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HOUSE BILL 2451

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State of Washington

68th Legislature

2024 Regular Session

By Representatives Hutchins and Barkis

1 AN ACT Relating to increasing the consistency and transparency of  
2 impact fees; amending RCW 82.02.050, 82.02.070, 43.31.980,  
3 36.70A.070, and 64.06.070; and adding a new section to chapter 64.06  
4 RCW.

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

6 **Sec. 1.** RCW 82.02.050 and 2015 c 241 s 1 are each amended to  
7 read as follows:

8 (1) It is the intent of the legislature:

9 (a) To ensure that adequate facilities are available to serve new  
10 growth and development;

11 (b) To promote orderly growth and development by establishing  
12 standards by which counties, cities, and towns may require, by  
13 ordinance, that new growth and development pay a proportionate share  
14 of the cost of new facilities needed to serve new growth and  
15 development; and

16 (c) To ensure that impact fees are imposed through established  
17 procedures and criteria so that specific developments do not pay  
18 arbitrary fees or duplicative fees for the same impact.

19 (2) Counties, cities, and towns that are required or choose to  
20 plan under RCW 36.70A.040 are authorized to impose impact fees on  
21 development activity as part of the financing for public facilities,

1 provided that the financing for system improvements to serve new  
2 development must provide for a balance between impact fees and other  
3 sources of public funds and cannot rely solely on impact fees.

4 (3)(a)(i) Counties, cities, and towns collecting impact fees  
5 must, by September 1, 2016, adopt and maintain a system for the  
6 deferred collection of impact fees for single-family detached and  
7 attached residential construction. The deferral system must include a  
8 process by which an applicant for a building permit for a single-  
9 family detached or attached residence may request a deferral of the  
10 full impact fee payment. The deferral system offered by a county,  
11 city, or town under this subsection (3) must include one or more of  
12 the following options:

13 (A) Deferring collection of the impact fee payment until final  
14 inspection;

15 (B) Deferring collection of the impact fee payment until  
16 certificate of occupancy or equivalent certification; or

17 (C) Deferring collection of the impact fee payment until the time  
18 of closing of the first sale of the property occurring after the  
19 issuance of the applicable building permit.

20 (ii) Counties, cities, and towns utilizing the deferral process  
21 required by this subsection (3)(a) may withhold certification of  
22 final inspection, certificate of occupancy, or equivalent  
23 certification until the impact fees have been paid in full.

24 (iii) The amount of impact fees that may be deferred under this  
25 subsection (3) must be determined by the fees in effect at the time  
26 the applicant applies for a deferral.

27 (iv) Unless an agreement to the contrary is reached between the  
28 buyer and seller, the payment of impact fees due at closing of a sale  
29 must be made from the seller's proceeds. In the absence of an  
30 agreement to the contrary, the seller bears strict liability for the  
31 payment of the impact fees.

32 (b) The term of an impact fee deferral under this subsection (3)  
33 may not exceed eighteen months from the date of building permit  
34 issuance.

35 (c) Except as may otherwise be authorized in accordance with (f)  
36 of this subsection (3), an applicant seeking a deferral under this  
37 subsection (3) must grant and record a deferred impact fee lien  
38 against the property in favor of the county, city, or town in the  
39 amount of the deferred impact fee. The deferred impact fee lien,

1 which must include the legal description, tax account number, and  
2 address of the property, must also be:

3 (i) In a form approved by the county, city, or town;

4 (ii) Signed by all owners of the property, with all signatures  
5 acknowledged as required for a deed, and recorded in the county where  
6 the property is located;

7 (iii) Binding on all successors in title after the recordation;  
8 and

9 (iv) Junior and subordinate to one mortgage for the purpose of  
10 construction upon the same real property granted by the person who  
11 applied for the deferral of impact fees.

12 (d)(i) If impact fees are not paid in accordance with a deferral  
13 authorized by this subsection (3), and in accordance with the term  
14 provisions established in (b) of this subsection (3), the county,  
15 city, or town may institute foreclosure proceedings in accordance  
16 with chapter 61.12 RCW.

17 (ii) If the county, city, or town does not institute foreclosure  
18 proceedings for unpaid school impact fees within forty-five days  
19 after receiving notice from a school district requesting that it do  
20 so, the district may institute foreclosure proceedings with respect  
21 to the unpaid impact fees.

22 (e)(i) Upon receipt of final payment of all deferred impact fees  
23 for a property, the county, city, or town must execute a release of  
24 deferred impact fee lien for the property. The property owner at the  
25 time of the release, at his or her expense, is responsible for  
26 recording the lien release.

27 (ii) The extinguishment of a deferred impact fee lien by the  
28 foreclosure of a lien having priority does not affect the obligation  
29 to pay the impact fees as a condition of final inspection,  
30 certificate of occupancy, or equivalent certification, or at the time  
31 of closing of the first sale.

32 (f) A county, city, or town with an impact fee deferral process  
33 on or before April 1, 2015, is exempt from the requirements of this  
34 subsection (3) if the deferral process delays all impact fees and  
35 remains in effect after September 1, 2016.

36 (g)(i) Each applicant for a single-family residential  
37 construction permit, in accordance with his or her contractor  
38 registration number or other unique identification number, is  
39 entitled to annually receive deferrals under this subsection (3) for  
40 the first twenty single-family residential construction building

1 permits per county, city, or town. A county, city, or town, however,  
2 may elect, by ordinance, to defer more than twenty single-family  
3 residential construction building permits for an applicant. If the  
4 county, city, or town collects impact fees on behalf of one or more  
5 school districts for which the collection of impact fees could be  
6 delayed, the county, city, or town must consult with the district or  
7 districts about the additional deferrals. A county, city, or town  
8 considering additional deferrals must give substantial weight to  
9 recommendations of each applicable school district regarding the  
10 number of additional deferrals. If the county, city, or town  
11 disagrees with the recommendations of one or more school districts,  
12 the county, city, or town must provide the district or districts with  
13 a written rationale for its decision.

14 (ii) For purposes of this subsection (3)(g), an "applicant"  
15 includes an entity that controls the applicant, is controlled by the  
16 applicant, or is under common control with the applicant.

17 (h) Counties, cities, and towns may collect reasonable  
18 administrative fees to implement this subsection (3) from permit  
19 applicants who are seeking to delay the payment of impact fees under  
20 this subsection (3).

21 (i) In accordance with RCW (~~44.28.812~~ and) 43.31.980, counties,  
22 cities, and towns must cooperate with and provide requested data,  
23 materials, and assistance to the department of commerce and the joint  
24 legislative audit and review committee.

25 (4) The impact fees:

26 (a) Shall only be imposed for system improvements that are  
27 reasonably related to the new development;

28 (b) Shall not exceed a proportionate share of the costs of system  
29 improvements that are reasonably related to the new development; and

30 (c) Shall be used for system improvements that will reasonably  
31 benefit the new development.

32 (5)(a) Impact fees may be collected and spent only for the public  
33 facilities defined in RCW 82.02.090 which are addressed by a capital  
34 facilities plan element of a comprehensive land use plan adopted  
35 pursuant to the provisions of RCW 36.70A.070 or the provisions for  
36 comprehensive plan adoption contained in chapter 36.70, 35.63, or  
37 35A.63 RCW. After the date a county, city, or town is required to  
38 adopt its development regulations under chapter 36.70A RCW, continued  
39 authorization to collect and expend impact fees is contingent on the  
40 county, city, or town adopting or revising a comprehensive plan in

1 compliance with RCW 36.70A.070, and on the capital facilities plan  
2 identifying:

3 (i) Deficiencies in public facilities serving existing  
4 development and the means by which existing deficiencies will be  
5 eliminated within a reasonable period of time;

6 (ii) Additional demands placed on existing public facilities by  
7 new development; and

8 (iii) Additional public facility improvements required to serve  
9 new development.

10 (b) If the capital facilities plan of the county, city, or town  
11 is complete other than for the inclusion of those elements which are  
12 the responsibility of a special district, the county, city, or town  
13 may impose impact fees to address those public facility needs for  
14 which the county, city, or town is responsible.

15 (6) Any update or amendment to an impact fee schedule adopted  
16 pursuant to RCW 82.02.060 may not increase the impact fee imposed by  
17 the schedule by a percentage greater than the percentage increase in  
18 the consumer price index in the time since the schedule was last  
19 adopted, updated, or amended. For purposes of this subsection,  
20 "consumer price index" means the average consumer price index for the  
21 most recent 12-month period, Seattle, Washington area, for urban wage  
22 earners and clerical workers, all items, compiled by the bureau of  
23 labor and statistics, United States department of labor.

24 **Sec. 2.** RCW 82.02.070 and 2011 c 353 s 8 are each amended to  
25 read as follows:

26 (1) Impact fee receipts shall be earmarked specifically and  
27 retained in special interest-bearing accounts. Separate accounts  
28 shall be established for each type of public facility for which  
29 impact fees are collected. All interest shall be retained in the  
30 account and expended for the purpose or purposes for which the impact  
31 fees were imposed. ~~((Annually))~~ By July 1st of each year, each  
32 county, city, or town imposing impact fees shall provide a report to  
33 the department of commerce on each impact fee account showing the  
34 source and amount of all moneys collected, earned, or received and  
35 system improvements that were financed in whole or in part by impact  
36 fees over the prior calendar year. The department of commerce must  
37 produce an annual report by December 1st of each year compiling the  
38 information received from jurisdictions imposing impact fees.

1 (2) Impact fees for system improvements shall be expended only in  
2 conformance with the capital facilities plan element of the  
3 comprehensive plan.

4 (3) (a) Except as provided otherwise by (b) of this subsection,  
5 impact fees shall be expended or encumbered for a permissible use  
6 within ten years of receipt, unless there exists an extraordinary and  
7 compelling reason for fees to be held longer than ten years. Such  
8 extraordinary or compelling reasons shall be identified in written  
9 findings by the governing body of the county, city, or town.

10 (b) School impact fees must be expended or encumbered for a  
11 permissible use within ten years of receipt, unless there exists an  
12 extraordinary and compelling reason for fees to be held longer than  
13 ten years. Such extraordinary or compelling reasons shall be  
14 identified in written findings by the governing body of the county,  
15 city, or town.

16 (4) Impact fees may be paid under protest in order to obtain a  
17 permit or other approval of development activity.

18 (5) Each county, city, or town that imposes impact fees shall  
19 provide for an administrative appeals process for the appeal of an  
20 impact fee; the process may follow the appeal process for the  
21 underlying development approval or the county, city, or town may  
22 establish a separate appeals process. The impact fee may be modified  
23 upon a determination that it is proper to do so based on principles  
24 of fairness. The county, city, or town may provide for the resolution  
25 of disputes regarding impact fees by arbitration.

26 **Sec. 3.** RCW 43.31.980 and 2015 c 241 s 4 are each amended to  
27 read as follows:

28 (1) Beginning December 1, 2018, and each year thereafter, the  
29 department of commerce must prepare an annual report on the impact  
30 fee deferral process established in RCW 82.02.050(3). The report must  
31 include: (a) The number of deferrals requested of and issued by  
32 counties, cities, and towns; (b) the number of deferrals that were  
33 not fully and timely paid; and (c) other information as deemed  
34 appropriate.

35 (2) The department of commerce must also compile an annual report  
36 by December 1st of each year compiling the information it has  
37 received under RCW 82.02.070 from each jurisdiction imposing impact  
38 fees.

1       (3) The reports required by this section must, in accordance with  
2 RCW 43.01.036, be submitted to the appropriate committees of the  
3 house of representatives and the senate.

4       **Sec. 4.** RCW 36.70A.070 and 2023 c 228 s 3 are each amended to  
5 read as follows:

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

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

1 council or developing building and maintenance standards consistent  
2 with the firewise USA program or similar program designed to reduce  
3 wildfire risk, reducing wildfire risks to residential development in  
4 high risk areas and the wildland urban interface area, separating  
5 human development from wildfire prone landscapes, and protecting  
6 existing residential development and infrastructure through community  
7 wildfire preparedness and fire adaptation measures.

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

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

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

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

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

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

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

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

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

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



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

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

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

7 (ii) Disinvestment; and

8 (iii) Infrastructure availability;

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

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

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

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

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

38 (3) A capital facilities plan element consisting of: (a) An  
39 inventory of existing capital facilities owned by public entities,  
40 including green infrastructure, showing the locations and capacities

1 of the capital facilities; (b) a forecast of the future needs for  
2 such capital facilities; (c) the proposed locations and capacities of  
3 expanded or new capital facilities; (d) at least a six-year plan that  
4 will finance such capital facilities within projected funding  
5 capacities and clearly identifies sources of public money for such  
6 purposes, including the intended use to which any impact fees imposed  
7 pursuant to RCW 82.02.050 will be put; and (e) a requirement to  
8 reassess the land use element if probable funding falls short of  
9 meeting existing needs and to ensure that the land use element,  
10 capital facilities plan element, and financing plan within the  
11 capital facilities plan element are coordinated and consistent. Park  
12 and recreation facilities shall be included in the capital facilities  
13 plan element.

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

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

30 (b) The county or city shall identify all public entities that  
31 own utility systems and endeavor in good faith to work with other  
32 public entities, such as special purpose districts, to gather and  
33 include within its utilities element the information required in (a)  
34 of this subsection. However, if, after a good faith effort, the  
35 county or city is unable to gather the information required in (a) of  
36 this subsection from the other public entities, the failure to  
37 include such information in the utilities element shall not be  
38 grounds for a finding of noncompliance or invalidity under chapter  
39 228, Laws of 2023. A good faith effort must, at a minimum, include

1 consulting the public entity's capital facility or system plans, and  
2 emailing and calling the staff of the public entity.

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

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

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

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

26 (i) Containing or otherwise controlling rural development;

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

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

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

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

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

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

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

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

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

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

29 (II) Any included retail or food service space must not exceed  
30 2,500 square feet for a new use;

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

1 (iii) The intensification of development on lots containing  
2 isolated nonresidential uses or new development of isolated cottage  
3 industries and isolated small-scale businesses that are not  
4 principally designed to serve the existing and projected rural  
5 population and nonresidential uses, but do provide job opportunities  
6 for rural residents. Rural counties may allow the expansion of small-  
7 scale businesses as long as those small-scale businesses conform with  
8 the rural character of the area as defined by the local government  
9 according to RCW 36.70A.030(~~((+23))~~) (35). Rural counties may also  
10 allow new small-scale businesses to utilize a site previously  
11 occupied by an existing business as long as the new small-scale  
12 business conforms to the rural character of the area as defined by  
13 the local government according to RCW 36.70A.030(~~((+23))~~) (35). Public  
14 services and public facilities shall be limited to those necessary to  
15 serve the isolated nonresidential use and shall be provided in a  
16 manner that does not permit low-density sprawl;

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

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

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

38 (B) On the date the county adopted a resolution under RCW  
39 36.70A.040(2), in a county that is planning under all of the  
40 provisions of this chapter under RCW 36.70A.040(2); or

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

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

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

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

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

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

19 (iii) Facilities and services needs, including:

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

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

35 (C) For state-owned transportation facilities, multimodal level  
36 of service standards for highways, as prescribed in chapters 47.06  
37 and 47.80 RCW, to gauge the performance of the system. The purposes  
38 of reflecting multimodal level of service standards for state  
39 highways in the local comprehensive plan are to monitor the  
40 performance of the system, to evaluate improvement strategies, and to

1 facilitate coordination between the county's or city's six-year  
2 street, road, active transportation, or transit program and the  
3 office of financial management's ten-year investment program. The  
4 concurrency requirements of (b) of this subsection do not apply to  
5 transportation facilities and services of statewide significance  
6 except for counties consisting of islands whose only connection to  
7 the mainland are state highways or ferry routes. In these island  
8 counties, state highways and ferry route capacity must be a factor in  
9 meeting the concurrency requirements in (b) of this subsection;

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

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

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

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

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

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

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

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

8 (iv) Finance, including:

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

11 (B) A multiyear financing plan based on the needs identified in  
12 the comprehensive plan, the appropriate parts of which shall serve as  
13 the basis for the six-year street, road, or transit program required  
14 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW  
15 35.58.2795 for public transportation systems. The multiyear financing  
16 plan should be coordinated with the ten-year investment program  
17 developed by the office of financial management as required by RCW  
18 47.05.030;

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

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

27 (vi) Demand-management strategies;

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

32 (b) After adoption of the comprehensive plan by jurisdictions  
33 required to plan or who choose to plan under RCW 36.70A.040, local  
34 jurisdictions must adopt and enforce ordinances which prohibit  
35 development approval if the development causes the level of service  
36 on a locally owned or locally or regionally operated transportation  
37 facility to decline below the standards adopted in the transportation  
38 element of the comprehensive plan, unless transportation improvements  
39 or strategies to accommodate the impacts of development are made  
40 concurrent with the development. These strategies may include active



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

19 (c) The transportation element described in this subsection (6),  
20 the six-year plans required by RCW 35.77.010 for cities, RCW  
21 36.81.121 for counties, and RCW 35.58.2795 for public transportation  
22 systems, and the ten-year investment program required by RCW  
23 47.05.030 for the state, must be consistent.

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

29 (8) A park and recreation element that implements, and is  
30 consistent with, the capital facilities plan element as it relates to  
31 park and recreation facilities. The element shall include: (a)  
32 Estimates of park and recreation demand for at least a ten-year  
33 period; (b) an evaluation of facilities and service needs; (c) an  
34 evaluation of tree canopy coverage within the urban growth area; and  
35 (d) an evaluation of intergovernmental coordination opportunities to  
36 provide regional approaches for meeting park and 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 RCW 36.70A.095 and is encouraged for all  
10 other jurisdictions, including those planning under RCW 36.70A.040  
11 and those planning under chapter 36.70 RCW. The resiliency subelement  
12 of the climate change and resiliency element is mandatory for all  
13 jurisdictions planning under RCW 36.70A.040 and is encouraged for  
14 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 RCW 70A.45.120 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 RCW 70A.45.120 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 RCW 70A.45.120 are not subject to administrative or judicial  
34 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. 5.** A new section is added to chapter 64.06  
4 RCW to read as follows:

5 (1) A seller of improved residential real property who has paid  
6 an impact fee imposed pursuant to RCW 82.02.050 related to the  
7 property shall disclose to the buyer the amount of the impact fee  
8 that was paid and the local government to which the fee was paid.

9 (2) A seller's failure to provide the information required in  
10 this section does not give rise to any new right or remedy for the  
11 buyer of the property.

12 **Sec. 6.** RCW 64.06.070 and 2010 c 64 s 7 are each amended to read  
13 as follows:

14 Except as provided in RCW 64.06.050 and in section 5 of this act,  
15 nothing in this chapter shall extinguish or impair any rights or  
16 remedies of a buyer of real estate against the seller or against any  
17 agent acting for the seller otherwise existing pursuant to common  
18 law, statute, or contract; nor shall anything in this chapter create  
19 any new right or remedy for a buyer of real property other than the  
20 right of rescission exercised on the basis and within the time limits  
21 provided in this chapter.

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