant until the resale certificate required  
39 under RCW 64.90.640(2) and the information required under subsection

1 (6) of this section have been provided and for five days thereafter  
2 or until conveyance, whichever occurs first.

3 **Sec. 8.** RCW 64.90.645 and 2021 c 260 s 2 are each amended to  
4 read as follows:

5 (1) Except as provided in subsection (2) of this section, any  
6 earnest money deposit, as defined in RCW 64.04.005, made in  
7 connection with the right to purchase a unit from a person required  
8 to deliver a public offering statement pursuant to RCW 64.90.605(3)  
9 must be placed in escrow and held in this state in an escrow or trust  
10 account designated solely for that purpose by a licensed title  
11 insurance company or agent, a licensed attorney, a real estate broker  
12 or independent bonded escrow company, or an institution whose  
13 accounts are insured by a governmental agency or instrumentality  
14 until: (a) Delivered to the declarant at closing, (b) delivered to  
15 the declarant because of the purchaser's default under a contract to  
16 purchase the unit, (c) refunded to the purchaser, or (d) delivered to  
17 a court in connection with the filing of an interpleader action.

18 (2)(a) If a purchase agreement for the sale of a unit provides  
19 that deposit funds may be used for construction costs and the  
20 declarant obtains and maintains a surety bond as required by this  
21 section, the declarant may withdraw escrow funds when construction of  
22 improvements has begun. The funds may be used only for actual  
23 building and construction costs of the project in which the unit is  
24 located.

25 (b) The bond must be issued by a surety insurer licensed in this  
26 state in favor of the purchaser in an amount adequate to cover the  
27 amount of the deposit to be withdrawn. The declarant may not withdraw  
28 more than the face amount of the bond. The bond must be payable to  
29 the purchaser if the purchaser obtains a final judgment against the  
30 declarant requiring the declarant to return the deposit pursuant to  
31 the purchase agreement. The bond may be either in the form of an  
32 individual bond for each deposit accepted by the declarant or in the  
33 form of a blanket bond assuring the return of all deposits received  
34 by the declarant.

35 (c) The party holding escrow funds who releases all or any  
36 portion of the funds to the declarant has no obligation to monitor  
37 the progress of construction or the expenditure of the funds by the  
38 declarant and is not liable to any purchaser for the release of funds  
39 pursuant to this section.

1           (3) ((A)) The amount of deposit ((under)) funds that may be used  
2 pursuant to subsection (2) of this section may not exceed five  
3 percent of the purchase price.

4           NEW SECTION.   **Sec. 9.** A new section is added to chapter 82.45  
5 RCW to read as follows:

6           (1) The down payment assistance account is created in the custody  
7 of the state treasurer. Receipts from the real estate excise tax on  
8 sales of condominiums or townhouses to persons using a down payment  
9 assistance program offered by the Washington state housing finance  
10 commission must be deposited in the account, as provided in  
11 subsection (2) of this section. Expenditures from the account may be  
12 used only for payment toward a person's down payment assistance loan  
13 that was used to purchase a condominium or townhouse for which the  
14 tax was collected. Only the Washington state housing finance  
15 commission or the commission's designee may authorize expenditures  
16 from the account. The account is subject to allotment procedures  
17 under chapter 43.88 RCW, but an appropriation is not required for  
18 expenditures.

19           (2)(a) Beginning June 15, 2024, and each June 15th thereafter,  
20 the department must notify the economic and revenue forecast council  
21 of the total amount received under RCW 82.45.060 from sales of  
22 condominiums or townhouses to persons using a down payment assistance  
23 program offered by the Washington state housing finance commission  
24 during the prior calendar year.

25           (b) Beginning in fiscal year 2025, and each fiscal year  
26 thereafter, the legislature must appropriate from the general fund to  
27 this account the lesser of (i) the amount received under RCW  
28 82.45.060 on sales of condominiums or townhouses to persons using a  
29 down payment assistance program offered by the Washington state  
30 housing finance commission during the prior calendar year, as  
31 determined under (a) of this subsection, or (ii) \$250,000 per fiscal  
32 year.

33           (c) On or before March 1, 2024, and each March 1st thereafter,  
34 the Washington state housing finance commission must provide the  
35 department with the following information for each sale of a  
36 condominium or townhouse to a person using a down payment assistance  
37 program offered by the Washington state housing finance commission  
38 that occurred during the prior calendar year:

1 (i) The real estate excise tax affidavit number associated with  
2 the sale;

3 (ii) The date of sale;

4 (iii) The parcel number of the property sold;

5 (iv) The street address of the property sold;

6 (v) The county in which the property sold is located;

7 (vi) The full legal name of the seller, or sellers, as shown on  
8 the real estate excise tax affidavit;

9 (vii) The full legal name of the buyer, or buyers, as shown on  
10 the real estate excise tax affidavit; and

11 (viii) Any additional information the department may require to  
12 verify the property sold is a condominium or townhouse sold to  
13 persons using a down payment assistance program offered by the  
14 Washington state housing finance commission.

15 (d) For the purposes of this subsection, "townhouse" means  
16 dwelling units constructed in a row of two or more attached units  
17 where each dwelling unit shares at least one common wall with an  
18 adjacent unit and is accessed by a separate outdoor entrance.

19 (3) This section expires January 1, 2034.

20 **Sec. 10.** RCW 82.02.060 and 2021 c 72 s 1 are each amended to  
21 read as follows:

22 The local ordinance by which impact fees are imposed:

23 (1) Shall include a schedule of impact fees which shall be  
24 adopted for each type of development activity that is subject to  
25 impact fees, specifying the amount of the impact fee to be imposed  
26 for each type of system improvement. The schedule shall be based upon  
27 a formula or other method of calculating such impact fees. The  
28 schedule shall reflect the proportionate impact of new housing units,  
29 including multifamily and condominium units, based on the square  
30 footage, number of bedrooms, or trips generated, in the housing unit  
31 in order to produce a proportionally lower impact fee for smaller  
32 housing units. In determining proportionate share, the formula or  
33 other method of calculating impact fees shall incorporate, among  
34 other things, the following:

35 (a) The cost of public facilities necessitated by new  
36 development;

37 (b) An adjustment to the cost of the public facilities for past  
38 or future payments made or reasonably anticipated to be made by new  
39 development to pay for particular system improvements in the form of

1 user fees, debt service payments, taxes, or other payments earmarked  
2 for or proratable to the particular system improvement;

3 (c) The availability of other means of funding public facility  
4 improvements;

5 (d) The cost of existing public facilities improvements; and

6 (e) The methods by which public facilities improvements were  
7 financed;

8 (2) May provide an exemption for low-income housing, and other  
9 development activities with broad public purposes, including  
10 development of an early learning facility, from these impact fees,  
11 provided that the impact fees for such development activity shall be  
12 paid from public funds other than impact fee accounts;

13 (3) (a) May not impose an impact fee on development activities of  
14 an early learning facility greater than that imposed on commercial  
15 retail or commercial office development activities that generate a  
16 similar number, volume, type, and duration of vehicle trips;

17 (b) When a facility or development has more than one use, the  
18 limitations in this subsection (3) or the exemption applicable to an  
19 early learning facility in subsections (2) and (4) of this section  
20 only apply to that portion that is developed as an early learning  
21 facility. The impact fee assessed on an early learning facility in  
22 such a development or facility may not exceed the least of the impact  
23 fees assessed on comparable businesses in the facility or  
24 development;

25 (4) May provide an exemption from impact fees for low-income  
26 housing or for early learning facilities. Local governments that  
27 grant exemptions for low-income housing or for early learning  
28 facilities under this subsection (4) may either: Grant a partial  
29 exemption of not more than eighty percent of impact fees, in which  
30 case there is no explicit requirement to pay the exempted portion of  
31 the fee from public funds other than impact fee accounts; or provide  
32 a full waiver, in which case the remaining percentage of the exempted  
33 fee must be paid from public funds other than impact fee accounts,  
34 except as provided in (b) of this subsection. These exemptions are  
35 subject to the following requirements:

36 (a) An exemption for low-income housing granted under subsection  
37 (2) of this section or this subsection (4) must be conditioned upon  
38 requiring the developer to record a covenant that, except as provided  
39 otherwise by this subsection, prohibits using the property for any  
40 purpose other than for low-income housing. At a minimum, the covenant

1 must address price restrictions and household income limits for the  
2 low-income housing, and that if the property is converted to a use  
3 other than for low-income housing, the property owner must pay the  
4 applicable impact fees in effect at the time of conversion;

5 (b) An exemption for early learning facilities granted under  
6 subsection (2) of this section or this subsection (4) may be a full  
7 waiver without an explicit requirement to pay the exempted portion of  
8 the fee from public funds other than impact fee accounts if the local  
9 government requires the developer to record a covenant that requires  
10 that at least 25 percent of the children and families using the early  
11 learning facility qualify for state subsidized child care, including  
12 early childhood education and assistance under chapter 43.216 RCW,  
13 and that provides that if the property is converted to a use other  
14 than for an early learning facility, the property owner must pay the  
15 applicable impact fees in effect at the time of conversion, and that  
16 also provides that if at no point during a calendar year does the  
17 early learning facility achieve the required percentage of children  
18 and families qualified for state subsidized child care using the  
19 early learning facility, the property owner must pay 20 percent of  
20 the impact fee that would have been imposed on the development had  
21 there not been an exemption within 90 days of the local government  
22 notifying the property owner of the breach, and any balance remaining  
23 thereafter shall be a lien on the property; and

24 (c) Covenants required by (a) and (b) of this subsection must be  
25 recorded with the applicable county auditor or recording officer. A  
26 local government granting an exemption under subsection (2) of this  
27 section or this subsection (4) for low-income housing or an early  
28 learning facility may not collect revenue lost through granting an  
29 exemption by increasing impact fees unrelated to the exemption. A  
30 school district who receives school impact fees must approve any  
31 exemption under subsection (2) of this section or this subsection  
32 (4);

33 (5) Shall provide a credit for the value of any dedication of  
34 land for, improvement to, or new construction of any system  
35 improvements provided by the developer, to facilities that are  
36 identified in the capital facilities plan and that are required by  
37 the county, city, or town as a condition of approving the development  
38 activity;

39 (6) Shall allow the county, city, or town imposing the impact  
40 fees to adjust the standard impact fee at the time the fee is imposed

1 to consider unusual circumstances in specific cases to ensure that  
2 impact fees are imposed fairly;

3 (7) Shall include a provision for calculating the amount of the  
4 fee to be imposed on a particular development that permits  
5 consideration of studies and data submitted by the developer to  
6 adjust the amount of the fee;

7 (8) Shall establish one or more reasonable service areas within  
8 which it shall calculate and impose impact fees for various land use  
9 categories per unit of development; (~~and~~)

10 (9) May provide for the imposition of an impact fee for system  
11 improvement costs previously incurred by a county, city, or town to  
12 the extent that new growth and development will be served by the  
13 previously constructed improvements provided such fee shall not be  
14 imposed to make up for any system improvement deficiencies; and

15 (10) Must adopt or amend by ordinance, and incorporate into their  
16 development regulations, zoning regulations, and other official  
17 controls the requirements of this section to take effect six months  
18 after the jurisdiction's next periodic comprehensive plan update  
19 required under RCW 36.70A.130.

20 For purposes of this section, "low-income housing" means housing  
21 with a monthly housing expense, that is no greater than thirty  
22 percent of eighty percent of the median family income adjusted for  
23 family size, for the county where the project is located, as reported  
24 by the United States department of housing and urban development.

25 For the purposes of this section, "early learning facility" has  
26 the same meaning as in RCW 43.31.565.

27 **Sec. 11.** RCW 58.17.060 and 1990 1st ex.s. c 17 s 51 are each  
28 amended to read as follows:

29 (1) The legislative body of a city, town, or county shall adopt  
30 regulations and procedures, and appoint administrative personnel for  
31 the summary approval of short plats and short subdivisions or  
32 alteration or vacation thereof. When an alteration or vacation  
33 involves a public dedication, the alteration or vacation shall be  
34 processed as provided in RCW 58.17.212 or 58.17.215. Such regulations  
35 shall be adopted by ordinance and shall provide that a short plat and  
36 short subdivision may be approved only if written findings that are  
37 appropriate, as provided in RCW 58.17.110, are made by the  
38 administrative personnel, and may contain wholly different  
39 requirements than those governing the approval of preliminary and



1 final plats of subdivisions and may require surveys and  
2 monumentations and shall require filing of a short plat, or  
3 alteration or vacation thereof, for record in the office of the  
4 county auditor: PROVIDED, That such regulations must contain a  
5 requirement that land in short subdivisions may not be further  
6 divided in any manner within a period of five years without the  
7 filing of a final plat, except that when the short plat contains  
8 fewer than four parcels, nothing in this section shall prevent the  
9 owner who filed the short plat from filing an alteration within the  
10 five-year period to create up to a total of four lots within the  
11 original short plat boundaries: PROVIDED FURTHER, That such  
12 regulations are not required to contain a penalty clause as provided  
13 in RCW 36.32.120 and may provide for wholly injunctive relief.

14 An ordinance requiring a survey shall require that the survey be  
15 completed and filed with the application for approval of the short  
16 subdivision.

17 (2) Cities, towns, and counties shall include in their short plat  
18 regulations and procedures pursuant to subsection (1) of this section  
19 provisions for considering sidewalks and other planning features that  
20 assure safe walking conditions for students who walk to and from  
21 school.

22 (3) All cities, towns, and counties shall include in their short  
23 plat regulations procedures for unit lot subdivisions allowing  
24 division of a parent lot into separately owned unit lots. Portions of  
25 the parent lot not subdivided for individual unit lots shall be owned  
26 in common by the owners of the individual unit lots, or by a  
27 homeowners' association comprised of the owners of the individual  
28 unit lots.

29 **Sec. 12.** RCW 64.55.160 and 2005 c 456 s 17 are each amended to  
30 read as follows:

31 (1) On or before the (~~sixtieth~~) 60th day following completion  
32 of the mediation pursuant to RCW 64.55.120(4) and following filing  
33 and service of the complaint, the declarant, association, or party  
34 unit owner may serve on an adverse party an offer to allow judgment  
35 to be entered. The offer of judgment shall specify the amount of  
36 damages, not including costs or fees, that the declarant,  
37 association, or party unit owner is offering to pay or receive. A  
38 declarant's offer shall also include its commitment to pay costs and  
39 fees that may be awarded as provided in this section. The declarant,

1 association, or party unit owner may make more than one offer of  
2 judgment so long as each offer is timely made. Each subsequent offer  
3 supersedes and replaces the previous offer. Any offer not accepted  
4 within (~~twenty-one~~) 21 days of the service of that offer is deemed  
5 rejected and withdrawn and evidence thereof is not admissible and may  
6 not be provided to the court or arbitrator except in a proceeding to  
7 determine costs and fees or as part of the motion identified in  
8 subsection (2) of this section.

9 (2) A declarant's offer must include a demonstration of ability  
10 to pay damages, costs, and fees, including reasonable attorneys'  
11 fees, within thirty days of acceptance of the offer of judgment. The  
12 demonstration of ability to pay shall include a sworn statement  
13 signed by the declarant, the attorney representing the declarant,  
14 and, if any insurance proceeds will be used to fund any portion of  
15 the offer, an authorized representative of the insurance company. If  
16 the association or party unit owner disputes the adequacy of the  
17 declarant's demonstration of ability to pay, the association or party  
18 unit owner may file a motion with the court requesting a ruling on  
19 the adequacy of the declarant's demonstration of ability to pay. Upon  
20 filing of such motion, the deadline for a response to the offer shall  
21 be tolled from the date the motion is filed until the court has  
22 ruled.

23 (3) An association or party unit owner that accepts the  
24 declarant's offer of judgment shall be deemed the prevailing party  
25 and, in addition to recovery of the amount of the offer, shall be  
26 entitled to a costs and fees award, including reasonable attorneys'  
27 fees, in an amount to be determined by the court in accordance with  
28 applicable law.

29 (4) If the amount of the final nonappealable or nonappealed  
30 judgment, exclusive of costs or fees, is not more favorable to the  
31 offeree than the offer of judgment, then the offeror is deemed the  
32 prevailing party for purposes of this section only and is entitled to  
33 an award of costs and fees, including reasonable attorneys' fees,  
34 incurred after the date the last offer of judgment was rejected and  
35 through the date of entry of a final nonappealable or nonappealed  
36 judgment, in an amount to be determined by the court in accordance  
37 with applicable law. The nonprevailing party shall not be entitled to  
38 receive any award of costs and fees.

39 (5) If the final nonappealable or nonappealed judgment on  
40 damages, not including costs or fees, is more favorable to the

1 offerer than the last offer of judgment, then the court shall  
2 determine which party is the prevailing party and shall determine the  
3 amount of the costs and fees award, including reasonable attorneys'  
4 fees, in accordance with applicable law.

5 (6) Notwithstanding any other provision in this section, with  
6 respect to claims brought by an association or unit owner, the  
7 liability for declarant's costs and fees, including reasonable  
8 attorneys' fees, shall:

9 (a) With respect to claims brought by an association, not exceed  
10 five percent of the assessed value of the condominium as a whole,  
11 which is determined by the aggregate tax-assessed value of all units  
12 at the time of the award; and

13 (b) With respect to claims brought by a party unit owner, not  
14 exceed five percent of the assessed value of the unit at the time of  
15 the award.

16 NEW SECTION. **Sec. 13.** Sections 3 through 5 of this act apply  
17 only to construction defect claims commenced after the effective date  
18 of this section.

19 NEW SECTION. **Sec. 14.** Section 9 of this act takes effect  
20 January 1, 2024.

Passed by the Senate April 21, 2023.  
Passed by the House April 20, 2023.  
Approved by the Governor May 8, 2023.  
Filed in Office of Secretary of State May 10, 2023.

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CERTIFICATION OF ENROLLMENT

**SENATE BILL 5058**

Chapter 263, Laws of 2023

68th Legislature  
2023 Regular Session

MULTIUNIT RESIDENTIAL BUILDINGS—EXEMPTION—DESIGN, INSPECTIONS, AND  
CONSTRUCTION DEFECT DISPUTES

EFFECTIVE DATE: July 23, 2023

Passed by the Senate February 15,  
2023

Yeas 48 Nays 0

DENNY HECK

**President of the Senate**

Passed by the House April 12, 2023

Yeas 97 Nays 0

Laurie Jinkins

**Speaker of the House of  
Representatives**

Approved May 4, 2023 10:38 AM

JAY INSLEE  
**Governor of the State of Washington**

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5058** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

**Secretary**

FILED

May 4, 2023

**Secretary of State  
State of Washington**

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**SENATE BILL 5058**

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Passed Legislature - 2023 Regular Session

**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators Padden, Pedersen, Billig, Fortunato, Holy, Short, and L. Wilson

Prefiled 12/16/22. Read first time 01/09/23. Referred to Committee on Law & Justice.

1 AN ACT Relating to exempting buildings with 12 or fewer units  
2 that are no more than two stories from the definition of multiunit  
3 residential building; and amending RCW 64.55.010.

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

5 **Sec. 1.** RCW 64.55.010 and 2005 c 456 s 2 are each amended to  
6 read as follows:

7 Unless the context clearly requires otherwise, the definitions in  
8 RCW 64.34.020 and in this section apply throughout this chapter.

9 (1) "Attached dwelling unit" means any dwelling unit that is  
10 attached to another dwelling unit by a wall, floor, or ceiling that  
11 separates heated living spaces. A garage is not a heated living  
12 space.

13 (2) "Building enclosure" means that part of any building, above  
14 or below grade, that physically separates the outside or exterior  
15 environment from interior environments and which weatherproofs,  
16 waterproofs, or otherwise protects the building or its components  
17 from water or moisture intrusion. Interior environments consist of  
18 both heated and unheated enclosed spaces. The building enclosure  
19 includes, but is not limited to, that portion of roofs, walls,  
20 balcony support columns, decks, windows, doors, vents, and other  
21 penetrations through exterior walls, which waterproof, weatherproof,

1 or otherwise protect the building or its components from water or  
2 moisture intrusion.

3 (3) "Building enclosure design documents" means plans, details,  
4 and specifications for the building enclosure that have been stamped  
5 by a licensed engineer or architect. The building enclosure design  
6 documents shall include details and specifications that are  
7 appropriate for the building in the professional judgment of the  
8 architect or engineer (~~which~~) who prepared the same to waterproof,  
9 weatherproof, and otherwise protect the building or its components  
10 from water or moisture intrusion, including details of flashing,  
11 intersections at roof, eaves or parapets, means of drainage, water-  
12 resistive membrane, and details around openings.

13 (4) "Developer" means:

14 (a) With respect to a condominium or a conversion condominium,  
15 the declarant; and

16 (b) With respect to all other buildings, an individual, group of  
17 individuals, partnership, corporation, association, municipal  
18 corporation, state agency, or other entity or person that obtains a  
19 building permit for the construction or rehabilitative reconstruction  
20 of a multiunit residential building. If a permit is obtained by  
21 service providers such as architects, contractors, and consultants  
22 who obtain permits for others as part of services rendered for a fee,  
23 the person for whom the permit is obtained shall be the developer,  
24 not the service provider.

25 (5) " Dwelling unit " has the meaning given to that phrase or  
26 similar phrases in the ordinances of the jurisdiction issuing the  
27 permit for construction of the building enclosure but if such  
28 ordinances do not provide a definition, then "dwelling unit" means a  
29 residence containing living, cooking, sleeping, and sanitary  
30 facilities.

31 (6) "Multiunit residential building" means:

32 (a) A building containing more than two attached dwelling units,  
33 including a building containing nonresidential units if the building  
34 also contains more than two attached dwelling units, but excluding  
35 the following classes of buildings:

36 (i) Hotels and motels;

37 (ii) Dormitories;

38 (iii) Care facilities;

39 (iv) Floating homes;

1 (v) A building that contains attached dwelling units that are  
2 each located on a single platted lot, except as provided in (b) of  
3 this subsection;

4 (vi) A building in which all of the dwelling units are held under  
5 one ownership and is subject to a recorded irrevocable sale  
6 prohibition covenant; and

7 (vii) A building with 12 or fewer units that is no more than two  
8 stories.

9 (b) If the developer submits to the appropriate building  
10 department when applying for the building permit described in RCW  
11 64.55.020 a statement that the developer elects to treat the  
12 improvement for which a permit is sought as a multiunit residential  
13 building for all purposes under this chapter, then "multiunit  
14 residential building" also means the following buildings for which  
15 such election has been made:

16 (i) A building containing only two attached dwelling units;

17 (ii) A building that does not contain attached dwelling units;

18 and

19 (iii) Any building that contains attached dwelling units each of  
20 which is located on a single platted lot.

21 (7) "Party unit owner" means a unit owner who is a named party to  
22 an action subject to this chapter and does not include any unit  
23 owners whose involvement with the action stems solely from their  
24 membership in the association.

25 (8) "Qualified building inspector" means a person satisfying the  
26 requirements of RCW 64.55.040.

27 (9) "Rehabilitative construction" means construction work on the  
28 building enclosure of a multiunit residential building if the cost of  
29 such construction work is more than five percent of the assessed  
30 value of the building.

31 (10) "Sale prohibition covenant" means a recorded covenant that  
32 prohibits the sale or other disposition of individual dwelling units  
33 as or as part of a condominium for five years or more from the date  
34 of first occupancy except as otherwise provided in RCW 64.55.090, a  
35 certified copy of which the developer shall submit to the appropriate  
36 building department; provided such covenant shall not apply to sales  
37 or dispositions listed in RCW 64.34.400(2). The covenant must be  
38 recorded in the county in which the building is located and must be  
39 in substantially the following form:

1 This covenant has been recorded in the real property records  
2 of . . . . . County, Washington, in satisfaction of the  
3 requirements of RCW 64.55.010 through 64.55.090. The  
4 undersigned is the owner of the property described on Exhibit  
5 A (the "Property"). Until termination of this covenant, no  
6 dwelling unit in or on the Property may be sold as a  
7 condominium unit except for sales listed in RCW 64.34.400(2).

8 This covenant terminates on the earlier of either: (a)  
9 Compliance with the requirements of RCW 64.55.090, as  
10 certified by the owner of the Property in a recorded  
11 supplement hereto; or (b) the fifth anniversary of the date  
12 of first occupancy of a dwelling unit as certified by the  
13 Owner in a recorded supplement hereto.

14 All title insurance companies and persons acquiring an interest in  
15 the Property may rely on the forgoing certifications without further  
16 inquiry in issuing any policy of title insurance or in acquiring an  
17 interest in the Property.

18 (11) "Stamped" means bearing the stamp and signature of the  
19 responsible licensed architect or engineer on the title page, and on  
20 every sheet of the documents, drawings, or specifications, including  
21 modifications to the documents, drawings, and specifications that  
22 become part of change orders or addenda to alter those documents,  
23 drawings, or specifications.

Passed by the Senate February 15, 2023.  
Passed by the House April 12, 2023.  
Approved by the Governor May 4, 2023.  
Filed in Office of Secretary of State May 4, 2023.

--- END ---



CERTIFICATION OF ENROLLMENT

**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1181**

Chapter 228, Laws of 2023

68th Legislature  
2023 Regular Session

CLIMATE CHANGE—PLANNING

EFFECTIVE DATE: July 23, 2023

Passed by the House April 13, 2023  
Yeas 55 Nays 41

LAURIE JINKINS

**Speaker of the House of  
Representatives**

Passed by the Senate April 7, 2023  
Yeas 29 Nays 20

DENNY HECK

**President of the Senate**

Approved May 3, 2023 10:18 AM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1181** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

**Chief Clerk**

FILED

May 4, 2023

**Secretary of State  
State of Washington**

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**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1181**

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AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Duerr, Fitzgibbon, Berry, Peterson, Ryu, Alvarado, Taylor, Reed, Walen, Bateman, Ramel, Goodman, Doglio, Macri, Callan, Simmons, Lekanoff, Gregerson, Bergquist, Stonier, Pollet, Davis, Kloba, Riccelli, Mena, and Tharinger; by request of Office of the Governor)

READ FIRST TIME 02/14/23.

1 AN ACT Relating to improving the state's climate response through  
2 updates to the state's planning framework; amending RCW 36.70A.020,  
3 36.70A.480, 36.70A.280, 36.70A.320, 36.70A.190, 86.12.200,  
4 36.70A.030, and 70A.125.180; reenacting and amending RCW 36.70A.070  
5 and 36.70A.130; adding new sections to chapter 36.70A RCW; adding a  
6 new section to chapter 70A.45 RCW; adding a new section to chapter  
7 47.80 RCW; adding a new section to chapter 90.58 RCW; adding a new  
8 section to chapter 43.21C RCW; adding a new section to chapter 43.20  
9 RCW; creating a new section; and providing an expiration date.

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

11 **Sec. 1.** RCW 36.70A.020 and 2021 c 254 s 1 are each amended to  
12 read as follows:

13 The following goals are adopted to guide the development and  
14 adoption of comprehensive plans and development regulations of those  
15 counties and cities that are required or choose to plan under RCW  
16 36.70A.040 and, where specified, also guide the development of  
17 regional policies, plans, and strategies adopted under RCW 36.70A.210  
18 and chapter 47.80 RCW. The following goals are not listed in order of  
19 priority and shall be used exclusively for the purpose of guiding the  
20 development of comprehensive plans (~~and~~), development regulations,  
21 and, where specified, regional plans, policies, and strategies:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (15) Shorelines of the state. For shorelines of the state, the  
27 goals and policies of the shoreline management act as set forth in  
28 RCW 90.58.020 shall be considered an element of the county's or  
29 city's comprehensive plan.

30 **Sec. 2.** RCW 36.70A.480 and 2010 c 107 s 2 are each amended to  
31 read as follows:

32 (1) For shorelines of the state, the goals and policies of the  
33 shoreline management act as set forth in RCW 90.58.020 are added as  
34 one of the goals of this chapter as set forth in RCW 36.70A.020  
35 without creating an order of priority among the (~~fourteen~~) 15  
36 goals. The goals and policies of a shoreline master program for a  
37 county or city approved under chapter 90.58 RCW shall be considered  
38 an element of the county or city's comprehensive plan. All other  
39 portions of the shoreline master program for a county or city adopted

1 under chapter 90.58 RCW, including use regulations, shall be  
2 considered a part of the county or city's development regulations.

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

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

13 (b) Except as otherwise provided in (c) of this subsection,  
14 development regulations adopted under this chapter to protect  
15 critical areas within shorelines of the state apply within shorelines  
16 of the state until the department of ecology approves one of the  
17 following: A comprehensive master program update, as defined in RCW  
18 90.58.030; a segment of a master program relating to critical areas,  
19 as provided in RCW 90.58.090; or a new or amended master program  
20 approved by the department of ecology on or after March 1, 2002, as  
21 provided in RCW 90.58.080. The adoption or update of development  
22 regulations to protect critical areas under this chapter prior to  
23 department of ecology approval of a master program update as provided  
24 in this subsection is not a comprehensive or segment update to the  
25 master program.

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

39 (ii) For purposes of this subsection (3)(c), an agricultural  
40 activity that does not expand the area being used for the

1 agricultural activity is not a redevelopment or modification.  
2 "Agricultural activity," as used in this subsection (3)(c), has the  
3 same meaning as defined in RCW 90.58.065.

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

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

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

26 (5) Shorelines of the state shall not be considered critical  
27 areas under this chapter except to the extent that specific areas  
28 located within shorelines of the state qualify for critical area  
29 designation based on the definition of critical areas provided by RCW  
30 36.70A.030(~~((5))~~) (6) and have been designated as such by a local  
31 government pursuant to RCW 36.70A.060(2).

32 (6) If a local jurisdiction's master program does not include  
33 land necessary for buffers for critical areas that occur within  
34 shorelines of the state, as authorized by RCW 90.58.030(2)(~~((f))~~)  
35 (d), then the local jurisdiction shall continue to regulate those  
36 critical areas and their required buffers pursuant to RCW  
37 36.70A.060(2).

38 **Sec. 3.** RCW 36.70A.070 and 2022 c 246 s 2 and 2022 c 220 s 1 are  
39 each reenacted and amended to read as follows:

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

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

1 existing residential development and infrastructure through community  
2 wildfire preparedness and fire adaptation measures.

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

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

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

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

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

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

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

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

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

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

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

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

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



1 (ii) Disinvestment; and

2 (iii) Infrastructure availability;

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

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

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

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

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

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

1 probable funding falls short of meeting existing needs and to ensure  
2 that the land use element, capital facilities plan element, and  
3 financing plan within the capital facilities plan element are  
4 coordinated and consistent. Park and recreation facilities shall be  
5 included in the capital facilities plan element.

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

18 (4) (a) A utilities element consisting of the general location,  
19 proposed location, and capacity of all existing and proposed  
20 utilities ~~((r))~~ including, but not limited to, electrical ~~((lines))~~,  
21 ~~((telecommunication—lines))~~ telecommunications, and natural gas  
22 ~~((lines))~~ systems.

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

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

39 (a) Growth management act goals and local circumstances. Because  
40 circumstances vary from county to county, in establishing patterns of

1 rural densities and uses, a county may consider local circumstances,  
2 but shall develop a written record explaining how the rural element  
3 harmonizes the planning goals in RCW 36.70A.020 and meets the  
4 requirements of this chapter.

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

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

18 (i) Containing or otherwise controlling rural development;

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

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

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

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

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

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

38 (A) A commercial, industrial, residential, shoreline, or mixed-  
39 use area are subject to the requirements of (d)(iv) of this

1 subsection, but are not subject to the requirements of (c)(ii) and  
2 (iii) of this subsection.

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

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

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

22 (II) Any included retail or food service space must not exceed  
23 2,500 square feet for a new use;

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

34 (iii) The intensification of development on lots containing  
35 isolated nonresidential uses or new development of isolated cottage  
36 industries and isolated small-scale businesses that are not  
37 principally designed to serve the existing and projected rural  
38 population and nonresidential uses, but do provide job opportunities  
39 for rural residents. Rural counties may allow the expansion of small-  
40 scale businesses as long as those small-scale businesses conform with

1 the rural character of the area as defined by the local government  
2 according to RCW 36.70A.030(23). Rural counties may also allow new  
3 small-scale businesses to utilize a site previously occupied by an  
4 existing business as long as the new small-scale business conforms to  
5 the rural character of the area as defined by the local government  
6 according to RCW 36.70A.030(23). Public services and public  
7 facilities shall be limited to those necessary to serve the isolated  
8 nonresidential use and shall be provided in a manner that does not  
9 permit low-density sprawl;

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

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

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

31 (B) On the date the county adopted a resolution under RCW  
32 36.70A.040(2), in a county that is planning under all of the  
33 provisions of this chapter under RCW 36.70A.040(2); or

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

38 (e) Exception. This subsection shall not be interpreted to permit  
39 in the rural area a major industrial development or a master planned

1 resort unless otherwise specifically permitted under RCW 36.70A.360  
2 and 36.70A.365.

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

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

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

8 (ii) Estimated (~~(traffic)~~) multimodal level of service impacts to  
9 state-owned transportation facilities resulting from land use  
10 assumptions to assist (~~(the department of transportation)~~) in  
11 monitoring the performance of state facilities, to plan improvements  
12 for the facilities, and to assess the impact of land-use decisions on  
13 state-owned transportation facilities;

14 (iii) Facilities and services needs, including:

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

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

31 (C) For state-owned transportation facilities, multimodal level  
32 of service standards for highways, as prescribed in chapters 47.06  
33 and 47.80 RCW, to gauge the performance of the system. The purposes  
34 of reflecting multimodal level of service standards for state  
35 highways in the local comprehensive plan are to monitor the  
36 performance of the system, to evaluate improvement strategies, and to  
37 facilitate coordination between the county's or city's six-year  
38 street, road, active transportation, or transit program and the  
39 office of financial management's ten-year investment program. The  
40 concurrency requirements of (b) of this subsection do not apply to

1 transportation facilities and services of statewide significance  
2 except for counties consisting of islands whose only connection to  
3 the mainland are state highways or ferry routes. In these island  
4 counties, state highways and ferry route capacity must be a factor in  
5 meeting the concurrency requirements in (b) of this subsection;

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

9 (E) Forecasts of (~~(traffic)~~) multimodal transportation demand and  
10 needs within cities and urban growth areas, and forecasts of  
11 multimodal transportation demand and needs outside of cities and  
12 urban growth areas, for at least ten years based on the adopted land  
13 use plan to (~~(provide information on the location, timing, and~~  
14 capacity needs of future growth)) inform the development of a  
15 transportation element that balances transportation system safety and  
16 convenience to accommodate all users of the transportation system to  
17 safely, reliably, and efficiently provide access and mobility to  
18 people and goods. Priority must be given to inclusion of  
19 transportation facilities and services providing the greatest  
20 multimodal safety benefit to each category of roadway users for the  
21 context and speed of the facility;

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

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

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

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

3 (III) Provide a schedule for making the access modifications; and  
4 (IV) Identify the public officials responsible for implementation  
5 of the transition plan;

6 (iv) Finance, including:

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

9 (B) A multiyear financing plan based on the needs identified in  
10 the comprehensive plan, the appropriate parts of which shall serve as  
11 the basis for the six-year street, road, or transit program required  
12 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW  
13 35.58.2795 for public transportation systems. The multiyear financing  
14 plan should be coordinated with the ten-year investment program  
15 developed by the office of financial management as required by RCW  
16 47.05.030;

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

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

25 (vi) Demand-management strategies;

26 (vii) (~~(Pedestrian and bicycle)~~) Active transportation component  
27 to include collaborative efforts to identify and designate planned  
28 improvements for (~~(pedestrian and bicycle)~~) active transportation  
29 facilities and corridors that address and encourage enhanced  
30 community access and promote healthy lifestyles.

31 (b) After adoption of the comprehensive plan by jurisdictions  
32 required to plan or who choose to plan under RCW 36.70A.040, local  
33 jurisdictions must adopt and enforce ordinances which prohibit  
34 development approval if the development causes the level of service  
35 on a locally owned or locally or regionally operated transportation  
36 facility to decline below the standards adopted in the transportation  
37 element of the comprehensive plan, unless transportation improvements  
38 or strategies to accommodate the impacts of development are made  
39 concurrent with the development. These strategies may include  
40 (~~(increased)~~) active transportation facility improvements, increased



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

18 (c) The transportation element described in this subsection (6),  
19 the six-year plans required by RCW 35.77.010 for cities, RCW  
20 36.81.121 for counties, and RCW 35.58.2795 for public transportation  
21 systems, and the ten-year investment program required by RCW  
22 47.05.030 for the state, must be consistent.

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

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

37 (9)(a) A climate change and resiliency element that is designed  
38 to result in reductions in overall greenhouse gas emissions and that  
39 must enhance resiliency to and avoid the adverse impacts of climate  
40 change, which must include efforts to reduce localized greenhouse gas

1 emissions and avoid creating or worsening localized climate impacts  
2 to vulnerable populations and overburdened communities.

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

5 (i) A greenhouse gas emissions reduction subelement;

6 (ii) A resiliency subelement.

7 (c) The greenhouse gas emissions reduction subelement of the  
8 climate change and resiliency element is mandatory for the  
9 jurisdictions specified in section 4(1) of this act and is encouraged  
10 for all other jurisdictions, including those planning under RCW  
11 36.70A.040 and those planning under chapter 36.70 RCW. The resiliency  
12 subelement of the climate change and resiliency element is mandatory  
13 for all jurisdictions planning under RCW 36.70A.040 and is encouraged  
14 for those jurisdictions planning under chapter 36.70 RCW.

15 (d) (i) The greenhouse gas emissions reduction subelement of the  
16 comprehensive plan, and its related development regulations, must  
17 identify the actions the jurisdiction will take during the planning  
18 cycle consistent with the guidelines published by the department  
19 pursuant to section 5 of this act that will:

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

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

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

29 (ii) Actions not specifically identified in the guidelines  
30 developed by the department pursuant to section 5 of this act may be  
31 considered consistent with these guidelines only if:

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

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

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

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

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

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

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

28 (ii) A natural hazard mitigation plan or similar plan that is  
29 guided by RCW 36.70A.020(14), that prioritizes actions that benefit  
30 overburdened communities, and that complies with the applicable  
31 requirements of this chapter, including the requirements set forth in  
32 this subsection (9) (e), may be adopted by reference to satisfy these  
33 requirements, except that to the extent any of the substantive  
34 requirements of this subsection (9) (e) are not addressed, or are  
35 inadequately addressed, in the referenced natural hazard mitigation  
36 plan, a county or city must supplement the natural hazard mitigation  
37 plan accordingly so that the adopted resiliency subelement complies  
38 fully with the substantive requirements of this subsection (9) (e).

39 (A) If a county or city intends to adopt by reference a federal  
40 emergency management agency natural hazard mitigation plan in order

1 to meet all or part of the substantive requirements set forth in this  
2 subsection (9)(e), and the most recently adopted federal emergency  
3 management agency natural hazard mitigation plan does not comply with  
4 the requirements of this subsection (9)(e), the department may grant  
5 the county or city an extension of time in which to submit a natural  
6 hazard mitigation plan.

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

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

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

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

29 (F) The adoption of ordinances, amendments to comprehensive  
30 plans, amendments to development regulations, and other nonproject  
31 actions taken by a county or city pursuant to (d) of this subsection  
32 in order to implement measures specified by the department pursuant  
33 to section 5 of this act are not subject to administrative or  
34 judicial appeal under chapter 43.21C RCW.

35 (10) It is the intent that new or amended elements required after  
36 January 1, 2002, be adopted concurrent with the scheduled update  
37 provided in RCW 36.70A.130. Requirements to incorporate any such new  
38 or amended elements shall be null and void until funds sufficient to  
39 cover applicable local government costs are appropriated and

1 distributed by the state at least two years before local government  
2 must update comprehensive plans as required in RCW 36.70A.130.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A  
4 RCW to read as follows:

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

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

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

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

19 (2) The requirements of the amendments to the transportation  
20 element of RCW 36.70A.070 set forth in this act apply only to: (a)  
21 Counties and cities that meet the population criteria set forth in  
22 subsection (1) of this section; and (b) cities with populations of  
23 6,000 or greater as of April 1, 2021, that are located in a county  
24 that is required or that chooses to plan under RCW 36.70A.040.

25 (3) The requirements of the amendments to the land use element of  
26 RCW 36.70A.070 set forth in this act apply only to: (a) Counties and  
27 cities that meet the population criteria set forth in subsection (1)  
28 or (2) of this section; and (b) counties that have a population of  
29 20,000 or greater as of April 1, 2021, and that are required or that  
30 choose to plan under RCW 36.70A.040.

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

37 (5) If the population of a county that previously had not been  
38 required to conform with the greenhouse gas emissions reduction  
39 subelement of the climate change and resiliency element set forth in

1 RCW 36.70A.070 changes sufficiently to meet either of the sets of  
2 criteria set forth in subsection (1) of this section, the county, and  
3 the cities with populations greater than 6,000 as of April 1, 2021,  
4 within that county, shall adopt a greenhouse gas emissions reduction  
5 subelement of the climate change and resiliency element set forth in  
6 RCW 36.70A.070 at the next scheduled update of the comprehensive plan  
7 as set forth in RCW 36.70A.130.

8 (6) The population criteria used in this section must be based on  
9 population data as determined by the office of financial management.

10 NEW SECTION. **Sec. 5.** A new section is added to chapter 70A.45  
11 RCW to read as follows:

12 (1) The department of commerce, in consultation with the  
13 department of ecology, the department of health, and the department  
14 of transportation, shall publish guidelines that specify a set of  
15 measures counties and cities may implement via updates to their  
16 comprehensive plans and development regulations that have a  
17 demonstrated ability to increase housing capacity within urban growth  
18 areas or reduce greenhouse gas emissions, allowing for consideration  
19 of the emissions reductions achieved through the adoption of  
20 statewide programs. The guidelines must prioritize measures that  
21 benefit overburdened communities, including communities that have  
22 experienced disproportionate harm due to air pollution and may draw  
23 upon the most recent health disparities data from the department of  
24 health to identify high pollution areas and disproportionately  
25 burdened communities. These guidelines must be developed consistent  
26 with an environmental justice assessment pursuant to RCW 70A.02.060  
27 and the guidelines must include environmental justice assessment  
28 processes. The guidelines must be based on:

29 (a) The most recent greenhouse gas emissions report prepared by  
30 the department of ecology and the department of commerce pursuant to  
31 RCW 70A.45.020(2);

32 (b) The most recent city and county population estimates prepared  
33 by the office of financial management pursuant to RCW 43.62.035;

34 (c) The locations of major employment centers and transit  
35 corridors, for the purpose of increasing housing supply in these  
36 areas; and

37 (d) Available environmental justice data and data regarding  
38 access to public transportation for people with disabilities and for  
39 vulnerable populations.

1 (2) (a) The department of commerce, in consultation with the  
2 department of transportation, shall publish guidelines that specify a  
3 set of measures counties and cities may have available to them to  
4 take through updates to their comprehensive plans and development  
5 regulations that have a demonstrated ability to reduce per capita  
6 vehicle miles traveled, including measures that are designed to be  
7 achievable throughout the state, including in small cities and rural  
8 cities.

9 (b) The guidelines must be based on:

10 (i) The most recent greenhouse gas emissions report prepared by  
11 the department of ecology and the department of commerce pursuant to  
12 RCW 70A.45.020(2);

13 (ii) The most recent city and county population estimates  
14 prepared by the office of financial management pursuant to RCW  
15 43.62.035; and

16 (iii) The most recent summary of per capita vehicle miles  
17 traveled as compiled by the department of transportation.

18 (3) The department of commerce shall first publish the full set  
19 of guidelines described in subsections (1) and (2) of this section no  
20 later than December 31, 2025. The department of commerce shall update  
21 these guidelines at least every five years thereafter based on the  
22 most recently available data, and shall provide for a process for  
23 local governments and other parties to submit alternative actions for  
24 consideration for inclusion into the guidelines at least once per  
25 year. The department of commerce shall publish an intermediate set of  
26 guidelines no later than December 31, 2023, in order to be available  
27 for use by jurisdictions whose periodic updates are required by RCW  
28 36.70A.130(5) to occur prior to December 31, 2025. Jurisdictions  
29 whose periodic updates are required by RCW 36.70A.130(5)(b) may  
30 utilize the intermediate set of guidelines published by the  
31 department of commerce to meet the requirements of RCW 36.70A.070(9).

32 (4) (a) In any updates to the guidelines published after 2025, the  
33 department of commerce shall include an evaluation of the impact that  
34 locally adopted climate change and resiliency elements have had on  
35 local greenhouse gas emissions and per capita vehicle miles traveled  
36 reduction goals. The evaluation must also address the impact that  
37 locally adopted greenhouse gas emissions reduction subelements have  
38 had on meeting local housing goals and targets.

39 (b) The updates must also include an estimate of the impacts that  
40 locally adopted climate change and resiliency elements will have on

1 achieving local greenhouse gas emissions and per capita vehicle miles  
2 traveled reduction goals. The evaluation must also include an  
3 estimate of the impact that locally adopted greenhouse gas emissions  
4 reduction subelements will have on meeting local housing goals and  
5 targets.

6 (c) The department may include in the specified guidelines what  
7 additional measures cities and counties should take to make  
8 additional progress on local reduction goals, including any measures  
9 that increase housing capacity within urban growth areas.

10 (5) The department of commerce may not propose or adopt any  
11 guidelines that would include any form of a road usage charge or any  
12 fees or surcharges related to vehicle miles traveled.

13 (6) The department of commerce may not propose or adopt any  
14 guidelines that would direct or require local governments to regulate  
15 or tax, in any form, transportation service providers, delivery  
16 vehicles, or passenger vehicles.

17 (7) The department of commerce, in the course of implementing  
18 this section, shall provide and prioritize options that support  
19 increased housing supply and diversity of housing types that assist  
20 counties and cities in meeting greenhouse gas emissions reduction,  
21 housing supply, and other requirements established under this  
22 chapter.

23 (8) The provisions of this section as applied to the department  
24 of transportation are subject to the availability of amounts  
25 appropriated for this specific purpose.

26 (9) For purposes of this section, "overburdened communities" and  
27 "vulnerable populations" means the same as provided in RCW  
28 36.70A.030.

29 NEW SECTION. **Sec. 6.** A new section is added to chapter 36.70A  
30 RCW to read as follows:

31 (1) A county or city required to complete a greenhouse gas  
32 emissions reduction subelement may submit the subelement to the  
33 department for approval. When submitted to the department for  
34 approval, the subelement becomes effective when approved by the  
35 department as provided in this section. If a county or city does not  
36 seek department approval of the subelement, the effective date of the  
37 subelement is the date on which the comprehensive plan is adopted by  
38 the county or city.



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

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

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

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

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

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

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

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

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

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

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

35 (b) The department must issue its decision in the form of a  
36 written statement, including findings of fact and conclusions, and  
37 noting the date of the issuance of its decision. The department's  
38 issued decision must conspicuously and plainly state that it is the  
39 department's final decision and that there will be no further

1 modifications to the proposed greenhouse gas emissions reduction  
2 subelement.

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

- 5 (i) Notify the city or county in writing of its determination;
- 6 (ii) Publish a notice of action in the Washington State Register;
- 7 (iii) Post a notice of its decision on the agency website; and
- 8 (iv) Notify other relevant state agencies regarding the approval  
9 decision.

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

15 (6) The department's final decision to approve or reject a  
16 proposed greenhouse gas emissions reduction subelement or amendment  
17 by a local government planning under RCW 36.70A.040 may be appealed  
18 according to the following provisions:

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

24 (b) A decision of the growth management hearings board concerning  
25 an appeal of the department's final decision to approve or reject a  
26 proposed greenhouse gas emissions reduction subelement or amendment  
27 must be based solely on whether or not the adopted or amended  
28 greenhouse gas emissions reduction subelement, any adopted amendments  
29 to other elements of the comprehensive plan necessary to carry out  
30 the subelement, and any adopted or amended development regulations  
31 necessary to implement the subelement, comply with the goal set forth  
32 in RCW 36.70A.020(14) as it applies to greenhouse gas emissions  
33 reductions, RCW 36.70A.070(9) excluding RCW 36.70A.070(9)(e), the  
34 guidelines adopted under section 5 of this act applicable to the  
35 greenhouse gas emissions reduction subelement, or chapter 43.21C RCW.

36 **Sec. 7.** RCW 36.70A.280 and 2011 c 360 s 17 are each amended to  
37 read as follows:

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

1 (a) That, except as provided otherwise by this subsection, a  
2 state agency, county, or city planning under this chapter is not in  
3 compliance with the requirements of this chapter, chapter 90.58 RCW  
4 as it relates to the adoption of shoreline master programs or  
5 amendments thereto, or chapter 43.21C RCW as it relates to plans,  
6 development regulations, or amendments, adopted under RCW 36.70A.040  
7 or chapter 90.58 RCW. Nothing in this subsection authorizes the board  
8 to hear petitions alleging noncompliance with RCW 36.70A.5801;

9 (b) That the (~~twenty~~) 20-year growth management planning  
10 population projections adopted by the office of financial management  
11 pursuant to RCW 43.62.035 should be adjusted;

12 (c) That the approval of a work plan adopted under RCW  
13 36.70A.735(1)(a) is not in compliance with the requirements of the  
14 program established under RCW 36.70A.710;

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

18 (e) That a department certification under RCW 36.70A.735(1)(c) is  
19 erroneous; or

20 (f) That the department's final decision to approve or reject a  
21 proposed greenhouse gas emissions reduction subelement or amendments  
22 by a local government planning under RCW 36.70A.040 was not in  
23 compliance with the joint guidance issued by the department pursuant  
24 to section 5 of this act.

25 (2) A petition may be filed only by: (a) The state, or a county  
26 or city that plans under this chapter; (b) a person who has  
27 participated orally or in writing before the county or city regarding  
28 the matter on which a review is being requested; (c) a person who is  
29 certified by the governor within (~~sixty~~) 60 days of filing the  
30 request with the board; or (d) a person qualified pursuant to RCW  
31 34.05.530.

32 (3) For purposes of this section "person" means any individual,  
33 partnership, corporation, association, state agency, governmental  
34 subdivision or unit thereof, or public or private organization or  
35 entity of any character.

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

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

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

8 If adjusted by the board, a county growth management planning  
9 population projection shall only be used for the planning purposes  
10 set forth in this chapter and shall be known as the "board adjusted  
11 population projection." None of these changes shall affect the  
12 official state and county population forecasts prepared by the office  
13 of financial management, which shall continue to be used for state  
14 budget and planning purposes.

15 **Sec. 8.** RCW 36.70A.320 and 1997 c 429 s 20 are each amended to  
16 read as follows:

17 (1) Except as provided in subsections (5) and (6) of this  
18 section, comprehensive plans and development regulations, and  
19 amendments thereto, adopted under this chapter are presumed valid  
20 upon adoption.

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

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

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

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

4 (6) The greenhouse gas emissions reduction subelement required by  
5 RCW 36.70A.070 shall take effect as provided in section 6 of this  
6 act.

7 **Sec. 9.** RCW 36.70A.190 and 2022 c 252 s 5 are each amended to  
8 read as follows:

9 (1) The department shall establish a program of technical and  
10 financial assistance and incentives to counties and cities to  
11 encourage and facilitate the adoption and implementation of  
12 comprehensive plans and development regulations throughout the state.

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

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

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

37 (a) Utilizing department staff, the staff of other state  
38 agencies, and the technical resources of counties and cities to help  
39 in the development of comprehensive plans required under this

1 chapter. The technical assistance may include, but not be limited to,  
2 model land use ordinances, regional education and training programs,  
3 and information for local and regional inventories; and

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

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

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

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

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

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

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

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

10 (8) The department shall develop, in collaboration with the  
11 department of ecology, the department of fish and wildlife, the  
12 department of natural resources, the department of health, the  
13 emergency management division of the military department, as well as  
14 any federally recognized tribe who chooses to voluntarily  
15 participate, and adopt by rule guidance that creates a model climate  
16 change and resiliency element that may be used by counties, cities,  
17 and multiple-county planning regions for developing and implementing  
18 climate change and resiliency plans and policies required by RCW  
19 36.70A.070(9), subject to the following provisions:

20 (a) The model element must establish minimum requirements, and  
21 may include model options or voluntary cross-jurisdictional  
22 strategies, or both, for fulfilling the requirements of RCW  
23 36.70A.070(9);

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

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

36 (d) The rule must recognize and promote as many cobenefits of  
37 climate resilience as possible such as climate change mitigation,  
38 salmon recovery, forest health, ecosystem services, and socioeconomic  
39 health and resilience.

1        NEW SECTION.    **Sec. 10.**    A new section is added to chapter 47.80  
2    RCW to read as follows:

3        The department shall compile, maintain, and publish a summary of  
4    the per capita vehicle miles traveled annually in each city in the  
5    state, and in the unincorporated portions of each county in the  
6    state.

7        NEW SECTION.    **Sec. 11.**    A new section is added to chapter 90.58  
8    RCW to read as follows:

9        The department shall update its shoreline master program  
10    guidelines to require shoreline master programs to address the impact  
11    of sea level rise and increased storm severity on people, property,  
12    and shoreline natural resources and the environment.

13        **Sec. 12.**    RCW 86.12.200 and 1991 c 322 s 3 are each amended to  
14    read as follows:

15        The county legislative authority of any county may adopt a  
16    comprehensive flood control management plan for any drainage basin  
17    that is located wholly or partially within the county.

18        A comprehensive flood control management plan shall include the  
19    following elements:

20        (1) Designation of areas that are susceptible to periodic  
21    flooding, from inundation by bodies of water or surface water runoff,  
22    or both, including the river's meander belt or floodway;

23        (2) Establishment of a comprehensive scheme of flood control  
24    protection and improvements for the areas that are subject to such  
25    periodic flooding, that includes: (a) Determining the need for, and  
26    desirable location of, flood control improvements to protect or  
27    preclude flood damage to structures, works, and improvements, based  
28    upon a cost/benefit ratio between the expense of providing and  
29    maintaining these improvements and the benefits arising from these  
30    improvements; (b) establishing the level of flood protection that  
31    each portion of the system of flood control improvements will be  
32    permitted; (c) identifying alternatives to in-stream flood control  
33    work; (d) identifying areas where flood waters could be directed  
34    during a flood to avoid damage to buildings and other structures; and  
35    (e) identifying sources of revenue that will be sufficient to finance  
36    the comprehensive scheme of flood control protection and  
37    improvements;



1 (3) Establishing land use regulations that preclude the location  
2 of structures, works, or improvements in critical portions of such  
3 areas subject to periodic flooding, including a river's meander belt  
4 or floodway, and permitting only flood-compatible land uses in such  
5 areas;

6 (4) Establishing restrictions on construction activities in areas  
7 subject to periodic floods that require the flood proofing of those  
8 structures that are permitted to be constructed or remodeled; (~~and~~)

9 (5) Establishing restrictions on land clearing activities and  
10 development practices that exacerbate flood problems by increasing  
11 the flow or accumulation of flood waters, or the intensity of  
12 drainage, on low-lying areas. Land clearing activities do not include  
13 forest practices as defined in chapter 76.09 RCW; and

14 (6) Consideration of climate change impacts, including the impact  
15 of sea level rise and increased storm severity on people, property,  
16 natural resources, and the environment.

17 A comprehensive flood control management plan shall be subject to  
18 the minimum requirements for participation in the national flood  
19 insurance program, requirements exceeding the minimum national flood  
20 insurance program that have been adopted by the department of ecology  
21 for a specific floodplain pursuant to RCW 86.16.031, and rules  
22 adopted by the department of ecology pursuant to RCW 86.26.050  
23 relating to floodplain management activities. When a county plans  
24 under chapter 36.70A RCW, it may incorporate the portion of its  
25 comprehensive flood control management plan relating to land use  
26 restrictions in its comprehensive plan and development regulations  
27 adopted pursuant to chapter 36.70A RCW.

28 NEW SECTION. **Sec. 13.** A new section is added to chapter 43.21C  
29 RCW to read as follows:

30 The adoption of ordinances, amendments to comprehensive plans,  
31 amendments to development regulations, and other nonproject actions  
32 taken by a county or city pursuant to RCW 36.70A.070(9) (d) or (e) in  
33 order to implement measures specified by the department of commerce  
34 pursuant to section 5 of this act are not subject to administrative  
35 or judicial appeals under this chapter.

36 **Sec. 14.** RCW 36.70A.030 and 2021 c 254 s 6 are each amended to  
37 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (12) "Forestland" means land primarily devoted to growing trees  
30 for long-term commercial timber production on land that can be  
31 economically and practically managed for such production, including  
32 Christmas trees subject to the excise tax imposed under RCW 84.33.100  
33 through 84.33.140, and that has long-term commercial significance. In  
34 determining whether forestland is primarily devoted to growing trees  
35 for long-term commercial timber production on land that can be  
36 economically and practically managed for such production, the  
37 following factors shall be considered: (a) The proximity of the land  
38 to urban, suburban, and rural settlements; (b) surrounding parcel  
39 size and the compatibility and intensity of adjacent and nearby land  
40 uses; (c) long-term local economic conditions that affect the ability

1 to manage for timber production; and (d) the availability of public  
2 facilities and services conducive to conversion of forestland to  
3 other uses.

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

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

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

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

29 (17) "Minerals" include gravel, sand, and valuable metallic  
30 substances.

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

37 (19) "Permanent supportive housing" is subsidized, leased housing  
38 with no limit on length of stay that prioritizes people who need  
39 comprehensive support services to retain tenancy and utilizes  
40 admissions practices designed to use lower barriers to entry than

1 would be typical for other subsidized or unsubsidized rental housing,  
2 especially related to rental history, criminal history, and personal  
3 behaviors. Permanent supportive housing is paired with on-site or  
4 off-site voluntary services designed to support a person living with  
5 a complex and disabling behavioral health or physical health  
6 condition who was experiencing homelessness or was at imminent risk  
7 of homelessness prior to moving into housing to retain their housing  
8 and be a successful tenant in a housing arrangement, improve the  
9 resident's health status, and connect the resident of the housing  
10 with community-based health care, treatment, or employment services.  
11 Permanent supportive housing is subject to all of the rights and  
12 responsibilities defined in chapter 59.18 RCW.

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

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

20 (22) "Recreational land" means land so designated under RCW  
21 36.70A.1701 and that, immediately prior to this designation, was  
22 designated as agricultural land of long-term commercial significance  
23 under RCW 36.70A.170. Recreational land must have playing fields and  
24 supporting facilities existing before July 1, 2004, for sports played  
25 on grass playing fields.

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

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

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

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

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

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

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

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

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

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

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

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

30 (28) "Urban growth" refers to growth that makes intensive use of  
31 land for the location of buildings, structures, and impermeable  
32 surfaces to such a degree as to be incompatible with the primary use  
33 of land for the production of food, other agricultural products, or  
34 fiber, or the extraction of mineral resources, rural uses, rural  
35 development, and natural resource lands designated pursuant to RCW  
36 36.70A.170. A pattern of more intensive rural development, as  
37 provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed  
38 to spread over wide areas, urban growth typically requires urban  
39 governmental services. "Characterized by urban growth" refers to land  
40 having urban growth located on it, or to land located in relationship

1 to an area with urban growth on it as to be appropriate for urban  
2 growth.

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

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

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

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

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

39 (34) "Transportation system" means all infrastructure and  
40 services for all forms of transportation within a geographical area,

1 irrespective of the responsible jurisdiction or transportation  
2 provider.

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

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

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

21 (a) Is accessible to the public;

22 (b) Promotes physical and mental health of residents;

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

24 (d) Promotes recreational and aesthetic values;

25 (e) Protects streams or water supply; or

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

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

34 (39) "Wildland urban interface" means the geographical area where  
35 structures and other human development meets or intermingles with  
36 wildland vegetative fuels.

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



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

10       (b) "Vulnerable populations" includes, but is not limited to:  
11 (i) Racial or ethnic minorities;  
12 (ii) Low-income populations; and  
13 (iii) Populations disproportionately impacted by environmental  
14 harms.

15       **Sec. 15.** RCW 36.70A.130 and 2022 c 287 s 1 and 2022 c 192 s 1  
16 are each reenacted and amended to read as follows:

17       (1) (a) Each comprehensive land use plan and development  
18 regulations shall be subject to continuing review and evaluation by  
19 the county or city that adopted them. Except as otherwise provided, a  
20 county or city shall take legislative action to review and, if  
21 needed, revise its comprehensive land use plan and development  
22 regulations to ensure the plan and regulations comply with the  
23 requirements of this chapter according to the deadlines in  
24 subsections (4) and (5) of this section.

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

36       (c) The review and evaluation required by this subsection shall  
37 include, but is not limited to, consideration of critical area  
38 ordinances and, if planning under RCW 36.70A.040, an analysis of the

1 population allocated to a city or county from the most recent (~~ten~~)  
2 10-year population forecast by the office of financial management.

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

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

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

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

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

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

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

39 (b) Except as otherwise provided in (a) of this subsection, all  
40 proposals shall be considered by the governing body concurrently so

1 the cumulative effect of the various proposals can be ascertained.  
2 However, after appropriate public participation a county or city may  
3 adopt amendments or revisions to its comprehensive plan that conform  
4 with this chapter whenever an emergency exists or to resolve an  
5 appeal of a comprehensive plan filed with the growth management  
6 hearings board or with the court.

7 (3) (a) Each county that designates urban growth areas under RCW  
8 36.70A.110 shall review, according to the schedules established in  
9 subsections (4) and (5) of this section, its designated urban growth  
10 area or areas, patterns of development occurring within the urban  
11 growth area or areas, and the densities permitted within both the  
12 incorporated and unincorporated portions of each urban growth area.  
13 In conjunction with this review by the county, each city located  
14 within an urban growth area shall review the densities permitted  
15 within its boundaries, and the extent to which the urban growth  
16 occurring within the county has located within each city and the  
17 unincorporated portions of the urban growth areas.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (a) ~~((10))~~ Except as provided in subsection (10) of this section,  
2 on or before December 31, 2024, with the following review and, if  
3 needed, revision on or before June 30, 2034, and then every ~~((10))~~  
4 10 years thereafter, for King, Kitsap, Pierce, and Snohomish counties  
5 and the cities within those counties;

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

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

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

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

25 (b) A county that is subject to a deadline established in  
26 subsection (5)(b) through (d) of this section and meets the following  
27 criteria may comply with the requirements of this section at any time  
28 within the twenty-four months following the deadline established in  
29 subsection (5) of this section: The county has a population of less  
30 than fifty thousand and has had its population increase by no more  
31 than seventeen percent in the ten years preceding the deadline  
32 established in subsection (5) of this section as of that date.

33 (c) A city that is subject to a deadline established in  
34 subsection (5)(b) through (d) of this section and meets the following  
35 criteria may comply with the requirements of this section at any time  
36 within the twenty-four months following the deadline established in  
37 subsection (5) of this section: The city has a population of no more  
38 than five thousand and has had its population increase by the greater  
39 of either no more than one hundred persons or no more than seventeen

1 percent in the ten years preceding the deadline established in  
2 subsection (5) of this section as of that date.

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (9)(a) Counties subject to planning deadlines established in  
13 subsection (5) of this section that are required or that choose to  
14 plan under RCW 36.70A.040 and that meet either criteria of (a)(i) or  
15 (ii) of this subsection, and cities with a population of more than  
16 6,000 as of April 1, 2021, within those counties, must provide to the  
17 department an implementation progress report detailing the progress  
18 they have achieved in implementing their comprehensive plan five  
19 years after the review and revision of their comprehensive plan. Once  
20 a county meets the criteria in (a)(i) or (ii) of this subsection, the  
21 implementation progress report requirements remain in effect  
22 thereafter for that county and the cities therein with populations  
23 greater than 6,000 as of April 1, 2021, even if the county later no  
24 longer meets either or both criteria. A county is subject to the  
25 implementation progress report requirement if it meets either of the  
26 following criteria on or after April 1, 2021:

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

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

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

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

38 (ii) Permit processing timelines; and

39 (iii) Progress toward implementing any actions required to  
40 achieve reductions to meet greenhouse gas and vehicle miles traveled

1 requirements as provided for in any element of the comprehensive plan  
2 under RCW 36.70A.070.

3 (c) If a city or county required to provide an implementation  
4 progress report under this subsection (9) has not implemented any  
5 specifically identified regulations, zoning and land use changes, or  
6 taken other legislative or administrative action necessary to  
7 implement any changes in the most recent periodic update in their  
8 comprehensive plan by the due date for the implementation progress  
9 report, the city or county must identify the need for such action in  
10 the implementation progress report. Cities and counties must adopt a  
11 work plan to implement any necessary regulations, zoning and land use  
12 changes, or take other legislative or administrative action  
13 identified in the implementation progress report and complete all  
14 work necessary for implementation within two years of submission of  
15 the implementation progress report.

16 (10) Any county or city that is required by section 4 of this act  
17 to include in its comprehensive plan a climate change and resiliency  
18 element and that is also required by subsection (5)(a) of this  
19 section to review and, if necessary, revise its comprehensive plan on  
20 or before December 31, 2024, must update its transportation element  
21 and incorporate a climate change and resiliency element into its  
22 comprehensive plan as part of the first implementation progress  
23 report required by subsection (9) of this section if funds are  
24 appropriated and distributed by December 31, 2027, as required under  
25 RCW 36.70A.070(10).

26 NEW SECTION. Sec. 16. A new section is added to chapter 36.70A  
27 RCW to read as follows:

28 (1) Notwithstanding the requirements of RCW 36.70A.070(10), it is  
29 the intent that jurisdictions subject to RCW 36.70A.130(5)(b)  
30 implement the requirements of this act on or before June 30, 2025.  
31 Any funding provided to cover applicable local government costs  
32 related to implementation of this act shall be considered timely.

33 (2) This section expires July 31, 2025.

34 NEW SECTION. Sec. 17. A new section is added to chapter 43.20  
35 RCW to read as follows:

36 (1)(a) Beginning with water system plans initiated after June 30,  
37 2025, the department shall ensure water system plans for group A



1 community public water systems serving 1,000 or more connections  
2 include a climate resilience element at the time of approval.

3 (b) The department must update its water system planning  
4 guidebook to assist water systems in implementing the climate  
5 resilience element, including guidance on any available technical and  
6 financial resources.

7 (c) The department shall provide technical assistance to public  
8 water systems based on their system size, location, and water source,  
9 by providing references to existing state or federal risk management,  
10 climate resiliency, or emergency management and response tools that  
11 may be used to satisfy the climate resilience element.

12 (d) Subject to the availability of amounts appropriated for this  
13 specific purpose, the University of Washington climate impacts group  
14 shall assist the department in the development of tools for the  
15 technical assistance to be provided in (c) of this subsection.

16 (2) To fulfill the requirements of the climate resilience  
17 element, water systems must:

18 (a) Determine which extreme weather events pose significant  
19 challenges to their system and build scenarios to identify potential  
20 impacts;

21 (b) Assess critical assets and the actions necessary to protect  
22 the system from the consequences of extreme weather events on system  
23 operations; and

24 (c) Generate reports describing the costs and benefits of the  
25 system's risk reduction strategies and capital project needs.

26 (3) Climate readiness projects, including planning to meet the  
27 requirements of this section and actions to protect a water system  
28 from extreme weather events, including infrastructure and design  
29 projects, are eligible for financial assistance under RCW  
30 70A.125.180. The department must develop grant and loan eligibility  
31 criteria and consider applications from water systems that identify  
32 climate readiness projects.

33 **Sec. 18.** RCW 70A.125.180 and 2020 c 20 s 1359 are each amended  
34 to read as follows:

35 Subject to the availability of amounts appropriated for this  
36 specific purpose, the department shall provide financial assistance  
37 through a water system acquisition and rehabilitation program, hereby  
38 created. (~~The program shall be jointly administered with the public  
39 works board and the department of commerce.~~) The ((agencies))

1 department shall adopt guidelines for the program using as a model  
2 the procedures and criteria of the drinking water revolving loan  
3 program authorized under RCW 70A.125.160. All financing provided  
4 through the program must be in the form of grants or loans that  
5 partially cover project costs, including projects and planning  
6 required under section 17 of this act. The maximum grant or loan to  
7 any eligible entity may not exceed (~~twenty-five~~) 25 percent of the  
8 funds allocated to the appropriation in any fiscal year.

9 NEW SECTION. **Sec. 19.** If specific funding for the purposes of  
10 this act, referencing this act by bill or chapter number, is not  
11 provided by June 30, 2023, in the omnibus appropriations act, this  
12 act is null and void.

Passed by the House April 13, 2023.  
Passed by the Senate April 7, 2023.  
Approved by the Governor May 3, 2023.  
Filed in Office of Secretary of State May 4, 2023.

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