
HOUSE BILL 1458

State of Washington

67th Legislature

2021 Regular Session

By Representatives Pollet and Duerr

1 AN ACT Relating to amending the growth management act for
2 adaptive planning, affordable housing, and tribal consultation; and
3 amending RCW 36.70A.030, 36.70A.040, 36.70A.080, 36.70A.106,
4 36.70A.110, 36.70A.190, and 36.70A.210.

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

6 **Sec. 1.** RCW 36.70A.030 and 2020 c 173 s 4 are each amended to
7 read as follows:

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

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

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

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

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

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

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

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

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

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

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

37 (9) "Extremely low-income household" means a single person,
38 family, or unrelated persons living together whose adjusted income is
39 at or below thirty percent of the median household income adjusted
40 for household size, for the county where the household is located, as

1 reported by the United States department of housing and urban
2 development.

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

18 (11) "Freight rail dependent uses" means buildings and other
19 infrastructure that are used in the fabrication, processing, storage,
20 and transport of goods where the use is dependent on and makes use of
21 an adjacent short line railroad. Such facilities are both urban and
22 rural development for purposes of this chapter. "Freight rail
23 dependent uses" does not include buildings and other infrastructure
24 that are used in the fabrication, processing, storage, and transport
25 of coal, liquefied natural gas, or "crude oil" as defined in RCW
26 90.56.010.

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

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

37 (14) "Low-income household" means a single person, family, or
38 unrelated persons living together whose adjusted income is at or
39 below eighty percent of the median household income adjusted for
40 household size, for the county where the household is located, as

1 reported by the United States department of housing and urban
2 development.

3 (15) "Minerals" include gravel, sand, and valuable metallic
4 substances.

5 (16) "Permanent supportive housing" is subsidized, leased housing
6 with no limit on length of stay that prioritizes people who need
7 comprehensive support services to retain tenancy and utilizes
8 admissions practices designed to use lower barriers to entry than
9 would be typical for other subsidized or unsubsidized rental housing,
10 especially related to rental history, criminal history, and personal
11 behaviors. Permanent supportive housing is paired with on-site or
12 off-site voluntary services designed to support a person living with
13 a complex and disabling behavioral health or physical health
14 condition who was experiencing homelessness or was at imminent risk
15 of homelessness prior to moving into housing to retain their housing
16 and be a successful tenant in a housing arrangement, improve the
17 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 (17) "Public facilities" include streets, roads, highways,
22 sidewalks, street and road lighting systems, traffic signals,
23 domestic water systems, storm and sanitary sewer systems, parks and
24 recreational facilities, and schools.

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

28 (19) "Recreational land" means land so designated under RCW
29 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 (20) "Rural character" refers to the patterns of land use and
35 development established by a county in the rural element of its
36 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 (21) "Rural development" refers to development outside the urban
13 growth area and outside agricultural, forest, and mineral resource
14 lands designated pursuant to RCW 36.70A.170. Rural development can
15 consist of a variety of uses and residential densities, including
16 clustered residential development, at levels that are consistent with
17 the preservation of rural character and the requirements of the rural
18 element. Rural development does not refer to agriculture or forestry
19 activities that may be conducted in rural areas.

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

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

31 (24) "Tribe" or "tribal government" means a federally recognized
32 Indian tribe whose reservation is located within the exterior
33 boundaries of the state of Washington.

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

1 ~~((25))~~ (26) "Urban growth" refers to growth that makes
2 intensive use of land for the location of buildings, structures, and
3 impermeable surfaces to such a degree as to be incompatible with the
4 primary use of land for the production of food, other agricultural
5 products, or fiber, or the extraction of mineral resources, rural
6 uses, rural development, and natural resource lands designated
7 pursuant to RCW 36.70A.170. A pattern of more intensive rural
8 development, as provided in RCW 36.70A.070(5)(d), is not urban
9 growth. When allowed to spread over wide areas, urban growth
10 typically requires urban governmental services. "Characterized by
11 urban growth" refers to land having urban growth located on it, or to
12 land located in relationship to an area with urban growth on it as to
13 be appropriate for urban growth.

14 ~~((26))~~ (27) "Urban growth areas" means those areas designated
15 by a county pursuant to RCW 36.70A.110.

16 ~~((27))~~ (28) "Very low-income household" means a single person,
17 family, or unrelated persons living together whose adjusted income is
18 at or below fifty percent of the median household income adjusted for
19 household size, for the county where the household is located, as
20 reported by the United States department of housing and urban
21 development.

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

37 **Sec. 2.** RCW 36.70A.040 and 2014 c 147 s 1 are each amended to
38 read as follows:

1 (1) Each county that has both a population of fifty thousand or
2 more and, until May 16, 1995, has had its population increase by more
3 than ten percent in the previous ten years or, on or after May 16,
4 1995, has had its population increase by more than seventeen percent
5 in the previous ten years, and the cities located within such county,
6 and any other county regardless of its population that has had its
7 population increase by more than twenty percent in the previous ten
8 years, and the cities located within such county, shall conform with
9 all of the requirements of this chapter. However, the county
10 legislative authority of such a county with a population of less than
11 fifty thousand population may adopt a resolution removing the county,
12 and the cities located within the county, from the requirements of
13 adopting comprehensive land use plans and development regulations
14 under this chapter if this resolution is adopted and filed with the
15 department by December 31, 1990, for counties initially meeting this
16 set of criteria, or within sixty days of the date the office of
17 financial management certifies that a county meets this set of
18 criteria under subsection (5) of this section. For the purposes of
19 this subsection, a county not currently planning under this chapter
20 is not required to include in its population count those persons
21 confined in a correctional facility under the jurisdiction of the
22 department of corrections that is located in the county.

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

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

38 (b)(i) Until December 31, 2015, the legislative authority of a
39 county may adopt a resolution removing the county and the cities

1 located within the county from the requirements to plan under this
2 section if:

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

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

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

12 (D) The legislative bodies of at least sixty percent of those
13 cities having an aggregate population of at least seventy-five
14 percent of the incorporated county population have not: Adopted
15 resolutions opposing the action by the county; and provided written
16 notification of the resolutions to the county.

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

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

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

26 (c) The adoption of a resolution for partial planning under
27 (b)(i) of this subsection does not nullify or otherwise modify the
28 requirements for counties and cities established in RCW 36.70A.060,
29 36.70A.070(5) and associated development regulations, 36.70A.170, and
30 36.70A.172.

31 (3) Any county or city that is initially required to conform with
32 all of the requirements of this chapter under subsection (1) of this
33 section shall take actions under this chapter as follows: (a) The
34 county legislative authority shall adopt a countywide planning policy
35 under RCW 36.70A.210; (b) the county and each city located within the
36 county shall designate critical areas, agricultural lands,
37 forestlands, and mineral resource lands, and adopt development
38 regulations conserving these designated agricultural lands,
39 forestlands, and mineral resource lands and protecting these
40 designated critical areas, under RCW 36.70A.170 and 36.70A.060; (c)

1 the county shall designate and take other actions related to urban
2 growth areas under RCW 36.70A.110; (~~(and)~~) and (d) if the county
3 has a population of fifty thousand or more, the county and each city
4 located within the county shall adopt a comprehensive plan under this
5 chapter and development regulations that are consistent with and
6 implement the comprehensive plan on or before July 1, 1994, and if
7 the county has a population of less than fifty thousand, the county
8 and each city located within the county shall adopt a comprehensive
9 plan under this chapter and development regulations that are
10 consistent with and implement the comprehensive plan by January 1,
11 1995, but if the governor makes written findings that a county with a
12 population of less than fifty thousand or a city located within such
13 a county is not making reasonable progress toward adopting a
14 comprehensive plan and development regulations the governor may
15 reduce this deadline for such actions to be taken by no more than one
16 hundred eighty days. Any county or city subject to this subsection
17 may obtain an additional six months before it is required to have
18 adopted its development regulations by submitting a letter notifying
19 the department of its need prior to the deadline for adopting both a
20 comprehensive plan and development regulations.

21 (4) Any county or city that is required to conform with all the
22 requirements of this chapter, as a result of the county legislative
23 authority adopting its resolution of intention under subsection (2)
24 of this section, shall take actions under this chapter as follows:

25 (a) The county legislative authority shall adopt a countywide
26 planning policy under RCW 36.70A.210; (b) the county and each city
27 that is located within the county shall adopt development regulations
28 conserving agricultural lands, forestlands, and mineral resource
29 lands it designated under RCW 36.70A.060 within one year of the date
30 the county legislative authority adopts its resolution of intention;

31 (c) the county shall designate and take other actions related to
32 urban growth areas under RCW 36.70A.110; and (d) the county and each
33 city that is located within the county shall adopt a comprehensive
34 plan and development regulations that are consistent with and
35 implement the comprehensive plan not later than four years from the
36 date the county legislative authority adopts its resolution of
37 intention, but a county or city may obtain an additional six months
38 before it is required to have adopted its development regulations by
39 submitting a letter notifying the department of its need prior to the

1 deadline for adopting both a comprehensive plan and development
2 regulations.

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

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

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

33 (8) An Indian tribe may voluntarily choose to participate in the
34 county or regional planning process and coordinate with the county
35 and cities that are either required to comply with the provisions of
36 this chapter pursuant to subsection (1) of this section or
37 voluntarily choose to comply with the provisions of this chapter
38 pursuant to subsection (2) of this section.

39 (a) Upon receipt of notice in the form of a tribal resolution
40 from a tribe whose reservation or ceded lands lie within the county,

1 which indicates the tribe has a planning process or intends to
2 initiate a parallel planning process, the county, cities and other
3 local governments conducting the planning under this chapter shall
4 enter into an agreement with such tribes in regard to coordination,
5 cooperation, and participation in the planning process.

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

11 **Sec. 3.** RCW 36.70A.080 and 2011 c 318 s 801 are each amended to
12 read as follows:

13 (1) A comprehensive plan may include additional elements, items,
14 or studies dealing with other subjects relating to the physical
15 development within its jurisdiction, including, but not limited to:

16 (a) Conservation;

17 (b) Solar energy; ~~((and))~~

18 (c) Recreation; and

19 (d) Port container elements. When including port container
20 elements, a city shall collaborate with the federally recognized
21 Indian tribe whose reservation is located within or adjacent to the
22 lands subject to the port container element.

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

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

28 (b) For purposes of this subsection, the terms "receiving city"
29 and "receiving area" have the same meanings as provided in RCW
30 39.108.010.

31 **Sec. 4.** RCW 36.70A.106 and 2004 c 197 s 1 are each amended to
32 read as follows:

33 (1) Each county and city proposing adoption of a comprehensive
34 plan or development regulations under this chapter shall notify the
35 department of its intent to adopt such plan or regulations at least
36 sixty days prior to final adoption. State agencies including the
37 department may provide comments to the county or city on the proposed

1 comprehensive plan, or proposed development regulations, during the
2 public review process prior to adoption.

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

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

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

26 (c) Tribes may request to receive from the department copies of
27 notices received from cities or counties under this section. Upon
28 receipt of a submittal from a city or county under this section, the
29 department shall forward the submittal to any tribe that has
30 requested notification.

31 **Sec. 5.** RCW 36.70A.110 and 2017 c 305 s 1 are each amended to
32 read as follows:

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

1 territory already is characterized by urban growth whether or not the
2 urban growth area includes a city, or is adjacent to territory
3 already characterized by urban growth, or is a designated new fully
4 contained community as defined by RCW 36.70A.350. When an Indian
5 tribe has voluntarily chosen to participate in the planning process
6 pursuant to RCW 36.70A.040, the county and the tribe shall coordinate
7 their planning efforts for any areas planned for urban growth.

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

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

31 Within one year of July 1, 1990, each county that as of June 1,
32 1991, was required or chose to plan under RCW 36.70A.040, shall begin
33 consulting with each city located within its boundaries and each city
34 shall propose the location of an urban growth area. Within sixty days
35 of the date the county legislative authority of a county adopts its
36 resolution of intention or of certification by the office of
37 financial management, all other counties that are required or choose
38 to plan under RCW 36.70A.040 shall begin this consultation with each
39 city located within its boundaries. The county shall attempt to reach
40 agreement with each city on the location of an urban growth area

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

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

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

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

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

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

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

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

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

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

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

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

22 (iii) Urban growth area expansions where:

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

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

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

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

39 (II) The development and use of such facilities or projects will
40 not decrease flood storage, increase stormwater runoff, discharge

1 pollutants to fresh or salt waters during normal operations or
2 floods, or increase hazards to people and property.

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

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

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

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

18 (iii) Have no redevelopment capacity; or

19 (b) Do not require sewer service because development densities
20 are limited due to wetlands, flood plains, fish and wildlife
21 habitats, or geological hazards.

22 **Sec. 6.** RCW 36.70A.190 and 1991 sp.s. c 32 s 3 are each amended
23 to read as follows:

24 (1) The department shall establish a program of technical and
25 financial assistance and incentives to counties and cities to
26 encourage and facilitate the adoption and implementation of
27 comprehensive plans and development regulations throughout the state.

28 (2) The department shall develop a priority list and establish
29 funding levels for planning and technical assistance grants both for
30 counties and cities that plan under RCW 36.70A.040. Priority for
31 assistance shall be based on a county's or city's population growth
32 rates, commercial and industrial development rates, the existence and
33 quality of a comprehensive plan and development regulations, and
34 other relevant factors.

35 (3) The department shall develop and administer a grant program
36 to provide direct financial assistance to counties and cities for the
37 preparation of comprehensive plans under this chapter. The department
38 may establish provisions for county and city matching funds to
39 conduct activities under this subsection. Grants may be expended for

1 any purpose directly related to the preparation of a county or city
2 comprehensive plan as the county or city and the department may
3 agree, including, without limitation, the conducting of surveys,
4 inventories and other data gathering and management activities, the
5 retention of planning consultants, contracts with regional councils
6 for planning and related services, and other related purposes.

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

9 (a) Utilizing department staff, the staff of other state
10 agencies, and the technical resources of counties and cities to help
11 in the development of comprehensive plans required under this
12 chapter. The technical assistance may include, but not be limited to,
13 model land use ordinances, regional education and training programs,
14 and information for local and regional inventories; and

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

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

25 (6) A federally recognized Indian tribe whose reservation is
26 located within the boundaries of Washington state may formally
27 request the department to enter into formal government-to-government
28 consultation with the tribe regarding the tribe's concerns that the
29 proposed plan or any amendment to the county's plan may directly or
30 indirectly injure rights reserved to the tribe under treaties,
31 statutes, or federal trust obligations regarding lands or activities
32 within the reservation of such tribe or rights reserved to the tribe
33 in regard to lands ceded under a treaty. The department shall include
34 in comments to the county during the comment period a summary and
35 supporting materials regarding the tribe's concerns and an offer to
36 assist in providing formal mediation or dispute resolution prior to
37 adoption of the proposed plan. If the department receives formal
38 notice of a tribe's objections to a county's adopted plan or
39 amendment within 30 days of the department receiving notice of final
40 adoption pursuant to RCW 37.70A.106(2), the department shall enter

1 into formal government-to-government consultation with the tribe for
2 a period of 60 days. If the department determines that tribal rights
3 under relevant treaties, statutes, or trust responsibilities will be
4 diminished or violated, the department shall notify the county. Upon
5 receipt of such notice, the county may either agree to amend the plan
6 as requested consistent with the comments of the department, or enter
7 mediation with the tribe, which shall be arranged by the department
8 utilizing a suitable expert to be paid by the department. If a county
9 does not amend the plan or enter into mediation in good faith, the
10 department may disapprove the relevant provisions of the county's
11 plan and withhold grant funds as otherwise provided by this chapter.
12 A county may appeal such disapproval to the growth management
13 hearings board.

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

16 **Sec. 7.** RCW 36.70A.210 and 2009 c 121 s 2 are each amended to
17 read as follows:

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

28 (2) The legislative authority of a county that plans under RCW
29 36.70A.040 shall adopt a countywide planning policy in cooperation
30 with the cities located in whole or in part within the county as
31 follows:

32 (a) No later than sixty calendar days from July 16, 1991, the
33 legislative authority of each county that as of June 1, 1991, was
34 required or chose to plan under RCW 36.70A.040 shall convene a
35 meeting with representatives of each city located within the county
36 for the purpose of establishing a collaborative process that will
37 provide a framework for the adoption of a countywide planning policy.
38 In other counties that are required or choose to plan under RCW
39 36.70A.040, this meeting shall be convened no later than sixty days

1 after the date the county adopts its resolution of intention or was
2 certified by the office of financial management.

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

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

14 (d) If there is no agreement by October 1, 1991, in a county that
15 was required or chose to plan under RCW 36.70A.040 as of June 1,
16 1991, or if there is no agreement within one hundred twenty days of
17 the date the county adopted its resolution of intention or was
18 certified by the office of financial management in any other county
19 that is required or chooses to plan under RCW 36.70A.040, the
20 governor shall first inquire of the jurisdictions as to the reason or
21 reasons for failure to reach an agreement. If the governor deems it
22 appropriate, the governor may immediately request the assistance of
23 the department of ~~((community, trade, and economic development))~~
24 commerce to mediate any disputes that preclude agreement. If
25 mediation is unsuccessful in resolving all disputes that will lead to
26 agreement, the governor may impose appropriate sanctions from those
27 specified under RCW 36.70A.340 on the county, city, or cities for
28 failure to reach an agreement as provided in this section. The
29 governor shall specify the reason or reasons for the imposition of
30 any sanction.

31 (e) No later than July 1, 1992, the legislative authority of each
32 county that was required or chose to plan under RCW 36.70A.040 as of
33 June 1, 1991, or no later than fourteen months after the date the
34 county adopted its resolution of intention or was certified by the
35 office of financial management the county legislative authority of
36 any other county that is required or chooses to plan under RCW
37 36.70A.040, shall adopt a countywide planning policy according to the
38 process provided under this section and that is consistent with the
39 agreement pursuant to (b) of this subsection, and after holding a

1 public hearing or hearings on the proposed countywide planning
2 policy.

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

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

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

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

11 (d) Policies for countywide transportation facilities and
12 strategies;

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

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

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

21 (h) An analysis of the fiscal impact.

22 (4) Federal agencies and Indian tribes (~~may~~) shall be invited
23 to participate in and cooperate with the countywide planning policy
24 adoption process. Adopted countywide planning policies shall be
25 adhered to by state agencies.

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

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

37 (7) Multicounty planning policies shall be adopted by two or more
38 counties, each with a population of four hundred fifty thousand or
39 more, with contiguous urban areas and may be adopted by other
40 counties, according to the process established under this section or

1 other processes agreed to among the counties and cities within the
2 affected counties throughout the multicounty region.

--- **END** ---