

**E2SHB 1099** - CONF REPT  
By Conference Committee

**SENATE ADOPTED 03/10/2022**

1 Strike everything after the enacting clause and insert the  
2 following:

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

5 The following goals are adopted to guide the development and  
6 adoption of comprehensive plans and development regulations of those  
7 counties and cities that are required or choose to plan under RCW  
8 36.70A.040 and, where specified, also guide the development of  
9 regional policies, plans, and strategies adopted under RCW 36.70A.210  
10 and chapter 47.80 RCW. The following goals are not listed in order of  
11 priority and shall be used exclusively for the purpose of guiding the  
12 development of comprehensive plans (~~and~~), development regulations,  
13 and, where specified, regional plans, policies, and strategies:

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

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

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

23 (4) Housing. Plan for and accommodate housing affordable to all  
24 economic segments of the population of this state, promote a variety  
25 of residential densities and housing types, and encourage  
26 preservation of existing housing stock.

27 (5) Economic development. Encourage economic development  
28 throughout the state that is consistent with adopted comprehensive  
29 plans, promote economic opportunity for all citizens of this state,  
30 especially for unemployed and for disadvantaged persons, promote the  
31 retention and expansion of existing businesses and recruitment of new  
32 businesses, recognize regional differences impacting economic

1 development opportunities, and encourage growth in areas experiencing  
2 insufficient economic growth, all within the capacities of the  
3 state's natural resources, public services, and public facilities.

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

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

11 (8) Natural resource industries. Maintain and enhance natural  
12 resource-based industries, including productive timber, agricultural,  
13 and fisheries industries. Encourage the conservation of productive  
14 forestlands and productive agricultural lands, and discourage  
15 incompatible uses.

16 (9) Open space and recreation. Retain open space and greenspace,  
17 enhance recreational opportunities, (~~conserve~~) enhance fish and  
18 wildlife habitat, increase access to natural resource lands and  
19 water, and develop parks and recreation facilities.

20 (10) Environment. Protect and enhance the environment and enhance  
21 the state's high quality of life, including air and water quality,  
22 and the availability of water.

23 (11) Citizen participation and coordination. Encourage the  
24 involvement of citizens in the planning process, including the  
25 participation of vulnerable populations and overburdened communities,  
26 and ensure coordination between communities and jurisdictions to  
27 reconcile conflicts.

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

33 (13) Historic preservation. Identify and encourage the  
34 preservation of lands, sites, and structures, that have historical or  
35 archaeological significance.

36 (14) Climate change and resiliency. Ensure that comprehensive  
37 plans, development regulations, and regional policies, plans, and  
38 strategies under RCW 36.70A.210 and chapter 47.80 RCW adapt to and  
39 mitigate the effects of a changing climate, support reductions in  
40 greenhouse gas emissions and per capita vehicle miles traveled,

1 prepare for climate impact scenarios, foster resiliency to climate  
2 impacts and natural hazards, protect and enhance environmental,  
3 economic, and human health and safety, and advance environmental  
4 justice.

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

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

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

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

27 (b) Except as otherwise provided in (c) of this subsection,  
28 development regulations adopted under this chapter to protect  
29 critical areas within shorelines of the state apply within shorelines  
30 of the state until the department of ecology approves one of the  
31 following: A comprehensive master program update, as defined in RCW  
32 90.58.030; a segment of a master program relating to critical areas,  
33 as provided in RCW 90.58.090; or a new or amended master program  
34 approved by the department of ecology on or after March 1, 2002, as  
35 provided in RCW 90.58.080. The adoption or update of development  
36 regulations to protect critical areas under this chapter prior to  
37 department of ecology approval of a master program update as provided  
38 in this subsection is not a comprehensive or segment update to the  
39 master program.

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

14 (ii) For purposes of this subsection (3)(c), an agricultural  
15 activity that does not expand the area being used for the  
16 agricultural activity is not a redevelopment or modification.  
17 "Agricultural activity," as used in this subsection (3)(c), has the  
18 same meaning as defined in RCW 90.58.065.

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

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

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

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

7 (6) If a local jurisdiction's master program does not include  
8 land necessary for buffers for critical areas that occur within  
9 shorelines of the state, as authorized by RCW 90.58.030(2)(~~((f))~~)  
10 (d), then the local jurisdiction shall continue to regulate those  
11 critical areas and their required buffers pursuant to RCW  
12 36.70A.060(2).

13 **Sec. 3.** RCW 36.70A.070 and 2021 c 254 s 2 are each amended to  
14 read as follows:

15 The comprehensive plan of a county or city that is required or  
16 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,  
17 and descriptive text covering objectives, principles, and standards  
18 used to develop the comprehensive plan. The plan shall be an  
19 internally consistent document and all elements shall be consistent  
20 with the future land use map. A comprehensive plan shall be adopted  
21 and amended with public participation as provided in RCW 36.70A.140.  
22 Each comprehensive plan shall include a plan, scheme, or design for  
23 each of the following:

24 (1) A land use element designating the proposed general  
25 distribution and general location and extent of the uses of land,  
26 where appropriate, for agriculture, timber production, housing,  
27 commerce, industry, recreation, open spaces and greenspaces, general  
28 aviation airports, public utilities, public facilities, and other  
29 land uses. The land use element shall include population densities,  
30 building intensities, and estimates of future population growth. The  
31 land use element shall provide for protection of the quality and  
32 quantity of groundwater used for public water supplies. The land use  
33 element must give special consideration to achieving environmental  
34 justice in its goals and policies, including efforts to avoid  
35 creating or worsening environmental health disparities. Wherever  
36 possible, the land use element should consider utilizing urban  
37 planning approaches that promote physical activity and reduce per  
38 capita vehicle miles traveled within the jurisdiction, but without  
39 increasing greenhouse gas emissions elsewhere in the state. Where

1 applicable, the land use element shall review drainage, flooding, and  
2 stormwater runoff in the area and nearby jurisdictions and provide  
3 guidance for corrective actions to mitigate or cleanse those  
4 discharges that pollute waters of the state, including Puget Sound or  
5 waters entering Puget Sound. The land use element must reduce and  
6 mitigate the risk to lives and property posed by wildfires by using  
7 land use planning tools, which may include, but are not limited to,  
8 reducing residential development pressure in the wildland urban  
9 interface area, creating open space buffers between human development  
10 and wildfire-prone landscapes, and protecting existing residential  
11 development through community wildfire preparedness and fire  
12 adaptation measures.

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

15 (a) Includes an inventory and analysis of existing and projected  
16 housing needs that identifies the number of housing units necessary  
17 to manage projected growth, as provided by the department of  
18 commerce, including:

19 (i) Units for moderate, low, very low, and extremely low-income  
20 households; and

21 (ii) Emergency housing, emergency shelters, and permanent  
22 supportive housing;

23 (b) Includes a statement of goals, policies, objectives, and  
24 mandatory provisions for the preservation, improvement, and  
25 development of housing, including single-family residences, and  
26 within an urban growth area boundary, moderate density housing  
27 options including ~~((+,+))~~, but not limited to, duplexes, triplexes,  
28 and townhomes;

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

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

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

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

4 (iii) Consideration of housing locations in relation to  
5 employment location; and

6 (iv) Consideration of the role of accessory dwelling units in  
7 meeting housing needs;

8 (e) Identifies local policies and regulations that result in  
9 racially disparate impacts, displacement, and exclusion in housing,  
10 including:

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

12 (ii) Disinvestment; and

13 (iii) Infrastructure availability;

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

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

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

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

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

1 purposes; and (e) a requirement to reassess the land use element if  
2 probable funding falls short of meeting existing needs and to ensure  
3 that the land use element, capital facilities plan element, and  
4 financing plan within the capital facilities plan element are  
5 coordinated and consistent. Park and recreation facilities shall be  
6 included in the capital facilities plan element.

7 (4) A utilities element consisting of the general location,  
8 proposed location, and capacity of all existing and proposed  
9 utilities, including, but not limited to, components of drinking  
10 water, stormwater, wastewater, electrical (~~(lines)~~),  
11 telecommunications (~~(lines)~~), and natural gas (~~(lines)~~) systems.

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

16 (a) Growth management act goals and local circumstances. Because  
17 circumstances vary from county to county, in establishing patterns of  
18 rural densities and uses, a county may consider local circumstances,  
19 but shall develop a written record explaining how the rural element  
20 harmonizes the planning goals in RCW 36.70A.020 and meets the  
21 requirements of this chapter.

22 (b) Rural development. The rural element shall permit rural  
23 development, forestry, and agriculture in rural areas. The rural  
24 element shall provide for a variety of rural densities, uses,  
25 essential public facilities, and rural governmental services needed  
26 to serve the permitted densities and uses. To achieve a variety of  
27 rural densities and uses, counties may provide for clustering,  
28 density transfer, design guidelines, conservation easements, and  
29 other innovative techniques that will accommodate appropriate rural  
30 economic advancement, densities, and uses that are not characterized  
31 by urban growth and that are consistent with rural character.

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

35 (i) Containing or otherwise controlling rural development;

36 (ii) Assuring visual compatibility of rural development with the  
37 surrounding rural area;

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



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

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

5 (d) Limited areas of more intensive rural development. Subject to  
6 the requirements of this subsection and except as otherwise  
7 specifically provided in this subsection (5)(d), the rural element  
8 may allow for limited areas of more intensive rural development,  
9 including necessary public facilities and public services to serve  
10 the limited area as follows:

11 (i) Rural development consisting of the infill, development, or  
12 redevelopment of existing commercial, industrial, residential, or  
13 mixed-use areas, whether characterized as shoreline development,  
14 villages, hamlets, rural activity centers, or crossroads  
15 developments.

16 (A) A commercial, industrial, residential, shoreline, or mixed-  
17 use area are subject to the requirements of (d)(iv) of this  
18 subsection, but are not subject to the requirements of (c)(ii) and  
19 (iii) of this subsection.

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

24 (C) Any development or redevelopment in terms of building size,  
25 scale, use, or intensity shall be consistent with the character of  
26 the existing areas. Development and redevelopment may include changes  
27 in use from vacant land or a previously existing use so long as the  
28 new use conforms to the requirements of this subsection (5);

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

39 (iii) The intensification of development on lots containing  
40 isolated nonresidential uses or new development of isolated cottage

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

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

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

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

37 (B) On the date the county adopted a resolution under RCW  
38 36.70A.040(2), in a county that is planning under all of the  
39 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 traffic impacts to state-owned transportation  
15 facilities resulting from land use assumptions to assist (~~the~~  
16 ~~department of transportation~~) in monitoring the performance of state  
17 facilities, to plan improvements for the facilities, and to assess  
18 the impact of land-use decisions on state-owned transportation  
19 facilities;

20 (iii) Facilities and services needs, including:

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

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

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

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

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

14 (E) Forecasts of (~~traffic~~) multimodal transportation demand and  
15 needs within cities and urban growth areas, and forecasts of traffic  
16 demand and needs outside of cities and urban growth areas, for at  
17 least ten years based on the adopted land use plan to (~~provide~~  
18 ~~information on the location, timing, and capacity needs of future~~  
19 ~~growth~~) inform the development of a transportation element that  
20 balances transportation system safety and convenience to accommodate  
21 all users of the transportation system to safely, reliably, and  
22 efficiently provide access and mobility to people and goods;

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

30 (iv) Finance, including:

31 (A) An analysis of funding capability to judge needs against  
32 probable funding resources;

33 (B) A multiyear financing plan based on the needs identified in  
34 the comprehensive plan, the appropriate parts of which shall serve as  
35 the basis for the six-year street, road, or transit program required  
36 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW  
37 35.58.2795 for public transportation systems. The multiyear financing  
38 plan should be coordinated with the ten-year investment program  
39 developed by the office of financial management as required by RCW  
40 47.05.030;

1 (C) If probable funding falls short of meeting the identified  
2 needs of the transportation system, including state transportation  
3 facilities, a discussion of how additional funding will be raised, or  
4 how land use assumptions will be reassessed to ensure that level of  
5 service standards will be met;

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

9 (vi) Demand-management strategies;

10 (vii) (~~(Pedestrian and bicycle)~~) Active transportation component  
11 to include collaborative efforts to identify and designate planned  
12 improvements for (~~(pedestrian and bicycle)~~) active transportation  
13 facilities and corridors that address and encourage enhanced  
14 community access and promote healthy lifestyles.

15 (b) After adoption of the comprehensive plan by jurisdictions  
16 required to plan or who choose to plan under RCW 36.70A.040, local  
17 jurisdictions must adopt and enforce ordinances which prohibit  
18 development approval if the development causes the level of service  
19 on a locally owned or locally or regionally operated transportation  
20 facility to decline below the standards adopted in the transportation  
21 element of the comprehensive plan, unless transportation improvements  
22 or strategies to accommodate the impacts of development are made  
23 concurrent with the development. These strategies may include active  
24 transportation facility improvements, increased or enhanced public  
25 transportation service, ride-sharing programs, demand management, and  
26 other transportation systems management strategies. For the purposes  
27 of this subsection (6), "concurrent with the development" means that  
28 improvements or strategies are in place at the time of development,  
29 or that a financial commitment is in place to complete the  
30 improvements or strategies within six years. If the collection of  
31 impact fees is delayed under RCW 82.02.050(3), the six-year period  
32 required by this subsection (6)(b) must begin after full payment of  
33 all impact fees is due to the county or city. If it is possible to  
34 provide for the transportation needs of a development through active  
35 transportation facility improvements, increased or enhanced public  
36 transportation service, ride-sharing programs, demand management, or  
37 other transportation systems management strategies funded by the  
38 development, a development approval may not be denied because it  
39 fails to meet traffic level of service standards.

1 (c) The transportation element described in this subsection (6),  
2 the six-year plans required by RCW 35.77.010 for cities, RCW  
3 36.81.121 for counties, and RCW 35.58.2795 for public transportation  
4 systems, and the ten-year investment program required by RCW  
5 47.05.030 for the state, must be consistent.

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

11 (8) A park and recreation element that implements, and is  
12 consistent with, the capital facilities plan element as it relates to  
13 park and recreation facilities. The element shall include: (a)  
14 Estimates of park and recreation demand for at least a ten-year  
15 period; (b) an evaluation of facilities and service needs; and (c) an  
16 evaluation of intergovernmental coordination opportunities to provide  
17 regional approaches for meeting park and recreational demand.

18 (9) A climate change and resiliency element that is designed to  
19 result in reductions in overall greenhouse gas emissions and that  
20 must enhance resiliency to and avoid the adverse impacts of climate  
21 change, which must include efforts to reduce localized greenhouse gas  
22 emissions and avoid creating or worsening localized climate impacts  
23 to vulnerable populations and overburdened communities. The  
24 greenhouse gas emissions reduction subelement of the climate change  
25 and resiliency element is mandatory for the jurisdictions specified  
26 in section 4(1) of this act and is encouraged for all other  
27 jurisdictions, including those planning under RCW 36.70A.040 and  
28 those planning under chapter 36.70 RCW. The resiliency subelement of  
29 the climate change and resiliency element is mandatory for all  
30 jurisdictions planning under RCW 36.70A.040 and is encouraged for  
31 those jurisdictions planning under chapter 36.70 RCW.

32 (a)(i) The greenhouse gas emissions reduction subelement of the  
33 comprehensive plan, and its related development regulations, must  
34 identify the actions the jurisdiction will take during the planning  
35 cycle consistent with the guidelines published by the department  
36 pursuant to section 5 of this act that will:

37 (A) Result in reductions in overall greenhouse gas emissions  
38 generated by transportation and land use within the jurisdiction but  
39 without increasing greenhouse gas emissions elsewhere in the state;  
40 and

1 (B) Result in reductions in per capita vehicle miles traveled  
2 within the jurisdiction but without increasing greenhouse gas  
3 emissions elsewhere in the state; and

4 (C) Prioritize reductions in overburdened communities in order to  
5 maximize the cobenefits of reduced air pollution and environmental  
6 justice consistent with chapter 70A.02 RCW.

7 (ii) Actions not specifically identified in the guidelines  
8 developed by the department pursuant to section 5 of this act may be  
9 considered to be consistent with these guidelines only if:

10 (A) They are projected to achieve greenhouse gas emissions  
11 reductions or per capita vehicle miles traveled reductions equivalent  
12 to what would be required of the jurisdiction under the guidelines  
13 adopted by the department; and

14 (B) They are supported by scientifically credible projections and  
15 scenarios that indicate their adoption is likely to result in  
16 reductions of greenhouse gas emissions or per capita vehicle miles  
17 traveled.

18 (iii) A jurisdiction may not restrict population growth or limit  
19 population allocation in order to achieve the requirements set forth  
20 in this subsection (9) (a).

21 (iv) (A) (I) Until December 31, 2034, actions not specifically  
22 identified in the guidelines developed by the department pursuant to  
23 section 5 of this act, or considered to be consistent with those  
24 guidelines according to the process established in (a) (ii) of this  
25 subsection (9), must still be considered to be sufficient to meet the  
26 requirements of the greenhouse gas emissions reduction subelement and  
27 must be approved by the department pursuant to section 5 of this act,  
28 if the actions provide for the authorization of the development of  
29 middle housing types within one-quarter mile of major transit stops  
30 within urban growth areas.

31 (II) A city planning under RCW 36.70A.040 may be considered to be  
32 consistent with the guidelines of this subsection (9) (a) (iv) if:

33 (1) The jurisdiction authorizes the development of no fewer than  
34 four residential units on all lots zoned for residential use within  
35 one-quarter mile of a major transit stop; or

36 (2) The jurisdiction alters local zoning to allow for an average  
37 minimum net density equivalent to no less than 33 dwelling units per  
38 acre within one-quarter mile of a major transit stop.

39 (B) Nothing in this subsection (9) (a) (iv) prohibits the  
40 authorization of the development of single-family residences.

1 (b) (i) The resiliency subelement must equitably enhance  
2 resiliency to, and avoid or substantially reduce the adverse impacts  
3 of, climate change in human communities and ecological systems  
4 through goals, policies, and programs consistent with the best  
5 available science and scientifically credible climate projections and  
6 impact scenarios that moderate or avoid harm, enhance the resiliency  
7 of natural and human systems, and enhance beneficial opportunities.  
8 The resiliency subelement must prioritize actions in overburdened  
9 communities as defined in chapter 70A.02 RCW that will  
10 disproportionately suffer from compounding environmental impacts and  
11 will be most impacted by natural hazards due to climate change.  
12 Specific goals, policies, and programs of the resiliency subelement  
13 must include, but are not limited to, those designed to:

14 (A) Identify, protect, and enhance natural areas to foster  
15 resiliency to climate impacts, as well as areas of vital habitat for  
16 safe passage and species migration;

17 (B) Identify, protect, and enhance community resiliency to  
18 climate change impacts, including social, economic, and built  
19 factors, that support adaptation to climate impacts consistent with  
20 environmental justice; and

21 (C) Address natural hazards created or aggravated by climate  
22 change, including sea level rise, landslides, flooding, drought,  
23 heat, smoke, wildfire, and other effects of changes to temperature  
24 and precipitation patterns.

25 (ii) A natural hazard mitigation plan or similar plan that is  
26 guided by RCW 36.70A.020(14), that prioritizes actions in  
27 overburdened communities as defined in RCW 70A.02.010, and that  
28 complies with the applicable requirements of this chapter, including  
29 the requirements set forth in this subsection (9)(b), may be adopted  
30 by reference to satisfy these requirements, except that to the extent  
31 any of the substantive requirements of this subsection (9)(b) are not  
32 addressed, or are inadequately addressed, in the referenced natural  
33 hazard mitigation plan, a county or city must supplement the natural  
34 hazard mitigation plan accordingly so that the adopted resiliency  
35 subelement complies fully with the substantive requirements of this  
36 subsection (9)(b).

37 (A) If a county or city intends to adopt by reference a federal  
38 emergency management agency natural hazard mitigation plan in order  
39 to meet all or part of the substantive requirements set forth in this  
40 subsection (9)(b), and the most recently adopted federal emergency



1 management agency natural hazard mitigation plan does not comply with  
2 the requirements of this subsection (9)(b), the department may grant  
3 the county or city an extension of time in which to submit a natural  
4 hazard mitigation plan.

5 (B) Eligibility for an extension under this subsection prior to  
6 July 1, 2027, is limited to a city or county required to review and,  
7 if needed, revise its comprehensive plan on or before June 30, 2025,  
8 as provided in RCW 36.70A.130, or for a city or county with an  
9 existing, unexpired federal emergency management agency natural  
10 hazard mitigation plan scheduled to expire before December 31, 2024.

11 (C) Extension requests after July 1, 2027, may be granted if  
12 requirements for the resiliency subelement are amended or added by  
13 the legislature or if the department finds other circumstances that  
14 may result in a potential finding of noncompliance with a  
15 jurisdiction's existing and approved federal emergency management  
16 agency natural hazard mitigation plan.

17 (D) A city or county that wishes to request an extension of time  
18 must submit a request in writing to the department no later than the  
19 date on which the city or county is required to review and, if  
20 needed, revise its comprehensive plan as provided in RCW 36.70A.130.

21 (E) Upon the submission of such a request to the department, the  
22 city or county may have an additional 48 months from the date  
23 provided in RCW 36.70A.130 in which to either adopt by reference an  
24 updated federal emergency management agency natural hazard mitigation  
25 plan or adopt its own natural hazard mitigation plan, and to then  
26 submit that plan to the department.

27 (c) For the jurisdictions set forth in section 4 of this act,  
28 updates to comprehensive plans and related development regulations  
29 made during the update cycle that begins in 2024 must adopt measures  
30 identified by the department pursuant to section 5 of this act that  
31 are likely to result in reductions of greenhouse gas emissions and  
32 per capita vehicle miles traveled.

33 (d) The adoption of ordinances, amendments to comprehensive  
34 plans, amendments to development regulations, and other nonproject  
35 actions taken by a county or city pursuant to (a) or (c) of this  
36 subsection in order to implement measures specified by the department  
37 pursuant to section 5 of this act are not subject to administrative  
38 or judicial appeal under chapter 43.21C RCW.

39 (10) It is the intent that new or amended elements required after  
40 January 1, 2002, be adopted concurrent with the scheduled update

1 provided in RCW 36.70A.130. Requirements to incorporate any such new  
2 or amended elements shall be null and void until funds sufficient to  
3 cover applicable local government costs are appropriated and  
4 distributed by the state at least two years before local government  
5 must update comprehensive plans as required in RCW 36.70A.130.

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

8 (1) The requirements of the greenhouse gas emissions reduction  
9 subelement of the climate change and resiliency element set forth in  
10 RCW 36.70A.070(9) apply only to those counties that are required or  
11 that choose to plan under RCW 36.70A.040 and that also meet either of  
12 the criteria set forth in (a) or (b) of this subsection (1) on or  
13 after April 1, 2021, and the cities with populations greater than  
14 6,000 as of April 1, 2021, within those counties:

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

17 (b) A county with a population density of at least 75 people per  
18 square mile and an annual growth rate of at least 1.75 percent as  
19 determined by the office of financial management.

20 (2) The requirements of the amendments to the transportation  
21 element of RCW 36.70A.070 set forth in this act apply only to: (a)  
22 Counties and cities that meet the population criteria set forth in  
23 subsection (1) of this section; and (b) cities with populations of  
24 6,000 or greater as of April 1, 2021, that are located in a county  
25 that is required or that chooses to plan under RCW 36.70A.040.

26 (3) The requirements of the amendments to the land use element of  
27 RCW 36.70A.070 set forth in this act apply only to: (a) Counties and  
28 cities that meet the population criteria set forth in subsection (1)  
29 or (2) of this section; and (b) counties that have a population of  
30 20,000 or greater as of April 1, 2021, and that are required or that  
31 choose to plan under RCW 36.70A.040.

32 (4) The requirements of the amendments to the rural element of  
33 RCW 36.70A.070 set forth in this act apply only to counties that are  
34 required or that choose to plan under RCW 36.70A.040 and that have a  
35 population of 20,000 or greater as of April 1, 2021.

36 (5) Once a county meets either of the sets of criteria set forth  
37 in subsection (1) of this section, the requirement to conform with  
38 the greenhouse gas emissions reduction subelement of the climate  
39 change and resiliency element set forth in RCW 36.70A.070 remains in

1 effect, even if the county no longer meets one of these sets of  
2 criteria.

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

13 (7) The population criteria used in this section must be based on  
14 population data as determined by the office of financial management.

15 NEW SECTION. **Sec. 5.** A new section is added to chapter 70A.45  
16 RCW to read as follows:

17 (1) The department of commerce, in consultation with the  
18 department of ecology, the department of health, and the department  
19 of transportation, shall publish guidelines that specify a set of  
20 measures counties and cities have available to them to take through  
21 updates to their comprehensive plans and development regulations that  
22 have a demonstrated ability to increase housing capacity within urban  
23 growth areas or reduce greenhouse gas emissions, allowing for  
24 consideration of the emissions reductions achieved through the  
25 adoption of statewide programs. The guidelines must prioritize  
26 reductions in overburdened communities as defined in RCW 70A.02.010,  
27 including communities that have experienced disproportionate harm due  
28 to air pollution and may draw upon the most recent health disparities  
29 data from the department of health to identify high pollution areas  
30 and disproportionately burdened communities. These guidelines must be  
31 developed using an environmental justice assessment pursuant to RCW  
32 70A.02.060 and the guidelines must include environmental justice  
33 assessment processes. The guidelines must be based on:

34 (a) The most recent greenhouse gas emissions report prepared by  
35 the department of ecology and the department of commerce pursuant to  
36 RCW 70A.45.020(2);

37 (b) The most recent city and county population estimates prepared  
38 by the office of financial management pursuant to RCW 43.62.035;

1 (c) The locations of major employment centers and transit  
2 corridors, for the purpose of increasing housing supply in these  
3 areas; and

4 (d) Available environmental justice data and data regarding  
5 access to public transportation for people with disabilities and for  
6 vulnerable populations as defined in RCW 70A.02.010.

7 (2)(a) The department of commerce, in consultation with the  
8 department of transportation, shall publish guidelines that specify a  
9 set of measures counties and cities may have available to them to  
10 take through updates to their comprehensive plans and development  
11 regulations that have a demonstrated ability to reduce per capita  
12 vehicle miles traveled, including measures that are designed to be  
13 achievable throughout the state, including in small cities and rural  
14 cities.

15 (b) The guidelines must be based on:

16 (i) The most recent greenhouse gas emissions report prepared by  
17 the department of ecology and the department of commerce pursuant to  
18 RCW 70A.45.020(2);

19 (ii) The most recent city and county population estimates  
20 prepared by the office of financial management pursuant to RCW  
21 43.62.035; and

22 (iii) The most recent summary of per capita vehicle miles  
23 traveled as compiled by the department of transportation.

24 (3) The department of commerce shall first publish the full set  
25 of guidelines described in subsections (1) and (2) of this section no  
26 later than December 31, 2025. The department of commerce shall update  
27 these guidelines at least every four years thereafter based on the  
28 most recently available data, and shall provide for a process for  
29 local governments and other parties to submit alternative actions for  
30 consideration for inclusion into the guidelines at least once per  
31 year. The department of commerce shall publish an intermediate set of  
32 guidelines no later than December 31, 2022, in order to be available  
33 for use by jurisdictions whose periodic updates are required by RCW  
34 36.70A.130(5) to occur prior to December 31, 2025.

35 (4)(a) In any updates to the guidelines published after 2025, the  
36 department of commerce shall include an evaluation of the impact that  
37 locally adopted climate change and resiliency elements have had on  
38 local greenhouse gas emissions and per capita vehicle miles traveled  
39 reduction goals. The evaluation must also address the impact that

1 locally adopted greenhouse gas emissions reduction subelements have  
2 had on zoned housing capacity.

3 (b) The updates must also include an estimate of the impacts that  
4 locally adopted climate change and resiliency elements will have on  
5 achieving local greenhouse gas emissions and per capita vehicle miles  
6 traveled reduction goals. The evaluation must also include an  
7 estimate of the impact that locally adopted greenhouse gas emissions  
8 reduction subelements will have on zoned housing capacity.

9 (c) The department may include in the specified guidelines what  
10 additional measures cities and counties should take to make  
11 additional progress on local reduction goals, including any measures  
12 that increase housing capacity and middle housing capacity, within  
13 urban growth areas.

14 (5) The department of commerce may not propose or adopt any  
15 guidelines that would include any form of a road usage charge or any  
16 fees or surcharges related to vehicle miles traveled.

17 (6) The department of commerce may not propose or adopt any  
18 guidelines that would direct or require local governments to regulate  
19 or tax, in any form, transportation service providers, delivery  
20 vehicles, or passenger vehicles.

21 (7) The department of commerce, in the course of implementing  
22 this section, shall provide and prioritize options that support  
23 housing diversity and that assist counties and cities in meeting  
24 greenhouse gas emissions reduction and other requirements established  
25 under this chapter.

26 (8) The provisions of this section as applied to the department  
27 of transportation are subject to the availability of amounts  
28 appropriated for this specific purpose.

29 NEW SECTION. **Sec. 6.** A new section is added to chapter 36.70A  
30 RCW to read as follows:

31 (1) A county or city required to complete a greenhouse gas  
32 emissions reduction subelement may submit the subelement to the  
33 department for approval. When submitted to the department for  
34 approval, the subelement becomes effective when approved by the  
35 department as provided in this section. If a county or city does not  
36 seek department approval of the subelement, the effective date of the  
37 subelement is the date on which the comprehensive plan is adopted by  
38 the county or city.

1 (2) The department shall strive to achieve final action on a  
2 submitted greenhouse gas emissions reduction subelement within 180  
3 days of receipt and shall post an annual assessment related to this  
4 performance benchmark on the agency website.

5 (3) Upon receipt of a proposed greenhouse gas emissions reduction  
6 subelement, the department shall:

7 (a) Provide notice to and opportunity for written comment by all  
8 interested parties of record as a part of the local government review  
9 process for the proposal and to all persons, groups, and agencies  
10 that have requested in writing notice of proposed greenhouse gas  
11 emissions reduction subelements. The comment period shall be at least  
12 30 days, unless the department determines that the level of  
13 complexity or controversy involved supports a shorter period;

14 (b) In the department's discretion, conduct a public hearing  
15 during the 30-day comment period in the jurisdiction proposing the  
16 greenhouse gas emissions reduction subelement;

17 (c) Within 15 days after the close of public comment, request the  
18 local government to review the issues identified by the public,  
19 interested parties, groups, and agencies and provide a written  
20 response as to how the proposal addresses the identified issues;

21 (d) Within 30 days after receipt of the local government response  
22 pursuant to (c) of this subsection, make written findings and  
23 conclusions regarding the consistency of the proposal with the policy  
24 of RCW 36.70A.070 and, after they are adopted, the applicable  
25 guidelines adopted by the department pursuant to section 5 of this  
26 act and any reduction allocations made pursuant to RCW 36.70A.100,  
27 provide a response to the issues identified in (c) of this  
28 subsection, and either approve the greenhouse gas emissions reduction  
29 subelement as submitted, recommend specific changes necessary to make  
30 the greenhouse gas emissions reduction subelement approvable, or deny  
31 approval of the greenhouse gas emissions reduction subelement in  
32 those instances where no alteration of the greenhouse gas emissions  
33 reduction subelement appears likely to be consistent with the policy  
34 of RCW 36.70A.070 and the applicable guidelines. The written findings  
35 and conclusions shall be provided to the local government, and made  
36 available to all interested persons, parties, groups, and agencies of  
37 record on the proposal;

38 (e) If the department recommends changes to the proposed  
39 greenhouse gas emissions reduction subelement, within 90 days after

1 the department mails the written findings and conclusions to the  
2 local government, require the local government to:

3 (i) Agree to the proposed changes by written notice to the  
4 department; or

5 (ii) Submit an alternative greenhouse gas emissions reduction  
6 subelement. If, in the opinion of the department, the alternative is  
7 consistent with the purpose and intent of the changes originally  
8 submitted by the department and with this chapter it shall approve  
9 the changes and provide notice to all recipients of the written  
10 findings and conclusions. If the department determines the proposed  
11 greenhouse gas emissions reduction subelement is not consistent with  
12 the purpose and intent of the changes proposed by the department, the  
13 department may resubmit the proposed greenhouse gas emissions  
14 reduction subelement for public and agency review pursuant to this  
15 section or reject the proposed greenhouse gas emissions reduction  
16 subelement.

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

22 (5) A greenhouse gas emissions reduction subelement takes effect  
23 when and in such form as approved or adopted by the department. The  
24 effective date is 14 days from the date of the department's written  
25 notice of final action to the local government stating the department  
26 has approved or rejected the proposed greenhouse gas emissions  
27 reduction subelement. The department's written notice to the local  
28 government must conspicuously and plainly state that it is the  
29 department's final decision and that there will be no further  
30 modifications to the proposed greenhouse gas emissions reduction  
31 subelement. The department shall maintain a record of each greenhouse  
32 gas emissions reduction subelement, the action taken on any proposed  
33 greenhouse gas emissions reduction subelement, and any appeal of the  
34 department's action. The department's approved document of record  
35 constitutes the official greenhouse gas emissions reduction  
36 subelement.

37 (6) Promptly after approval or disapproval of a local  
38 government's greenhouse gas emissions reduction subelement, the  
39 department shall publish a notice consistent with RCW 36.70A.290 that  
40 the greenhouse gas emissions reduction subelement has been approved

1 or disapproved. This notice must be filed for all greenhouse gas  
2 emissions reduction subelements.

3 (7) The department's final decision to approve or reject a  
4 proposed greenhouse gas emissions reduction subelement or amendment  
5 by a local government planning under RCW 36.70A.040 may be appealed  
6 according to the following provisions:

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

12 (b) A decision of the growth management hearings board concerning  
13 an appeal of the department's final decision to approve or reject a  
14 proposed greenhouse gas emissions reduction subelement or amendment  
15 must be based solely on whether or not the adopted or amended  
16 greenhouse gas emissions reduction subelement, any adopted amendments  
17 to other elements of the comprehensive plan necessary to carry out  
18 the subelement, and any adopted or amended development regulations  
19 necessary to implement the subelement, comply with the goal set forth  
20 in RCW 36.70A.020(14) as it applies to greenhouse gas emissions  
21 reductions, RCW 36.70A.070(9) excluding RCW 36.70A.070(9)(b), the  
22 guidelines adopted under section 5 of this act applicable to the  
23 greenhouse gas emissions reduction subelement, or chapter 43.21C RCW.

24 **Sec. 7.** RCW 36.70A.320 and 1997 c 429 s 20 are each amended to  
25 read as follows:

26 (1) Except as provided in subsections (5) and (6) of this  
27 section, comprehensive plans and development regulations, and  
28 amendments thereto, adopted under this chapter are presumed valid  
29 upon adoption.

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

34 (3) In any petition under this chapter, the board, after full  
35 consideration of the petition, shall determine whether there is  
36 compliance with the requirements of this chapter. In making its  
37 determination, the board shall consider the criteria adopted by the  
38 department under RCW 36.70A.190(4). The board shall find compliance  
39 unless it determines that the action by the state agency, county, or



1 city is clearly erroneous in view of the entire record before the  
2 board and in light of the goals and requirements of this chapter.

3 (4) A county or city subject to a determination of invalidity  
4 made under RCW 36.70A.300 or 36.70A.302 has the burden of  
5 demonstrating that the ordinance or resolution it has enacted in  
6 response to the determination of invalidity will no longer  
7 substantially interfere with the fulfillment of the goals of this  
8 chapter under the standard in RCW 36.70A.302(1).

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

12 (6) The greenhouse gas emissions reduction subelement required by  
13 RCW 36.70A.070 shall take effect as provided in section 6 of this  
14 act.

15 **Sec. 8.** RCW 36.70A.190 and 1991 sp.s. c 32 s 3 are each amended  
16 to read as follows:

17 (1) The department shall establish a program of technical and  
18 financial assistance and incentives to counties and cities to  
19 encourage and facilitate the adoption and implementation of  
20 comprehensive plans and development regulations throughout the state.

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

32 (3) The department shall develop and administer a grant program  
33 to provide direct financial assistance to counties and cities for the  
34 preparation of comprehensive plans under this chapter. The department  
35 may establish provisions for county and city matching funds to  
36 conduct activities under this subsection. Grants may be expended for  
37 any purpose directly related to the preparation of a county or city  
38 comprehensive plan as the county or city and the department may  
39 agree, including, without limitation, the conducting of surveys,

1 inventories and other data gathering and management activities, the  
2 retention of planning consultants, contracts with regional councils  
3 for planning and related services, and other related purposes.

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

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

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

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

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

24 (7) The department shall develop, in collaboration with the  
25 department of ecology, the department of fish and wildlife, the  
26 department of natural resources, the department of health, the  
27 emergency management division of the military department, as well as  
28 any federally recognized tribe who chooses to voluntarily  
29 participate, and adopt by rule guidance that creates a model climate  
30 change and resiliency element that may be used by counties, cities,  
31 and multiple-county planning regions for developing and implementing  
32 climate change and resiliency plans and policies required by RCW  
33 36.70A.070(9), subject to the following provisions:

34 (a) The model element must establish minimum requirements, and  
35 may include model options or voluntary cross-jurisdictional  
36 strategies, or both, for fulfilling the requirements of RCW  
37 36.70A.070(9);

38 (b) The model element should provide guidance on identifying,  
39 designing, and investing in infrastructure that supports community  
40 resilience to climate impacts, including the protection, restoration,

1 and enhancement of natural infrastructure as well as traditional  
2 infrastructure and protecting and enhancing natural areas to foster  
3 resiliency to climate impacts, as well as areas of vital habitat for  
4 safe passage and species migration;

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

10 (d) The rule must recognize and promote as many cobenefits of  
11 climate resilience as possible such as climate change mitigation,  
12 salmon recovery, forest health, ecosystem services, and socioeconomic  
13 health and resilience.

14 NEW SECTION. Sec. 9. A new section is added to chapter 47.80  
15 RCW to read as follows:

16 The department shall compile, maintain, and publish a summary of  
17 the per capita vehicle miles traveled annually in each city in the  
18 state, and in the unincorporated portions of each county in the  
19 state.

20 NEW SECTION. Sec. 10. A new section is added to chapter 90.58  
21 RCW to read as follows:

22 The department shall update its shoreline master program  
23 guidelines to require shoreline master programs to address the impact  
24 of sea level rise and increased storm severity on people, property,  
25 and shoreline natural resources and the environment.

26 **Sec. 11.** RCW 86.12.200 and 1991 c 322 s 3 are each amended to  
27 read as follows:

28 The county legislative authority of any county may adopt a  
29 comprehensive flood control management plan for any drainage basin  
30 that is located wholly or partially within the county.

31 A comprehensive flood control management plan shall include the  
32 following elements:

33 (1) Designation of areas that are susceptible to periodic  
34 flooding, from inundation by bodies of water or surface water runoff,  
35 or both, including the river's meander belt or floodway;

36 (2) Establishment of a comprehensive scheme of flood control  
37 protection and improvements for the areas that are subject to such

1 periodic flooding, that includes: (a) Determining the need for, and  
2 desirable location of, flood control improvements to protect or  
3 preclude flood damage to structures, works, and improvements, based  
4 upon a cost/benefit ratio between the expense of providing and  
5 maintaining these improvements and the benefits arising from these  
6 improvements; (b) establishing the level of flood protection that  
7 each portion of the system of flood control improvements will be  
8 permitted; (c) identifying alternatives to in-stream flood control  
9 work; (d) identifying areas where flood waters could be directed  
10 during a flood to avoid damage to buildings and other structures; and  
11 (e) identifying sources of revenue that will be sufficient to finance  
12 the comprehensive scheme of flood control protection and  
13 improvements;

14 (3) Establishing land use regulations that preclude the location  
15 of structures, works, or improvements in critical portions of such  
16 areas subject to periodic flooding, including a river's meander belt  
17 or floodway, and permitting only flood-compatible land uses in such  
18 areas;

19 (4) Establishing restrictions on construction activities in areas  
20 subject to periodic floods that require the flood proofing of those  
21 structures that are permitted to be constructed or remodeled; ~~((and))~~

22 (5) Establishing restrictions on land clearing activities and  
23 development practices that exacerbate flood problems by increasing  
24 the flow or accumulation of flood waters, or the intensity of  
25 drainage, on low-lying areas. Land clearing activities do not include  
26 forest practices as defined in chapter 76.09 RCW; and

27 (6) Consideration of climate change impacts, including the impact  
28 of sea level rise and increased storm severity on people, property,  
29 natural resources, and the environment.

30 A comprehensive flood control management plan shall be subject to  
31 the minimum requirements for participation in the national flood  
32 insurance program, requirements exceeding the minimum national flood  
33 insurance program that have been adopted by the department of ecology  
34 for a specific floodplain pursuant to RCW 86.16.031, and rules  
35 adopted by the department of ecology pursuant to RCW 86.26.050  
36 relating to floodplain management activities. When a county plans  
37 under chapter 36.70A RCW, it may incorporate the portion of its  
38 comprehensive flood control management plan relating to land use  
39 restrictions in its comprehensive plan and development regulations  
40 adopted pursuant to chapter 36.70A RCW.

1        NEW SECTION.    **Sec. 12.**    A new section is added to chapter 43.21C  
2    RCW to read as follows:

3        The adoption of ordinances, amendments to comprehensive plans,  
4    amendments to development regulations, and other nonproject actions  
5    taken by a county or city pursuant to RCW 36.70A.070(9) (a) or (c) in  
6    order to implement measures specified by the department of commerce  
7    pursuant to section 5 of this act are not subject to administrative  
8    or judicial appeals under this chapter.

9        NEW SECTION.    **Sec. 13.**    (1) The obligation of local governments  
10    to comply with the requirements established in: (a) The amendments to  
11    RCW 36.70A.070 set forth in this act; and (b) the updated shoreline  
12    master program guidelines adopted pursuant to section 10 of this act,  
13    is contingent on the provision of state funding to local governments  
14    for the specific purpose of complying with these requirements.

15        (2) The obligation of local governments to comply with the  
16    requirements established in: (a) The amendments to RCW 36.70A.070 set  
17    forth in this act; and (b) the updated shoreline master program  
18    guidelines adopted pursuant to section 10 of this act, takes effect  
19    two years after the date the legislature appropriates state funding  
20    to provide to local governments for the purpose of complying with  
21    these requirements.

22        **Sec. 14.**    RCW 36.70A.030 and 2021 c 254 s 6 are each amended to  
23    read as follows:

24        Unless the context clearly requires otherwise, the definitions in  
25    this section apply throughout this chapter.

26        (1) "Adopt a comprehensive land use plan" means to enact a new  
27    comprehensive land use plan or to update an existing comprehensive  
28    land use plan.

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

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

37        (b) For owner-occupied housing, eighty percent of the median  
38    household income adjusted for household size, for the county where

1 the household is located, as reported by the United States department  
2 of housing and urban development.

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

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

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

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

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

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

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

1 (10) "Emergency shelter" means a facility that provides a  
2 temporary shelter for individuals or families who are currently  
3 homeless. Emergency shelter may not require occupants to enter into a  
4 lease or an occupancy agreement. Emergency shelter facilities may  
5 include day and warming centers that do not provide overnight  
6 accommodations.

7 (11) "Extremely low-income household" means a single person,  
8 family, or unrelated persons living together whose adjusted income is  
9 at or below thirty percent of the median household income adjusted  
10 for household size, for the county where the household is located, as  
11 reported by the United States department of housing and urban  
12 development.

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

28 (13) "Freight rail dependent uses" means buildings and other  
29 infrastructure that are used in the fabrication, processing, storage,  
30 and transport of goods where the use is dependent on and makes use of  
31 an adjacent short line railroad. Such facilities are both urban and  
32 rural development for purposes of this chapter. "Freight rail  
33 dependent uses" does not include buildings and other infrastructure  
34 that are used in the fabrication, processing, storage, and transport  
35 of coal, liquefied natural gas, or "crude oil" as defined in RCW  
36 90.56.010.

37 (14) "Geologically hazardous areas" means areas that because of  
38 their susceptibility to erosion, sliding, earthquake, or other  
39 geological events, are not suited to the siting of commercial,

1 residential, or industrial development consistent with public health  
2 or safety concerns.

3 (15) "Long-term commercial significance" includes the growing  
4 capacity, productivity, and soil composition of the land for long-  
5 term commercial production, in consideration with the land's  
6 proximity to population areas, and the possibility of more intense  
7 uses of the land.

8 (16) "Low-income household" means a single person, family, or  
9 unrelated persons living together whose adjusted income is at or  
10 below eighty percent of the median household income adjusted for  
11 household size, for the county where the household is located, as  
12 reported by the United States department of housing and urban  
13 development.

14 (17) "Minerals" include gravel, sand, and valuable metallic  
15 substances.

16 (18) "Moderate-income household" means a single person, family,  
17 or unrelated persons living together whose adjusted income is at or  
18 below 120 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 (19) "Permanent supportive housing" is subsidized, leased housing  
23 with no limit on length of stay that prioritizes people who need  
24 comprehensive support services to retain tenancy and utilizes  
25 admissions practices designed to use lower barriers to entry than  
26 would be typical for other subsidized or unsubsidized rental housing,  
27 especially related to rental history, criminal history, and personal  
28 behaviors. Permanent supportive housing is paired with on-site or  
29 off-site voluntary services designed to support a person living with  
30 a complex and disabling behavioral health or physical health  
31 condition who was experiencing homelessness or was at imminent risk  
32 of homelessness prior to moving into housing to retain their housing  
33 and be a successful tenant in a housing arrangement, improve the  
34 resident's health status, and connect the resident of the housing  
35 with community-based health care, treatment, or employment services.  
36 Permanent supportive housing is subject to all of the rights and  
37 responsibilities defined in chapter 59.18 RCW.

38 (20) "Public facilities" include streets, roads, highways,  
39 sidewalks, street and road lighting systems, traffic signals,



1 domestic water systems, storm and sanitary sewer systems, parks and  
2 recreational facilities, and schools.

3 (21) "Public services" include fire protection and suppression,  
4 law enforcement, public health, education, recreation, environmental  
5 protection, and other governmental services.

6 (22) "Recreational land" means land so designated under RCW  
7 36.70A.1701 and that, immediately prior to this designation, was  
8 designated as agricultural land of long-term commercial significance  
9 under RCW 36.70A.170. Recreational land must have playing fields and  
10 supporting facilities existing before July 1, 2004, for sports played  
11 on grass playing fields.

12 (23) "Rural character" refers to the patterns of land use and  
13 development established by a county in the rural element of its  
14 comprehensive plan:

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

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

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

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

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

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

27 (g) That are consistent with the protection of natural surface  
28 water flows and groundwater and surface water recharge and discharge  
29 areas.

30 (24) "Rural development" refers to development outside the urban  
31 growth area and outside agricultural, forest, and mineral resource  
32 lands designated pursuant to RCW 36.70A.170. Rural development can  
33 consist of a variety of uses and residential densities, including  
34 clustered residential development, at levels that are consistent with  
35 the preservation of rural character and the requirements of the rural  
36 element. Rural development does not refer to agriculture or forestry  
37 activities that may be conducted in rural areas.

38 (25) "Rural governmental services" or "rural services" include  
39 those public services and public facilities historically and  
40 typically delivered at an intensity usually found in rural areas, and

1 may include domestic water systems, fire and police protection  
2 services, transportation and public transit services, and other  
3 public utilities associated with rural development and normally not  
4 associated with urban areas. Rural services do not include storm or  
5 sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

6 (26) "Short line railroad" means those railroad lines designated  
7 class II or class III by the United States surface transportation  
8 board.

9 (27) "Urban governmental services" or "urban services" include  
10 those public services and public facilities at an intensity  
11 historically and typically provided in cities, specifically including  
12 storm and sanitary sewer systems, domestic water systems, street  
13 cleaning services, fire and police protection services, public  
14 transit services, and other public utilities associated with urban  
15 areas and normally not associated with rural areas.

16 (28) "Urban growth" refers to growth that makes intensive use of  
17 land for the location of buildings, structures, and impermeable  
18 surfaces to such a degree as to be incompatible with the primary use  
19 of land for the production of food, other agricultural products, or  
20 fiber, or the extraction of mineral resources, rural uses, rural  
21 development, and natural resource lands designated pursuant to RCW  
22 36.70A.170. A pattern of more intensive rural development, as  
23 provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed  
24 to spread over wide areas, urban growth typically requires urban  
25 governmental services. "Characterized by urban growth" refers to land  
26 having urban growth located on it, or to land located in relationship  
27 to an area with urban growth on it as to be appropriate for urban  
28 growth.

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

31 (30) "Very low-income household" means a single person, family,  
32 or unrelated persons living together whose adjusted income is at or  
33 below fifty percent of the median household income adjusted for  
34 household size, for the county where the household is located, as  
35 reported by the United States department of housing and urban  
36 development.

37 (31) "Wetland" or "wetlands" means areas that are inundated or  
38 saturated by surface water or groundwater at a frequency and duration  
39 sufficient to support, and that under normal circumstances do  
40 support, a prevalence of vegetation typically adapted for life in

1 saturated soil conditions. Wetlands generally include swamps,  
2 marshes, bogs, and similar areas. Wetlands do not include those  
3 artificial wetlands intentionally created from nonwetland sites,  
4 including, but not limited to, irrigation and drainage ditches,  
5 grass-lined swales, canals, detention facilities, wastewater  
6 treatment facilities, farm ponds, and landscape amenities, or those  
7 wetlands created after July 1, 1990, that were unintentionally  
8 created as a result of the construction of a road, street, or  
9 highway. Wetlands may include those artificial wetlands intentionally  
10 created from nonwetland areas created to mitigate conversion of  
11 wetlands.

12 (32) "Per capita vehicle miles traveled" means the number of  
13 miles traveled using cars and light trucks in a calendar year divided  
14 by the number of residents in Washington. The calculation of this  
15 value excludes vehicle miles driven conveying freight.

16 (33) "Active transportation" means forms of pedestrian mobility  
17 including walking or running, the use of a mobility assistive device  
18 such as a wheelchair, bicycling and cycling irrespective of the  
19 number of wheels, and the use of small personal devices such as foot  
20 scooters or skateboards. Active transportation includes both  
21 traditional and electric assist bicycles and other devices. Planning  
22 for active transportation must consider and address accommodation  
23 pursuant to the Americans with disabilities act and the distinct  
24 needs of each form of active transportation.

25 (34) "Transportation system" means all infrastructure and  
26 services for all forms of transportation within a geographical area,  
27 irrespective of the responsible jurisdiction or transportation  
28 provider.

29 (35) "Environmental justice" means the fair treatment and  
30 meaningful involvement of all people regardless of race, color,  
31 national origin, or income with respect to development,  
32 implementation, and enforcement of environmental laws, regulations,  
33 and policies; with a focus on the equitable distribution of  
34 resources, benefits, and burdens in a manner that prioritizes  
35 communities that experience the greatest inequities, disproportionate  
36 impacts, and have the greatest unmet needs.

37 (36) "Active transportation facilities" means facilities provided  
38 for the safety and mobility of active transportation users including,  
39 but not limited to, trails, as defined in RCW 47.30.005, sidewalks,

1 bike lanes, shared-use paths, and other facilities in the public  
2 right-of-way.

3 (37) "Greenspace" means an area of land, vegetated by natural  
4 features such as grass, trees, or shrubs, within an urban context and  
5 less than one acre in size that creates public value through one or  
6 more of the following attributes:

7 (a) Is accessible to the public;

8 (b) Promotes physical and mental health of residents;

9 (c) Provides relief from the urban heat island effects;

10 (d) Promotes recreational and aesthetic values;

11 (e) Protects streams or water supply; or

12 (f) Preserves visual quality along highway, road, or street  
13 corridors.

14 (38) "Green infrastructure" means a wide array of natural assets,  
15 built structures, and management practices at multiple scales that  
16 manage wet weather and that maintain and restore natural hydrology by  
17 storing, infiltrating, evapotranspiring, and harvesting and using  
18 stormwater.

19 (39) "Cottage housing" means at least four residential units on a  
20 lot with a common open space that is either:

21 (a) Owned in common; or

22 (b) Has units owned as condominium units with property owned in  
23 common and a minimum of 20 percent of the lot size as open space.

24 (40) "Courtyard apartments" means up to four attached dwelling  
25 units arranged on two or three sides of a central courtyard or lawn  
26 area.

27 (41) "Major transit stop" means:

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

30 (b) Commuter rail stops;

31 (c) Stops on rail or fixed guideway systems, including  
32 transitways;

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

35 (e) Stops for a bus or other transit mode providing actual fixed  
36 route service at intervals of at least 15 minutes for at least five  
37 hours during the peak hours of operation on weekdays; or

38 (f) Washington state ferry terminals.

1       (42) "Middle housing" means duplexes, triplexes, fourplexes,  
2 attached and detached accessory dwelling units, cottage housing,  
3 stacked flats, townhouses, and courtyard apartments.

4       (43) "Stacked flat" means dwelling units in a two or three story  
5 residential building on a residential zoned lot in which each floor  
6 may be separately rented or owned and is a discrete dwelling unit.

7       (44) "Townhouses" means dwelling units constructed in a row of  
8 two or more attached units, where each dwelling unit is located on an  
9 individual lot or parcel and shares at least one common wall with an  
10 adjacent unit.

11       NEW SECTION. Sec. 15. A new section is added to chapter 36.70A  
12 RCW to read as follows:

13       (1) Cities within counties planning under RCW 36.70A.215 and  
14 those counties may establish one or more real estate excise tax  
15 density incentive zones. A real estate excise tax density incentive  
16 zone is an area within an urban growth area where the city or county  
17 adopts zoning and development regulations to increase housing supply  
18 by allowing construction of additional housing types as outright  
19 permitted uses. Creation of a real estate excise tax density  
20 incentive zone enables the local government to receive a portion of  
21 the tax imposed under chapter 82.45 RCW for sales of qualified  
22 residential dwelling units within the zone.

23       (2) A real estate excise tax density incentive zone may only be  
24 located within a designated urban growth area, and must allow the  
25 following housing types: Single-family detached dwellings at a net  
26 density of at least six dwelling units per acre, duplexes, triplexes,  
27 fourplexes, townhomes, accessory dwelling units, and courtyard  
28 apartments.

29       (3) A real estate excise tax density incentive zone may also  
30 allow as outright permitted uses housing types and densities that  
31 exceed the minimum requirements in subsection (2) of this section.

32       (4)(a) Additional dwelling units must be in addition to the  
33 baseline density under existing zoning to implement the housing  
34 element in RCW 36.70A.070.

35       (b) For the purposes of this section, a "qualified residential  
36 dwelling" is either an individual residential dwelling unit or a  
37 residential building of two or more dwelling units constructed within  
38 a real estate excise tax density incentive zone that achieves a net  
39 increase in the total number of residential dwelling units compared

1 to the maximum number of residential dwelling units that could have  
2 been built prior to the adoption of zoning and development  
3 regulations creating the real estate excise tax density incentive  
4 zone. To be included as qualified residential dwelling units, the  
5 units must be restricted from being offered as short-term rentals for  
6 more than 30 days a year for the first 15 years after construction.  
7 The county or city shall determine within their respective  
8 jurisdictions how the residential dwelling units shall be restricted  
9 from being short-term rentals.

10 (c) If the qualified residential dwelling has two or more  
11 dwelling units, the amount distributed to the local government under  
12 RCW 82.45.060(4)(c) shall be reduced by the percent attributable to  
13 the number of new dwelling units within the building that could have  
14 been built under the zoning and development regulations that existed  
15 prior to the creation of the local real estate excise tax density  
16 incentive zone.

17 (5) A sale that does not involve a net increase above the maximum  
18 number of residential dwelling units that could have been constructed  
19 as an outright permitted use, prior to the creation of the real  
20 estate excise tax density incentive zone, is not a sale of a  
21 qualified residential dwelling unit.

22 (6) A real estate excise tax density incentive zone may be  
23 established for areas where a city or county previously enacted  
24 zoning and development regulations meeting the minimum requirements  
25 in this section, but not prior to January 1, 2017. A real estate  
26 excise tax density incentive zone may not be established later than  
27 one year after the date by which a city or county is required to  
28 update its growth management comprehensive plan under RCW 36.70A.130.  
29 Once a real estate excise tax density incentive zone is established  
30 in compliance with this section, a qualified residential dwelling  
31 unit may be constructed at any time.

32 (7)(a) Prior to establishing a real estate excise tax density  
33 incentive zone, the city or county must:

34 (i) Consider the race and income of existing residents within the  
35 area and the adjacent neighborhoods to be designated;

36 (ii) Consider displacement impacts of low, very low, and  
37 extremely low-income residents within the area and the adjacent  
38 neighborhoods to be designated; and

1 (iii) Assess the need for antidisplacement policies for high-risk  
2 communities within designated areas and the adjacent neighborhoods,  
3 and make the assessment publicly available.

4 (b) A local jurisdiction may use the requirements of RCW  
5 36.70A.070(2) (e) through (h) to satisfy the requirements of this  
6 subsection.

7 **Sec. 16.** RCW 82.45.060 and 2019 c 424 s 1 are each amended to  
8 read as follows:

9 (1) There is imposed an excise tax upon each sale of real  
10 property.

11 (a) Through December 31, 2019, the rate of the tax imposed under  
12 this section is 1.28 percent of the selling price.

13 (b) Beginning January 1, 2020, except as provided in (c) of this  
14 subsection, the rate of the tax imposed under this section is as  
15 follows:

16 (i) 1.1 percent of the portion of the selling price that is less  
17 than or equal to five hundred thousand dollars;

18 (ii) 1.28 percent of the portion of the selling price that is  
19 greater than five hundred thousand dollars and equal to or less than  
20 one million five hundred thousand dollars;

21 (iii) 2.75 percent of the portion of the selling price that is  
22 greater than one million five hundred thousand dollars and equal to  
23 or less than three million dollars;

24 (iv) Three percent of the portion of the selling price that is  
25 greater than three million dollars.

26 (c) The sale of real property that is classified as timberland or  
27 agricultural land is subject to the tax imposed under this section at  
28 a rate of 1.28 percent of the selling price.

29 (2) Beginning July 1, 2022, and every fourth year thereafter:

30 (a) The department must adjust the selling price threshold in  
31 subsection (1)(b)(i) of this section to reflect the lesser of the  
32 growth of the consumer price index for shelter or five percent. If  
33 the growth is equal to or less than zero percent, the current selling  
34 price threshold continues to apply.

35 (b) The department must adjust the selling price thresholds in  
36 subsection (1)(b)(ii) through (iv) of this section by the dollar  
37 amount of any increase in the selling price threshold in subsection  
38 (1)(b)(i) of this section.

1 (c) The department must publish updated selling price thresholds  
2 by September 1, 2022, and September 1st of every fourth year  
3 thereafter. Updated selling price thresholds will apply beginning  
4 January 1, 2023, and January 1st every fourth year thereafter.  
5 Adjusted selling price thresholds must be rounded to the nearest one  
6 thousand dollars. No changes may be made to adjusted selling price  
7 thresholds once such adjustments take effect.

8 (d) The most recent selling price threshold becomes the base for  
9 subsequent adjustments.

10 (e) The department must report adjustments to the selling price  
11 thresholds to the fiscal committees of the legislature, beginning  
12 December 1, 2022, and December 1st every fourth year thereafter.

13 (3)(a) The department must publish guidance to assist sellers in  
14 properly classifying real property on the real estate excise tax  
15 affidavit for purposes of determining the proper amount of tax due  
16 under this section. Real property with multiple uses must be  
17 classified according to the property's predominant use. The  
18 department's guidance must include factors for use in determining the  
19 predominant use of real property.

20 (b) County treasurers are not responsible for verifying that the  
21 seller has properly classified real property reported on a real  
22 estate excise tax affidavit. The department is solely responsible for  
23 such verification as part of its audit responsibilities under RCW  
24 82.45.150.

25 (4)(a) Beginning July 1, 2013, and ending December 31, 2019, an  
26 amount equal to two percent of the proceeds of this tax must be  
27 deposited in the public works assistance account created in RCW  
28 43.155.050, an amount equal to four and one-tenth percent must be  
29 deposited in the education legacy trust account created in RCW  
30 83.100.230, an amount equal to one and six-tenths percent must be  
31 deposited in the city-county assistance account created in RCW  
32 43.08.290, and the remainder must be deposited in the general fund.

33 (b) Beginning January 1, 2020, except as provided under (c) of  
34 this subsection (4), amounts collected from the tax imposed under  
35 this section must be deposited as provided in RCW 82.45.230.

36 (c) Beginning July 1, 2023, the amounts collected on the sale of  
37 a qualified residential dwelling constructed within a real estate  
38 excise tax density incentive zone created under section 15 of this  
39 act shall be distributed to a city or county as follows:



1 (i) For a qualified residential dwelling unit located less than  
2 or equal to .25 miles, as measured by direct distance, from a major  
3 transit stop as defined in RCW 36.70A.030, 50 percent of the amounts  
4 collected to the city or county where the dwelling is located;

5 (ii) For a qualified residential dwelling unit located more  
6 than .25 miles, as measured by direct distance, from a major transit  
7 stop as defined in RCW 36.70A.030, 25 percent of the amounts  
8 collected to the city or county where the dwelling is located;

9 (iii) If any portion of the qualified residential dwelling unit  
10 is located less than or equal to .25 miles, as measured by direct  
11 distance, from a major transit stop as defined in RCW 36.70A.030, the  
12 entire building qualifies for distribution pursuant to (c)(i) of this  
13 subsection (4).

14 (d) The distribution to a city or county under (c) of this  
15 subsection (4) applies to both the initial and all subsequent sales  
16 of a qualified residential dwelling unit if the residential dwelling  
17 unit continues to meet the original requirements of a qualified  
18 residential dwelling unit. Counties are required to revalidate that  
19 the residential dwelling unit continues to meet the original  
20 applicable requirements on each subsequent sale of the residential  
21 dwelling unit. The amounts distributed to a city and county may be  
22 used solely for:

23 (i) Implementation of the housing element in RCW 36.70A.070 as  
24 required by chapter 254 (Engrossed Second Substitute House Bill No.  
25 1220), Laws of 2021;

26 (ii) Costs for infrastructure, construction, and service support  
27 for moderate, low, very low, and extremely low-income housing;

28 (iii) Construction of capital facilities that promote livable and  
29 walkable neighborhoods, such as neighborhood-scale parks, trails, or  
30 other recreational amenities; or

31 (iv) Creation of permanently affordable homeownership, which  
32 means housing that is:

33 (A) Sponsored by a nonprofit organization or governmental entity;  
34 and

35 (B) Subject to a ground lease or deed restriction that includes:

36 (I) A resale restriction designed to provide affordability for  
37 future low and moderate-income home buyers;

38 (II) A right of first refusal for the sponsor organization to  
39 purchase the home at resale; and

1 (III) A requirement that the sponsor must approve any  
2 refinancing, including home equity lines of credit; or

3 (C) Sponsored by a nonprofit organization or governmental entity  
4 and the sponsor organization:

5 (I) Executes a new ground lease or deed restriction with a  
6 duration of at least 99 years at the initial sale and with each  
7 successive sale; and

8 (II) Supports homeowners and enforces the ground lease or deed  
9 restriction.

10 (5)(a) Counties are required to validate and identify sales of  
11 qualified residential dwelling units within real estate excise tax  
12 density incentive zones, including any reduction in real estate  
13 excise tax distribution based on:

14 (i) The number of new dwelling units within the building that  
15 could have been built under prior zoning regulations compared to the  
16 number of new dwelling units built under the real estate excise tax  
17 density incentive zone pursuant to section 15(4)(c) of this act; and

18 (ii) The distance from a major transit stop as defined in RCW  
19 36.70A.030 pursuant to subsection (4)(c) of this section.

20 (b) A county must provide the information required in (a) of this  
21 subsection to the department when the real estate excise tax  
22 affidavit is submitted to the department by the county.

23 ~~((+5))~~ (6) The definitions in this subsection apply throughout  
24 this section unless the context clearly requires otherwise.

25 (a) "Agricultural land" means farm and agricultural land and farm  
26 and agricultural conservation land, as those terms are defined in RCW  
27 84.34.020, including any structures on such land.

28 (b) "Consumer price index for shelter" means the most current  
29 seasonally adjusted index for the shelter expenditure category of the  
30 consumer price index for all urban consumers (CPI-U) as published by  
31 July 31st by the bureau of labor statistics of the United States  
32 department of labor.

33 (c) "Growth of the consumer price index for shelter" means the  
34 percentage increase in the consumer price index for shelter as  
35 measured from data published by the bureau of labor statistics of the  
36 United States department of labor by July 31st for the most recent  
37 three-year period for the selling price threshold adjustment in 2022,  
38 and the most recent four-year period for subsequent selling price  
39 threshold adjustments.

1 (d) "Timberland" means land classified under chapter 84.34 RCW or  
2 designated under chapter 84.33 RCW, including any structures and  
3 standing timber on such land, and standing timber sold apart from the  
4 land upon which it sits.

5 **Sec. 17.** RCW 82.45.230 and 2019 c 424 s 2 are each amended to  
6 read as follows:

7 (1) Beginning January 1, 2020, and ending June 30, 2023, the  
8 amounts received for the tax imposed on each sale of real property  
9 under RCW 82.45.060 must be deposited as follows:

10 (a) 1.7 percent must be deposited into the public works  
11 assistance account created in RCW 43.155.050;

12 (b) 1.4 percent must be deposited into the city-county assistance  
13 account created in RCW 43.08.290;

14 (c) 79.4 percent must be deposited into the general fund; and

15 (d) The remainder must be deposited into the educational legacy  
16 trust account created in RCW 83.100.230.

17 (2) Beginning July 1, 2023, and thereafter, the amounts received  
18 for the tax imposed on each sale of real property under RCW 82.45.060  
19 must be deposited as follows:

20 (a) 5.2 percent must be deposited into the public works  
21 assistance account created in RCW 43.155.050;

22 (b) 1.4 percent must be deposited into the city-county assistance  
23 account created in RCW 43.08.290;

24 (c) 79.4 percent less the percentage of any amounts distributed  
25 to a city or county under RCW 82.45.060 must be deposited into the  
26 general fund; and

27 (d) The remainder must be deposited into the education legacy  
28 trust account created in RCW 83.100.230.

29 NEW SECTION. **Sec. 18.** If specific funding for the purposes of  
30 this act, referencing this act by bill or chapter number, is not  
31 provided by June 30, 2022, in the omnibus appropriations act, this  
32 act is null and void."

**E2SHB 1099** - CONF REPT  
By Conference Committee

**SENATE ADOPTED 03/10/2022**

1        On page 1, line 2 of the title, after "framework;" strike the  
2 remainder of the title and insert "amending RCW 36.70A.020,  
3 36.70A.480, 36.70A.070, 36.70A.320, 36.70A.190, 86.12.200,  
4 36.70A.030, 82.45.060, and 82.45.230; adding new sections to chapter  
5 36.70A RCW; adding a new section to chapter 70A.45 RCW; adding a new  
6 section to chapter 47.80 RCW; adding a new section to chapter 90.58  
7 RCW; adding a new section to chapter 43.21C RCW; and creating new  
8 sections."

--- END ---