Chapter 365-196 WAC
GROWTH MANAGEMENT ACT—PROCEDURAL CRITERIA FOR ADOPTING COMPREHENSIVE PLANS AND DEVELOPMENT REGULATIONS

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WAC

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PART ONE
GENERAL CONSIDERATIONS

WAC 365-196-010 Background. Through the Growth Management Act, the legislature provided a new framework for land use planning and the regulation of development in Washington state. The act was enacted in response to problems associated with uncoordinated and unplanned growth and a lack of common goals in the conservation and the wise use of our lands. The problems included increased traffic congestion, pollution, school overcrowding, urban sprawl, and the loss of rural lands.

(1) Major features of the act's framework include:

(a) A requirement that counties with specified populations and rates of growth and the cities within them adopt comprehensive plans and development regulations under the act. Other counties can choose to be covered by this requirement, thereby including the cities they contain.

(b) A set of common goals to guide the development of comprehensive plans and development regulations.

(c) The concept that the process should be a "bottom up" effort, involving early and continuous public participation, with the central locus of decision-making at the local level, bounded by the goals and requirements of the act.

(d) Requirements for the locally developed plans to be internally consistent, consistent with countywide planning policies and multicounty planning policies, and consistent with the plans of other coun-

ties and cities where there are common borders or related regional issues.

(e) A requirement that development regulations adopted to implement the comprehensive plans be consistent with such plans.

(f) The principle that development and the providing of public facilities and services needed to support development should occur concurrently.

(g) A determination that planning and plan implementation actions should address difficult issues that have resisted resolution in the past, such as:

(i) The timely financing of needed infrastructure;

(ii) Providing adequate and affordable housing for all economic segments of the population;

(iii) Concentrating growth in urban areas, provided with adequate urban services;

(iv) The siting of essential public facilities;

(v) The designation and conservation of agricultural, forest, and mineral resource lands;

(vi) The designation and protection of environmentally critical areas.

(h) A determination that comprehensive planning can simultaneously address these multiple issues by focusing on the land development process as a common underlying factor.

(i) An intention that economic development be encouraged and fostered within the planning and regulatory scheme established for managing growth.

(j) A recognition that the act is a fundamental building block of regulatory reform. The state and local government have invested considerable resources in an act that should serve as the integrating framework for other land use related laws.

(k) A desire to recognize the importance of rural areas and provide for rural economic development.

(l) A requirement that counties and cities must periodically review and update their comprehensive plans and development regulations to ensure continued compliance with the goals and requirements of the act.

(2) The pattern of development established in the act. The act calls for a pattern of development that consists of different types of land uses existing on the landscape. These types generally include urban land, rural land, resource lands, and critical areas. Critical areas exist in rural, urban, and resource lands. Counties and cities must designate lands in these categories and develop policies governing development consistent with these designations. The act establishes criteria to guide the designation process and to guide the character of development in these lands.

(3) How the act applies to existing developed areas. The act is prospective in nature. It establishes a framework for how counties and cities plan for future growth. In many areas, the pattern called for in the act is a departure from the pattern that existed prior to the act. As a consequence, areas developed prior to the act may not clearly fit into the pattern of development established in the act. In rural areas, comprehensive plans developed under the act should find locally appropriate ways to recognize these areas without allowing these patterns to spread into new undeveloped areas. In urban areas, comprehensive plans should find locally appropriate ways to encourage redevelopment of these areas in a manner consistent with the pattern of development envisioned by the act.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 23-08-037, § 365-196-010, filed 3/29/23, effective 4/29/23; WSR 10-03-085, § 365-196-010, filed 1/19/10, effective 2/19/10.]

WAC 365-196-020 Purpose. (1) Within the framework established by the act, counties and cities may accommodate a wide diversity of local visions. There is no exclusive method for accomplishing the requirements of the act.

(2) In light of the complexity and difficulty of the task, the legislature required the department to establish a technical assistance program. As part of that program, the department must adopt by rule procedural criteria to assist counties and cities in adopting comprehensive plans and development regulations that meet the goals and requirements of the act.

(3) Definitions and interpretations made in this chapter by the department, but not expressly set forth in the act, are identified as such. The department's purpose is to provide assistance in interpreting the act, not to add provisions and meanings beyond those intended by the legislature. For definitions of specific terms used in this chapter see WAC 365-196-210.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 10-03-085, § 365-196-020, filed 1/19/10, effective 2/19/10.]

WAC 365-196-030 Applicability. (1) Where these guidelines apply.

(a) This chapter applies to all counties, cities, and towns that are required to plan or choose to plan under RCW 36.70A.040.

(b) WAC 365-196-830 addressing protection of critical areas applies to all counties and cities, including those that do not fully plan under RCW 36.70A.040.

(c) As of May 1, 2009, the following counties and cities within them are not required to fully plan under RCW 36.70A.040: Adams, Asotin, Cowlitz, Ferry, Grays Harbor, Klickitat, Lincoln, Okanogan, Wahkiakum, Skamania, and Whitman.

(2) Compliance with the procedural criteria is not a prerequisite for compliance with the act. This chapter makes recommendations for meeting the requirements of the act, it does not set a minimum list of actions or criteria that a county or city must take. Counties and cities can achieve compliance with the goals and requirements of the act by adopting other approaches.

(3) How the growth management hearings board use these guidelines. The growth management hearings board must determine, in cases brought before them, whether comprehensive plans or development regulations are in compliance with the goals and requirements of the act. When doing so, board must consider the procedural criteria contained in this chapter, but determination of compliance must be based on the act itself.

(4) When a county or city should consider the procedural criteria. Counties and cities should consider these procedural criteria when amending or updating their comprehensive plans, development regulations or countywide planning policies. Since adoption of the act, counties and cities and others have adopted a variety of agreements and frameworks to collaboratively address issues of local concern and

their responsibilities under the act. The procedural criteria do not trigger an independent obligation to revisit those agreements. Any local land use planning agreements should, where possible, be construed as consistent with these procedural criteria. Changes to these procedural criteria do not trigger an obligation to review and update local plans and regulations to be consistent with these criteria.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-030, filed 8/15/25, effective 9/15/25; WSR 23-08-037, § 365-196-030, filed 3/29/23, effective 4/29/23; WSR 10-22-103, § 365-196-030, filed 11/2/10, effective 12/3/10; WSR 10-03-085, § 365-196-030, filed 1/19/10, effective 2/19/10.]

WAC 365-196-040 Standard of review. (1) Comprehensive plans and development regulations adopted under the act are presumed valid upon adoption. No state approval is required.

(2) An appeal of a local comprehensive plan or development regulation alleging a violation of the act must be filed with the growth management hearings board (the board). The board must find compliance unless it determines that the action by the state agency, county, or city is clearly erroneous in view of the entire record before the board and in light of the goals and requirements of the act. To find an action clearly erroneous, the board must be left with a firm and definite conclusion that a mistake was made.

(3) Although a county or city does not have to prove compliance, if challenged, it must provide to the hearings board an index of "the record" - all material used in taking the action which is the subject of the challenge. See WAC 242-02-520. This record should include the documents containing the factual basis for determining that the challenged action complies with the act. This information may be contained in the comprehensive plan or development regulations, in the findings of the adopting ordinance or resolution, or in accompanying background documents, such as staff reports.

[Statutory Authority: RCW 36.70A.050, 36.70A.190. WSR 10-22-103, § 365-196-040, filed 11/2/10, effective 12/3/10; WSR 10-03-085, § 365-196-040, filed 1/19/10, effective 2/19/10.]

WAC 365-196-050 Regional and local variations. (1) Regional and local variations and the diversity that exist among different counties and cities should be reflected in the use and application of these procedural criteria.

(2) Recognition of variations and diversity is implicit in the act's framework, with an emphasis on a "bottom up" planning process and on public participation. Such recognition is also inherent in the listing of goals without assignment of priority. Accordingly, this chapter seeks to accommodate regional and local differences by focusing on an analytical process, instead of on specific outcomes.

(3) Local plans and development regulations are expected to vary in complexity and in level of detail depending on population size, growth rates, resources available for planning and scale of public facilities, and services provided.

(4) In general, smaller jurisdictions will not be expected to engage in extensive original research, but will be able to rely upon reasonable assumptions derived from available data of a statewide or

regional nature or representative of jurisdictions of comparable size and growth rates.

(5) When commenting on plans and regulations proposed for adoption, state agencies, including the department, should be guided by a common sense appreciation of the size of the jurisdiction involved, the magnitude of the problems addressed, and the context of the submitted changes.

(6) The department has developed a variety of technical assistance materials for counties and cities that may be used to help guide local planning.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 10-03-085, § 365-196-050, filed 1/19/10, effective 2/19/10.]

WAC 365-196-060 Goals. The act lists 13 overall goals in RCW 36.70A.020, plus the shoreline goal added in RCW 36.70A.480(1). Counties and cities should design comprehensive plans and development regulations to meet these goals.

(1) This list of 14 goals is not exclusive. Counties and cities may adopt additional goals. However, these additional goals must be supplementary. They may not conflict with the 14 statutory goals.

(2) Balancing the goals in the act.

(a) The act's goals are not listed in order of priority. The ultimate burden and responsibility for planning, harmonizing the planning goals of this chapter, and implementing a county's or city's future rests with that community. Differences in emphasis are expected from jurisdiction to jurisdiction. Although there may be an inherent tension between the act's goals, counties and cities must give some effect to all the goals. Balancing the act's goals must not be interpreted to allow a violation of statutory requirements. Counties and cities should consider developing a written record demonstrating that it considered the planning goals during the development of the comprehensive plan and development regulations.

(b) When there is a conflict between the general planning goals and more specific requirements of the act, the specific requirements control.

(c) In some cases, counties and cities may support activities outside their jurisdictional boundaries in order to meet goals of the act.

(d) Development regulations must be consistent with the goals and requirements of the act and the comprehensive plan. In most cases, if a comprehensive plan meets the statutory goals, development regulations consistent with the comprehensive plan will meet the goals.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 23-08-037, § 365-196-060, filed 3/29/23, effective 4/29/23; WSR 10-03-085, § 365-196-060, filed 1/19/10, effective 2/19/10.]

PART TWO
DEFINITIONS

WAC 365-196-200 Statutory definitions. The following definitions are contained in chapters 36.70A and 36.70B RCW and provided un-

der this section for convenience. Most statutory definitions included in this section are located in RCW 36.70A.030 and 36.70B.020.

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

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

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

(a) For rental housing, 60 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States Department of Housing and Urban Development; or

(b) For owner-occupied housing, 80 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States Department of Housing and Urban Development.

(4) "Agricultural activities" means all agricultural uses and practices as defined in RCW 90.58.065.

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

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

(7) "Closed record appeal" means an administrative appeal on the record to a local government body or officer, including the legislative body, following an open record hearing on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed.

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

(9) "Cottage housing" means residential units on a lot with a common open space that either:

(a) Is owned in common; or

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

(10) "Courtyard apartments" means attached dwelling units arranged on two or three sides of a yard or court.

(11) "Critical areas" include the following areas and ecosystems:

(a) Wetlands;

(b) Areas with a critical recharging effect on aquifers used for potable water;

(c) Fish and wildlife habitat conservation areas;

(d) Frequently flooded areas; and

(e) Geologically hazardous areas.

"Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

(12) "Department" means the department of commerce.

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

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

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

(16) "Extremely low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 30 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States Department of Housing and Urban Development.

(17) "Forest land" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under *RCW 84.33.100 through 84.33.110, and that has long-term commercial significance. In determining whether forest land is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered:

(a) The proximity of the land to urban, suburban, and rural settlements;

(b) Surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses;

(c) Long-term local economic conditions that affect the ability to manage for timber production; and

(d) The availability of public facilities and services conducive to conversion of forest land to other uses.

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

or industrial development consistent with public health or safety concerns.

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

(20) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 80 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States Department of Housing and Urban Development.

(21) "Major transit stop" means:

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

(b) Commuter rail stops;

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

(d) Stops on bus rapid transit routes, including those stops that are under construction.

(22) "Master planned resort" means a self-contained and fully integrated planned unit development, in a setting of significant natural amenities, with primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of developed on-site indoor or outdoor recreational facilities.

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

(24) "Minerals" include gravel, sand, and valuable metallic substances.

(25) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 120 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States Department of Housing and Urban Development.

(26) "Open record hearing" means a hearing, conducted by a single hearing body or officer authorized by the local government to conduct such hearings, that creates the local government's record through testimony and submission of evidence and information, under procedures prescribed by the local government by ordinance or resolution. An open record hearing may be held prior to a local government's decision on a project permit to be known as an "open record predecision hearing." An open record hearing may be held on an appeal, to be known as an "open record appeal hearing," if no open record predecision hearing has been held on the project permit.

(27) "Permanent supportive housing" is subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to

moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident's health status, and connect the resident of the housing with community-based health care, treatment, or employment services. Permanent supportive housing is subject to all of the rights and responsibilities defined in chapter 59.18 RCW.

(28) "Project permit" or "project permit application" means any land use or environmental permit or license required from a local government for a project action including, but not limited to, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area ordinances, site-specific rezones which do not require a comprehensive plan amendment, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations except as otherwise specifically included in this subsection.

(29) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(30) "Public meeting" means an informal meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to the local government's decision. A public meeting may include, but is not limited to, a design review or architectural control board meeting, a special review district or community council meeting, or a scoping meeting on a draft environmental impact statement. A public meeting does not include an open record hearing. The proceedings at a public meeting may be recorded and a report or recommendation may be included in the local government's project permit application file.

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

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

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

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

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

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

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

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

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

(33) "Rural development" refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural

element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.

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

(35) "Single-family zones" means those zones where single-family detached housing is the predominant land use.

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

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

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

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

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

(41) "Very low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 50 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States Department of Housing and Urban Development.

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

lands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

* RCW 84.33.100 through 84.33.118 were repealed or decodified by 2001 c 249 §§ 15 and 16. RCW 84.33.120 was repealed by 2001 c 249 § 16 and by 2003 c 170 § 7.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-200, filed 8/15/25, effective 9/15/25; WSR 17-20-100, § 365-196-200, filed 10/4/17, effective 11/4/17; WSR 15-04-039, § 365-196-200, filed 1/27/15, effective 2/27/15; WSR 10-03-085, § 365-196-200, filed 1/19/10, effective 2/19/10.]

WAC 365-196-210 Definitions of terms as used in this chapter. The following are definitions which are not defined in RCW 36.70A.030 but are defined here for purposes of the procedural criteria.

(1) "Act" means the Growth Management Act, as enacted in chapter 17, Laws of 1990 1st ex. sess., and chapter 32, Laws of 1991 sp. sess., state of Washington as amended. The act is codified primarily in chapter 36.70A RCW.

(2) "Achieved density" means the density at which new development occurred in the planning period preceding the analysis required in either RCW 36.70A.130(3) or 36.70A.215.

(3) "Adequate provisions" in the context of RCW 36.70A.070 (2)(d) means adopting plans, policies, programs, regulations, and incentives to accommodate and encourage housing affordable to each economic segment of the county or city, and documenting programs and actions needed to overcome barriers and limitations to achieve housing availability.

(4) "Adequate public facilities" means facilities which have the capacity to serve development without decreasing levels of service below locally established minimums.

(5) "All economic segments" means, at a minimum, low, very low, extremely low, and moderate-income household segments, and those who occupy emergency housing, emergency shelters, and permanent supportive housing.

(6) "Allowed densities" means the density, expressed in dwelling units per acre, units per lot, or other measure of intensity allowed under a county's or city's development regulations when considering the combined effects of all applicable development regulations.

(7) "Assumed densities" means the density at which future development is expected to occur as specified in the land capacity analysis or the future land use element. Assumed densities are also referred to in RCW 36.70A.110 as densities sufficient to permit the urban growth that is projected to occur.

(8) "Concurrency" or "concurrent with development" means that adequate public facilities are available when the impacts of development occur, or within a specified time thereafter. This definition includes the concept of "adequate public facilities" as defined above.

(9) "Consistency" means that no feature of a plan or regulation is incompatible with any other feature of a plan or regulation. Consistency is indicative of a capacity for orderly integration or operation with other elements in a system.

(10) "Contiguous development" means development of areas immediately adjacent to one another.

(11) "Coordination" means consultation and cooperation among counties and cities.

(12) "Cultural resources" is a term used interchangeably with "lands, sites, and structures, which have historical or archaeological and traditional cultural significance."

(13) "Demand management strategies" or "transportation demand management strategies" means strategies designed to change travel behavior to make more efficient use of existing facilities to meet travel demand. Examples of demand management strategies can include strategies that:

(a) Shift demand outside of the peak travel time;

(b) Shift demand to other modes of transportation;

(c) Increase the average number of occupants per vehicle;

(d) Decrease the length of trips; and

(e) Avoid the need for vehicle trips.

(14) "Displacement" in the context of RCW 36.70A.070 means the process by which a household is forced to move from its community because of conditions beyond its control.

(15) "Displacement risk" means the likelihood that a household will be forced to move from its community.

(16) "Domestic water system" means any system providing a supply of potable water which is deemed adequate pursuant to RCW 19.27.097 for the intended use of a development.

(17) "Ecosystem functions" are the products, physical and biological conditions, and environmental qualities of an ecosystem that result from interactions among ecosystem processes and ecosystem structures. Ecosystem functions include, but are not limited to, sequestered carbon, attenuated peak streamflows, aquifer water level, reduced pollutant concentrations in surface and ground waters, cool summer in-stream water temperatures, and fish and wildlife habitats.

(18) "Ecosystem values" are the cultural, social, economic, and ecological benefits attributed to ecosystem functions.

(19) "Essential public facilities" include those facilities that are typically difficult to site, such as airports, state education facilities, and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities as defined in RCW 81.112.020, state and local correctional facilities, solid waste handling facilities, opioid treatment programs including both mobile and fixed-site medication units, recovery residences, harm reduction programs excluding safe injection sites, and inpatient facilities including substance use disorder treatment facilities, mental health facilities, group homes, community facilities as defined in RCW 72.05.020, and secure community transition facilities as defined in RCW 71.09.020.

(20) "Exclusion" means the act or effect of shutting or keeping certain populations out of a specified area, in a manner that may be intentional or unintentional.

(21) "Family day-care provider" is defined in RCW 43.215.010. It is a person who regularly provides child care and early learning services for not more than 12 children. Children include both the provider's children, close relatives and other children irrespective of whether the provider gets paid to care for them. They provide their services in the family living quarters of the day care provider's home.

(22) "Financial commitment" means that sources of public or private funds or combinations thereof have been identified which will be sufficient to finance public facilities necessary to support development and that there is reasonable assurance that such funds will be timely put to that end.

(23) "Growth Management Act" - See definition of "act."

(24) "Historic preservation" or "preservation" is defined in the National Historic Preservation Act of 1966, as identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, research, interpretation, conservation, and education and training regarding the foregoing activities or any combination of the foregoing activities.

(25) "Lands, sites, and structures, that have historical, archaeological, or traditional cultural significance" are the tangible and material evidence of the human past, aged 50 years or older, and include archaeological sites, historic buildings and structures, districts, landscapes, and objects.

(26) "Level of service" means an established minimum capacity of public facilities or services that must be provided per unit of demand or other appropriate measure of need. Level of service standards are synonymous with locally established minimum standards.

(27) "Local government" means a county, city, or town.

(28) "May," as used in this chapter, indicates an option counties and cities can take at their discretion.

(29) "Mitigation" or "mitigation sequencing" means a prescribed order of steps taken to reduce the impacts of activities on critical areas. As defined in WAC 197-11-768, mitigation means:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action;

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

(e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or

(f) Monitoring the impact and taking appropriate corrective measures.

(30) "Must," as used in this chapter, indicates a requirement for compliance with the act. It has the same meaning within this chapter as "shall."

(31) "New fully contained community" is a development proposed for location outside of the existing designated urban growth areas which is characterized by urban densities, uses, and services, and meets the criteria of RCW 36.70A.350.

(32) "Planning period" means the 20-year period starting on the relevant due date for the most recent periodic update specified in RCW 36.70A.130(5).

(33) "Public benefit," as referenced in RCW 39.33.015, means affordable housing, which can be rental housing or permanently affordable homeownership for low, very low, and extremely low-income households, and related facilities that support the goals of affordable housing development in providing economic and social stability for low-income persons.

(34) "Public service obligations" means obligations imposed by law on utilities to furnish facilities and supply service to all who may apply for and be reasonably entitled to service.

(35) "Racially disparate impacts" means disproportionate impacts on one or more racial groups as a result of policies, practices, rules, or other systems.

(36) "Regional transportation plan" means the transportation plan for the regionally designated transportation system which is produced by the regional transportation planning organization.

(37) "Regional transportation planning organization (RTPO)" means the voluntary organization conforming to RCW 47.80.020, consisting of counties and cities within a region containing one or more counties which have common transportation interests.

(38) "Rural lands" means all lands which are not within an urban growth area and are not designated as natural resource lands having long-term commercial significance for production of agricultural products, timber, or the extraction of minerals.

(39) "Sanitary sewer systems" means all facilities, including approved on-site disposal facilities, used in the collection, transmission, storage, treatment, or discharge of any waterborne waste, whether domestic in origin or a combination of domestic, commercial, or industrial waste. On-site disposal facilities are only considered sanitary sewer systems if they are designed to serve urban densities.

(40) "Shall," as used in this chapter, indicates a requirement for compliance with the act. It has the same meaning within this chapter as "must."

(41) "Should," as used in this chapter, indicates the advice of the department, but does not indicate a requirement for compliance with the act.

(42) "Solid waste handling facility" means any facility for the transfer or ultimate disposal of solid waste, including land fills and municipal incinerators.

(43) "Sufficient land capacity for development" means that the comprehensive plan and development regulations provide for the capacity necessary to accommodate all the growth in population and employment that is allocated to that jurisdiction through the process outlined in the countywide planning policies.

(44) "Surplus public property" means excess real property that is not required for the needs of or the discharge of the responsibilities of the state agency, municipality, or political subdivision. Note that RCW 39.33.015 applies a specific definition for affordable housing in the context of surplus public property.

(45) "Transitional housing" means a project that provides housing to homeless persons or families for up to two years, or longer, and that has as its purpose facilitating the movement of homeless persons and families into permanent housing.

(46) "Transportation facilities" includes capital facilities related to air, water, or land transportation.

(47) "Transportation level of service standards" means a measure which describes the operational condition of the travel stream and acceptable adequacy requirements. Such standards may be expressed in terms such as speed and travel time, freedom to maneuver, traffic interruptions, comfort, convenience, geographic accessibility, and safety.

(48) "Transportation system management" means the use of low cost solutions to increase the performance of the transportation system. Transportation system management (TSM) strategies include, but are not limited to, signalization, channelization, ramp metering, incident response programs, and bus turn-outs.

(49) "Utilities" or "public utilities" means enterprises or facilities serving the public by means of an integrated system of collection, transmission, distribution, and processing facilities through more or less permanent physical connections between the plant of the serving entity and the premises of the customer. Included are systems for the delivery of natural gas, electricity, telecommunications services, and water, and for the disposal of sewage.

(50) "Visioning" means a process of citizen involvement to determine values and ideals for the future of a community and to transform those values and ideals into manageable and feasible community goals.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-210, filed 8/15/25, effective 9/15/25; WSR 23-08-037, § 365-196-210, filed 3/29/23, effective 4/29/23; WSR 10-03-085, § 365-196-210, filed 1/19/10, effective 2/19/10.]

PART THREE
URBAN GROWTH AREAS AND COUNTYWIDE PLANNING POLICIES

WAC 365-196-300 Urban density. (1) The role of urban areas in the act. The act requires counties and cities to direct new growth to urban areas to allow for more efficient and predictable provision of adequate public facilities, to promote an orderly transition of governance for urban areas, to reduce development pressure on rural and resource lands, and to encourage redevelopment of existing urban areas.

(2) How the urban density requirements in the act are interrelated. The act involves a consideration of density in three contexts:

(a) Allowed densities: The density, expressed in dwelling units per acre, units per lot, or other measure of intensity, allowed under a county's or city's development regulations when considering the combined effects of all applicable development regulations.

(b) Assumed densities: The density at which future development is expected to occur as specified in the land capacity analysis or the future land use element. Assumed densities are also referred to in RCW 36.70A.110 as densities sufficient to permit the urban growth that is projected to occur.

(c) Achieved density: The density at which new development occurred in the period preceding the analysis required in either RCW 36.70A.130(3) or 36.70A.215.

(3) Determining the appropriate range of urban densities. Within urban growth areas, counties and cities must permit urban densities and provide sufficient land capacity suitable for development. The requirements of RCW 36.70A.110 and 36.70A.115 apply to the densities assumed in the comprehensive plan and the densities allowed in the implementing development regulations.

(a) Comprehensive plans. Under RCW 36.70A.070(1) and in RCW 36.70A.110(2), the act requires that the land use element identify areas and assumed densities sufficient to accommodate the 20-year allocation of population and countywide housing needs by economic segment. The land use element should clearly identify the densities, or range of densities, assumed for each land use designation as shown on the future land use map. When reviewing the urban growth area, the assumed densities in the land capacity analysis must be urban densities.

(b) Development regulations. Counties and cities must provide sufficient capacity of land suitable for development.

(i) Development regulations must allow development at the densities assumed in the comprehensive plan.

(ii) Counties and cities need not force redevelopment in urban areas not currently developed at urban densities, but the development regulations must allow, and should not discourage redevelopment at urban densities. If development patterns are not occurring at urban densities, counties and cities should review development regulations for potential barriers or disincentives to development at urban densities. Counties and cities should revise regulations to remove any identified barriers and disincentives to urban densities, and may include incentives.

(4) Factors to consider for establishing urban densities. The act does not establish a uniform standard for minimum urban density. Counties and cities may establish a specified minimum density in countywide or multicounty planning policies. Counties and cities should consider the following factors when determining an appropriate range of urban densities:

(a) An urban density is a density for which cost-effective urban services can be provided. Higher densities generally lower the per capita cost to provide urban governmental services.

(b) Densities should be higher in areas with a high local transit level of service. Generally, a minimum of seven to eight dwelling units per acre is necessary to support local urban transit service. Higher densities are preferred around high capacity transit stations.

(c) The areas and densities within an urban growth area must be sufficient to accommodate the portion of the 20-year population and housing needs by economic segment that is allocated to the urban area. Urban densities should allow accommodation of the population allocated within the area that can be provided with adequate public facilities during the planning period.

(d) Counties and cities should establish significantly higher densities within regional growth centers designated in RCW 47.80.030; in growth and transportation efficiency centers designated under RCW 70.94.528; and around high capacity transit stations in accordance with RCW 47.80.026. Cities may also designate new or existing downtown centers, neighborhood centers, or identified transit corridors as focus areas for infill and redevelopment at higher densities.

(e) Densities should allow counties and cities to accommodate new growth predominantly in existing urban areas and reduce reliance on either continued expansion of the urban growth area, or directing significant amounts of new growth to rural areas.

(f) The densities chosen should accommodate a variety of housing types and sizes to meet the needs of all economic segments of the county or city. The amount and type of housing accommodated at each density and in each land use designation should be consistent with the allocation of countywide housing needs by economic segment and the various housing types and densities necessary to provide housing for those economic segments as identified in the housing element of the comprehensive plan.

(g) Counties and cities may designate some urban areas at less than urban densities to protect a network of critical areas, to avoid further development in frequently flooded areas, or to prevent further development in geologically hazardous areas. Counties or cities should show that the critical areas are present in the area so designated and that area designated is limited to the area necessary to achieve these purposes.

(5) Addressing development patterns that occurred prior to the act.

(a) Prior to the passage of the act, many areas within the state developed at densities that are neither urban nor rural. Inside the urban growth area, local comprehensive plans should allow appropriate redevelopment of these areas. Newly developed areas inside the urban growth area should be developed at urban densities.

(b) Local capital facilities plans should include plans to provide existing urban areas with adequate public facilities during the planning period so that available infrastructure does not serve as a limiting factor to redevelopment at urban densities.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-300, filed 8/15/25, effective 9/15/25; WSR 23-08-037, § 365-196-300, filed 3/29/23, effective 4/29/23; WSR 10-03-085, § 365-196-300, filed 1/19/10, effective 2/19/10.]

WAC 365-196-305 Countywide planning policies. (1) Purpose of countywide planning policies. The act requires counties and cities to collaboratively develop countywide planning policies to govern the development of comprehensive plans. The primary purpose of countywide planning policies is to ensure consistency between the comprehensive plans of counties and cities sharing a common border or related regional issues. Another purpose of countywide planning policies is to facilitate the transformation of local governance in the urban growth area, typically through annexation to or incorporation of a city, so that urban governmental services are primarily provided by cities and rural and regional services are provided by counties.

(2) Relationship to the act. Countywide planning policies must comply with the requirements of the act. Countywide planning policies may not compel counties and cities to take action that violates the act. Countywide planning policies may not permit actions that the act prohibits nor include exceptions to such prohibitions not contained in the act. If a countywide planning policy can be implemented in a way that is consistent with the act, then it is consistent with the act, even if its subsequent implementation is found to be out of compliance. RCW 36.70A.210(4) requires state agencies to comply with countywide planning policies.

(3) Relationship to comprehensive plans. The comprehensive plans of counties and cities must comply with both the countywide planning policies and the act. Any requirements in a countywide planning policy do not replace requirements in the act or any other state or federal law or regulation.

(4) Required policies. Consistent with RCW 36.70A.210(3) and 36.70A.215, countywide planning policies must cover the following subjects:

(a) Policies to implement RCW 36.70A.110, including:

(i) Designation of urban growth areas;

(ii) Selection of population projections, employment forecasts, and growth allocations between counties and cities as part of the review of an urban growth area;

(iii) Allocation of housing needs by economic segment between counties and cities and the factors to guide their distribution, such as proximity to jobs, transit, and supportive services, consistent with WAC 365-196-410 (2)(c)(ii) and (iii) and projections of housing need provided by the department;

(iv) Procedures governing amendments to urban growth areas, including the review required by RCW 36.70A.130(3);

(v) Consultation between counties and cities regarding urban growth areas; and

(vi) If desired, policies governing the establishment of urban service boundaries or potential annexation areas.

(b) Promoting contiguous and orderly development and provision of urban services to such development;

(c) Siting public facilities of a countywide or statewide nature, including transportation facilities of statewide significance;

(d) Countywide transportation facilities and strategies;

(e) The need for affordable housing such as housing for all economic segments of the population and parameters for its distribution;

(f) Joint city/county planning in urban growth areas;

(g) Countywide economic development and employment;

(h) An analysis of fiscal impact; and

(i) Where applicable, policies governing the buildable lands review and evaluation program.

(5) Recommended policies. Countywide planning policies should also include policies addressing the following:

(a) Procedures by which the countywide planning policies will be reviewed and amended; and

(b) A process for resolving disputes regarding interpretation of countywide planning policies or disputes regarding implementation of the countywide planning policies.

(6) Framework for adoption of countywide planning policies. Prior to adopting countywide planning policies, counties and cities must develop a framework. This framework should be in written form and agreed to by the county and the cities within those counties. The framework may be in a memorandum of understanding, an intergovernmental agreement, or as a section of the countywide planning policies. This framework must include the following provisions:

(a) Desired policies;

(b) Deadlines;

(c) Ratification of final agreements and demonstration; and

(d) Financing, if any, of all activities associated with developing and adopting the countywide planning policies.

(7) Forum for ongoing coordination. Counties and cities should establish a method for ongoing coordination of issues associated with implementation of the countywide planning policies and comprehensive plans, which should include both a forum for county and city elected officials and a forum for county and city staff responsible for implementation. These forums may also include special purpose districts, transit districts, port districts, federal agencies and state agencies. Jurisdictions must invite federally recognized Indian tribal government to participate in these forums, or provide a parallel process for collaboration and participation for tribal government in the regional planning process.

(8) Ongoing review recommended. Counties and cities should review adopted countywide policies to determine whether they are effectively achieving their objectives.

(9) Multicounty planning policies.

(a) Multicounty planning policies must be adopted by two or more counties, each with a population of 450,000 or more, with contiguous urban areas. They may also be adopted by other counties by a process agreed to among the counties and cities within the affected counties.

(b) Multicounty planning policies are adopted by two or more counties and establish a common region-wide framework that ensures consistency among county and city comprehensive plans adopted pursuant to RCW 36.70A.070, and countywide planning policies adopted pursuant to RCW 36.70A.210.

(c) Multicounty planning policies provide a framework for regional plans developed within a multicounty region, including regional transportation plans established under RCW 47.80.023, as well as plans of cities, counties, and others that have common borders or related regional issues as required under RCW 36.70A.100.

(d) Multicounty planning policies should address, at a minimum, the same topics identified for countywide planning as identified in RCW 36.70A.210(3), except for those responsibilities assigned exclusively to counties. Other issues may also be addressed.

(e) Because of the regional nature of multicounty planning policies, counties or cities should use an existing regional agency with the same or similar geographic area, such as a regional transportation planning organization, pursuant to RCW 47.80.020, to develop, adopt, and administer multicounty planning policies.

(f) In order to provide an ongoing multicounty framework, a schedule for reviewing and revising the multicounty planning policies may be established. This schedule should relate to the review and revision deadlines for county and city comprehensive plans pursuant to RCW 36.70A.130.

(10) Tribal coordination.

(a) Counties must invite federally recognized tribes whose reservation or ceded land lie within the county to participate in developing countywide planning policies as provided in RCW 36.70A.210.

(b) Counties must develop policies for the protection of tribal cultural resources in collaboration with federally recognized tribes, provided that they choose to participate as provided in RCW 36.70A.210.

(c) Local jurisdictions must work with tribes to coordinate urban growth. At the earliest possible date prior to the revision of an urban growth area authorized under RCW 36.70A.110(8), the county must engage in meaningful consultation with any federally recognized Indian tribe that may be potentially affected by the proposed revision. Meaningful consultation must include discussion of the potential impacts to cultural resources and tribal treaty rights. A county must notify the affected federally recognized Indian tribe of the proposed revision using at least two methods, including by mail. Upon receiving a notice, the federally recognized Indian tribe may request a consultation to determine whether an agreement can be reached related to the revision of an urban growth area. If an agreement is not reached, the parties must enter mediation pursuant to RCW 36.70A.040.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-305, filed 8/15/25, effective 9/15/25; WSR 23-08-037, § 365-196-305, filed 3/29/23, effective 4/29/23; WSR 10-03-085, § 365-196-305, filed 1/19/10, effective 2/19/10.]

WAC 365-196-310 Urban growth areas. (1) Requirements.

(a) Each county planning under the act must designate an urban growth area or areas within which urban growth must be encouraged and outside of which growth can occur only if it is not urban in nature.

Each county must designate an urban growth area in its comprehensive plan.

(b) Each city that is located in such a county shall be included within an urban growth area. An urban growth area may include more than a single city.

(c) An urban growth area may include territory that is located outside a city if such territory already is characterized by urban growth or is adjacent to territory already characterized by urban growth.

(d) Based upon the growth management planning population projection selected by the county from within the range provided by the office of financial management, and the resulting allocations of housing need, and based on a countywide employment forecast developed by the county at its discretion, the urban growth areas shall include areas and densities sufficient to permit the urban growth that is projected to occur in the county for the succeeding 20-year period. Counties and cities may provide the office of financial management with information they deem relevant to prepare the population projections, and the office shall consider and comment on such information and review projections with counties and cities before they are adopted. Counties and cities may petition the office to revise projections they believe will not reflect actual population growth.

(e) The combined urban growth area may not exceed the areas necessary to accommodate the growth management planning projections, plus a reasonable land market supply factor, or market factor. In determining this market factor, counties and cities may consider local circumstances. Counties and cities have discretion in their comprehensive plans to make many choices about accommodating growth. Each urban growth area shall permit urban densities and shall include greenbelt and open space areas.

(f) Counties and cities should facilitate urban growth within urban growth areas as follows:

(i) Urban growth should be located first in areas already characterized by urban growth that have existing public facilities and service capacities adequate to serve urban development.

(ii) Second, urban growth should be located in areas already characterized by urban growth that will be served by a combination of both existing public facilities and services and any additional needed public facilities and services that are provided by either public or private sources.

(iii) Third, urban growth should be located in the remaining portions of the urban growth area.

(g) In general, cities are the units of local government most appropriate to provide urban governmental services. In general, it is not appropriate that urban governmental services be extended to or expanded in rural areas except in those limited circumstances shown to be necessary to protect basic public health and safety and the environment and when such services are financially supportable at rural densities and do not permit urban development. Recommendations governing the extension of urban services into rural areas are found in WAC 365-196-425.

(h) Each county that designates urban growth areas must review, according to the time schedule specified in RCW 36.70A.130(5), periodically its designated urban growth areas, the patterns of development, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area (see WAC 365-196-610).

(2) General procedure for initial designation of new urban growth areas.

(a) The designation process shall include consultation by the county with each city located within its boundaries. The adoption, review and amendment of the urban growth area should reflect a cooperative effort among jurisdictions to accomplish the requirements of the act on a regional basis, consistent with the countywide planning policies and, where applicable, multicounty planning policies.

(b) Each city shall propose the location of an urban growth area.

(c) The county shall attempt to reach agreement with each city on the location of an urban growth area within which the city is located.

(d) If an agreement is not reached with each city located within the urban growth area, the county shall justify in writing why it so designated an urban growth area.

(e) As growth occurs, most lands within the urban growth area should ultimately be provided with urban governmental services by cities, either directly or by contract. Other service providers are appropriate within urban growth areas for regional or countywide services, or for isolated unincorporated pockets characterized by urban growth. Counties and cities should provide for development phasing within each urban growth area to ensure the orderly sequencing of development and that services are provided as growth occurs.

(f) Counties and cities should develop and evaluate urban growth area proposals with the purpose of accommodating projected urban growth through infill and redevelopment within existing municipal boundaries or urban areas. In some cases, expansion will be the logical response to projected urban growth.

(g) Counties, cities, and other municipalities, where appropriate, should negotiate interlocal agreements to coordinate land use management with the provision of adequate public facilities to the urban growth area. Such agreements should facilitate urban growth in a manner consistent with the cities' comprehensive plans and development regulations, and should facilitate a general transformation of governance over time, through annexation or incorporation, and transfer of nonregional public services to cities as the urban area develops.

(h) The initial effective date of an action that expands an urban growth area is the latest of the following dates per RCW 36.70A.067:

(i) Sixty days after the publication of notice of adoption of the comprehensive plan, development regulation, or amendment to the plan or regulation, implementing the action, as provided under RCW 36.70A.290(2); or

(ii) If a petition for review to the growth management hearings board is timely filed, upon issuance of the board's final order.

(3) Urban growth area swaps.

(a) An urban growth area swap refers to the process by which a county may change an urban growth area even if it is determined that an urban growth area expansion is not required to accommodate 20-year growth projections. This may be done during county's periodic update under RCW 36.70A.130 (3)(c), or as an annual amendment under RCW 36.70A.110(8).

(b) If, during the county's periodic update review under RCW 36.70A.130 (3)(c), the county determines expansion of the urban growth area is not required to accommodate the urban growth projected to occur in the county for the succeeding 20-year period, but does determine that patterns of development have created pressure in areas that exceed available, developable lands within the urban growth area, the urban growth area or areas may be revised to accommodate identified

patterns of development and likely future development pressure for the succeeding 20-year period if the following requirements are met:

(i) The revised urban growth area may not result in an increase in the total surface areas of the urban growth area or areas;

(ii) The areas added to the urban growth area are not or have not been designated as agricultural, forest, or mineral resource lands of long-term commercial significance;

(iii) Less than 15 percent of the areas added to the urban growth area are critical areas;

(iv) The areas added to the urban growth areas are suitable for urban growth;

(v) The transportation element and capital facility plan element have identified the transportation facilities, and public facilities and services needed to serve the urban growth area and the funding to provide the transportation facilities and public facilities and services;

(vi) The total area of all urban growth areas in the county is not larger than needed to accommodate the growth planned for the succeeding 20-year planning period and a reasonable land market supply factor;

(vii) The areas removed from the urban growth area do not include urban growth or urban densities; and

(viii) The revised urban growth area is contiguous, does not include holes or gaps, and will not increase pressures to urbanize rural or natural resource lands.

(c) If considering an urban growth area swap as an annual amendment under RCW 36.70A.110(8), the following requirements must be met before a revision of the urban growth area is allowed:

(i) The revised urban growth area would not result in a net increase in the total acreage or development capacity of the urban growth area or areas;

(ii) The areas added to the urban growth area are not designated by the county as agricultural, forest, or mineral resource lands of long-term commercial significance;

(iii) If the areas added to the urban growth area have previously been designated as agricultural, forest, or mineral resource lands of long-term commercial significance, either an equivalent amount of agricultural, forest, or mineral resource lands of long-term commercial significance must be added to the area outside of the urban growth area, or the county must wait a minimum of two years before another swap may occur;

(iv) Less than 15 percent of the areas added to the urban growth area are critical areas other than critical aquifer recharge areas. Critical aquifer recharge areas must have been previously designated by the county and be maintained per county development regulations within the expanded urban growth area and the revised urban growth area must not result in a net increase in critical aquifer recharge areas within the urban growth area;

(v) The areas added to the urban growth areas are suitable for urban growth;

(vi) The transportation element and capital facility plan element of the county's comprehensive plan have identified the transportation facilities and public facilities and services needed to serve the urban growth area and the funding to provide the transportation facilities and public facilities and services;

(vii) The areas removed from the urban growth area are not characterized by urban growth or urban densities;

(viii) The revised urban growth area is contiguous, does not include holes or gaps, and will not increase pressures to urbanize rural or natural resource lands;

(ix) The county's proposed urban growth area revision has been reviewed according to the process and procedure in the countywide planning policies adopted and approved according to RCW 36.70A.210; and

(x) The revised urban growth area meets all other requirements of RCW 36.70A.110(8).

(4) Urban growth areas and 100-year floodplains.

(a) Except as provided in (b) of this subsection, counties and cities may not expand the urban growth area into the 100-year floodplain of any river or river segment that:

(i) Is located west of the crest of the Cascade mountains; and

(ii) Has a mean annual flow of 1,000 or more cubic feet per second as determined by the department of ecology.

(b) Subsection (4)(a) of this section does not apply to:

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

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

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

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

(iii) Urban growth area expansions where:

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

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

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

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

(II) The development and use of such facilities or projects will not decrease flood storage, increase stormwater runoff, discharge pollutants to fresh or salt waters during normal operations or floods, or increase hazards to people and property.

(c) Under this subsection (4), "100-year floodplain" means the same as "special flood hazard area" as set forth in WAC 173-158-040 as it exists on July 26, 2009.

(5) Recommendations for meeting requirements.

(a) Selecting and allocating countywide growth forecasts. This process should involve at least the following:

(i) The total countywide population is the sum of the population allocated to each city; the population allocated to any portion of the urban growth area associated with cities; the population allocated to any portion of the urban growth area not associated with a city; and the population growth that is expected outside of the urban growth

area. Counties and cities should use consistent growth forecasts, allocations, and planning horizons. The planning horizon should start on the relevant deadline specified in RCW 36.70A.130(5) and encompass 20 years.

(ii) RCW 43.62.035 directs the office of financial management to provide a reasonable range of high, medium and low 20-year population forecasts for each county in the state, with the medium forecast being most likely. Counties and cities must plan for a total countywide population that falls within the office of financial management range.

(iii) Consideration of other population forecast data, trends, and implications. In selecting population forecasts, counties and cities may consider the following:

(A) Population forecasts from outside agencies, such as regional or metropolitan planning agencies, and service providers.

(B) Historical growth trends and factors which would cause those trends to change in the future.

(C) General implications, including:

(I) Public facilities and service implications. Counties and cities should carefully consider how to finance the necessary facilities and should establish a phasing plan to ensure that development occurs at urban densities; occurs in a contiguous and orderly manner; and is linked with provision of adequate public facilities. These considerations are particularly important when considering forecasts closer to the high end of the range. Jurisdictions considering a population forecast closer to the low end of the range should closely monitor development and population growth trends to ensure actual growth does not begin to exceed the planned capacity.

(II) Overall land supplies. Counties and cities facing immediate physical or other land supply limitations may consider these limitations in selecting a forecast. Counties and cities that identify potential longer term land supply limitations should consider the extent to which current forecast options would require increased densities or slower growth in the future.

(III) Implications of short term updates. The act requires that 20-year growth forecasts and designated urban growth areas be updated at a minimum during the periodic review of comprehensive plans and development regulations (WAC 365-196-610). Counties and cities should consider the likely timing of future updates, and the opportunities this provides for adjustments.

(D) Counties and cities are not required to adopt forecasts for annual growth rates within the 20-year period, but may choose to for planning purposes. If used, annual growth projections may assume a consistent rate throughout the planning period, or may assume faster or slower than average growth in certain periods, as long as they result in total growth consistent with the 20-year forecasts selected.

(iv) Selection of a countywide employment forecast. Counties, in consultation with cities, should adopt a 20-year countywide employment forecast to be allocated among urban growth areas, cities, and the rural area. The following should be considered in this process:

(A) The countywide population forecast, and the resulting ratio of forecast jobs to persons. This ratio should be compared to past levels locally and other regions, and to desired policy objectives; and

(B) Economic trends and forecasts produced by outside agencies or private sources.

(v) Projections for commercial and industrial land needs. When establishing an urban growth area, counties should designate suffi-

cient commercial and industrial land. Although no office of financial management forecasts are available for industrial or commercial land needs, counties and cities should use a countywide employment forecast, available data on the current and projected local and regional economies, and local demand for services driven by population growth. Counties and cities should consider establishing a countywide estimate of commercial and industrial land needs to ensure consistency of local plans.

Counties and cities should consider the need for industrial lands in the economic development element of their comprehensive plan. Counties and cities should avoid conversion of areas set aside for industrial uses to other incompatible uses, to ensure the availability of suitable sites for industrial development.

(vi) Selection of community growth goals with respect to population, commercial and industrial development and residential development.

(vii) Selection of the densities a county or city seeks to achieve in relation to its growth goals. Inside the urban growth areas, densities must be urban. Outside the urban growth areas, densities must be rural.

(b) Per subsection (1)(h) of this section and RCW 36.70A.130(5), each county that designates urban growth areas must review periodically its designated urban growth areas.

The purpose of the urban growth area review is to assess the capacity of the urban land to accommodate population growth projected for the succeeding 20-year planning period.

(i) This review should be conducted jointly with the affected cities.

(ii) In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

(c) Counties and cities must use the selected population projection identified in subsection (1)(d) of this section to determine the countywide projection of housing need by economic segment provided by the department as prescribed in RCW 36.70A.070 (2)(a). Counties and cities must determine the countywide projected housing need using data and methodology provided by the department. When allocating projected housing needs for each jurisdiction within a county, counties and cities should use the minimum standards described in WAC 365-196-410 (2)(c)(iii).

(d) General considerations for determining the need for urban growth areas expansions to accommodate projected population and employment growth.

(i) Estimation of the number of new persons and jobs to be accommodated based on the difference between the 20-year forecast and current population and employment.

(ii) Estimation of the capacity of current cities and urban growth areas to accommodate additional population and employment over the 20-year planning period. This should be based on a land capacity analysis, which may include the following:

(A) Identification of the amount of developable residential, commercial, and industrial land, based on inventories of currently undeveloped or partially developed urban lands.

(B) Identification of the appropriate amount of greenbelt and open space to be preserved or created in connection with the overall

growth pattern and consistent with any adopted levels of service. See WAC 365-196-335 for additional information.

(C) Identification of the amount of developable urban land needed for the public facilities, public services, and utilities necessary to support the likely level of development. See WAC 365-196-320 for additional information.

(D) Based on allowed land use development densities and intensities, a projection of the additional urban population and employment growth that may occur on the available residential, commercial and industrial land base. The projection should consider the portion of population and employment growth which may occur through redevelopment of previously developed urban areas during the 20-year planning period.

(E) The land capacity analysis must be based on the assumption that growth will occur at urban densities inside the urban growth area and is consistent with the housing types specified in the analysis of housing need developed pursuant to RCW 36.70A.070(2). In formulating land capacity analyses, counties and cities should consider data on past development, zoning to meet minimum housing requirements, as well as factors which may cause trends to change in the future. For counties and cities subject to RCW 36.70A.215, information from associated buildable lands reports should be considered. If past development patterns have not resulted in urban densities, or have not resulted in a pattern of desired development, counties and cities should use assumptions aligned with desired future development patterns. Counties and cities should then implement strategies to better align future development patterns with those desired.

(F) The land capacity analysis may also include a reasonable land market supply factor, also referred to as the "market factor." The purpose of the market factor is to account for the estimated percentage of developable acres contained within an urban growth area that, due to fluctuating market forces, is likely to remain undeveloped over the course of the 20-year planning period. The market factor recognizes that not all developable land will be put to its maximum use because of owner preference, cost, stability, quality, and location. If establishing a market factor, counties and cities should establish an explicit market factor for the purposes of establishing the amount of needed land capacity. Counties and cities may consider local circumstances in determining an appropriate market factor. Counties and cities may also use a number derived from general information if local study data is not available.

(iii) An estimation of the additional growth capacity of rural and other lands outside of existing urban growth areas compared with future growth forecasted, and current urban and rural capacities.

(iv) If future growth forecasts exceed the current combined capacities of unincorporated county and city lands, counties and cities should first consider the potential of increasing capacity of existing urban areas through allowances for higher densities, or for additional provisions to encourage redevelopment. If counties and cities find that increasing the capacity of existing urban areas is not feasible or appropriate based on the evidence they examine, counties and cities may consider expansion of the urban growth area to meet the future growth forecast.

(e) Determining the appropriate locations of new or expanded urban growth area boundaries. This process should consider the following:

(i) Selection of appropriate densities. For all jurisdictions planning under the act, the urban growth area should represent the

physical area where that jurisdiction's urban development vision can be realized over the next 20 years. The urban growth area should be based on densities which accommodate urban growth, served by adequate public facilities, discourage sprawl, and promote goals of the act. RCW 36.70A.110 requires that densities specified for land inside the urban growth area must be urban densities. See WAC 365-196-300 for recommendations on determining appropriate urban densities.

(ii) The county should attempt to define urban growth areas to accommodate the growth plans of the cities. Urban growth areas should be defined so as to facilitate the transformation of services and governance during the planning period. However, physical location or existing patterns of service make some unincorporated areas which are characterized by urban growth inappropriate for inclusion in any city's potential growth area.

(iii) Identifying the location of any new lands added to the urban growth area. Lands should be included in the urban growth area in the following priority order:

(A) Existing incorporated areas;

(B) Land that is already characterized by urban growth and has adequate public facilities and services;

(C) Land already characterized by urban growth, but requiring additional public facilities and urban services; and

(D) Lands adjacent to the above, but not meeting those criteria.

(iv) Designating industrial lands. Counties and cities should consult with local economic development organizations when identifying industrial lands to identify sites that are particularly well suited for industry, considering factors such as:

(A) Rail access;

(B) Highway access;

(C) Large parcel size;

(D) Location along major electrical transmission lines;

(E) Location along pipelines;

(F) Location near or adjacent to ports and commercial navigation routes;

(G) Availability of needed infrastructure; or

(H) Absence of surrounding incompatible uses.

(v) Consideration of resource lands issues. Urban growth areas should not be expanded into designated agricultural, forest or resource lands unless no other option is available. Prior to expansion of the urban growth area, counties and cities must first review the natural resource lands designation and conclude the lands no longer meet the designation criteria for resource lands of long-term commercial significance. Designated agricultural or forest resource lands may not be located inside the urban growth area unless a county or city has enacted a program authorizing transfer or purchase of development rights.

(vi) Consideration of critical areas and wildfires. Although critical areas exist within urban areas, counties and cities should avoid expanding the urban growth areas into areas with known critical areas extending over a large area. Counties and cities should also consider the potential risk of wildland fires when expanding the urban growth area into areas where structures and other development intermingles with undeveloped wildland or vegetative fuels. See RCW 36.70A.110(8) for legislative direction on expansion of urban growth areas into the 100-year flood plain of river segments that are located west of the crest of the Cascade mountains and have a mean annual flow of 1,000 or more cubic feet per second.

(vii) Consideration of patterns of development within urban growth areas under RCW 36.70A.130 (3)(a) and 36.70A.110(8). Evaluating patterns of development can help identify growth pressures and the viability of existing and proposed urban growth areas. Local governments may want to consider one or more methods for evaluating patterns of development from the following nonexclusive list:

(A) Based on population, permit data, types of development, and a land capacity analysis, identify growth rates and patterns for the preceding 10 years. Calculate rates separately for the unincorporated urban growth areas, and areas within incorporated cities and towns. Cities and towns may identify subareas within their corporate boundaries for individual analysis. Counties and cities should not rely on an evaluation of averages across the overall urban growth area or city boundary.

(B) Make a determination as to consistency or inconsistency with the growth rates and patterns that were envisioned in adopted countywide planning policies, comprehensive plans and development regulations, and actual development that has occurred.

(C) Make a determination as to consistency or inconsistency with assumed housing densities as established under WAC 365-196-410 (2)(d).

(D) Determine development capacity, building types, and patterns of development within each identified area. Based on this analysis, determine the availability of land to serve projected growth within each identified area for the 20-year planning period.

(E) Compare the identified areas to determine areas of high development pressure, areas of low development pressure, and areas with inadequate capacity to absorb their projected growth, including projected housing need.

(F) Make determinations on the viability of urban growth areas experiencing low development pressure by considering barriers to growth such as:

(I) Lack of available or planned infrastructure, including transportation facilities, as determined through the capital facilities plan element and the transportation element.

(II) Lack of adequate development regulations to ensure urban standards and levels of service.

(III) Incompatible uses within or adjacent to the urban growth area. Examples include mining sites, industrial sites, wastewater treatment facilities, brownfields, airports, military bases, and other uses that produce high impacts.

(IV) Parcelization and multiple ownerships that may limit redevelopment.

(V) Site constraints including parcel access, steep slopes, floodplains, and other environmental constraints.

(VI) Market conditions that may deter development.

(viii) Consideration of urban growth area swaps under RCW 36.70A.130 (3)(a). During a periodic update counties may consider removal of a portion of the urban growth area and replacement with a new area location if it is consistent with the requirements of RCW 36.70A.130 (3)(c) or 36.70A.110(8), as applicable, and subsection (3) of this section.

(A) Areas removed from the urban growth area must not include existing urban development. Areas with public sewer, or other urban governmental services such as public water, transportation, and stormwater facilities should not be removed from the UGA.

(B) Counties and cities should consider (e)(vii) of this subsection when conducting an urban growth area swap.

(C) Counties and cities should coordinate on revisions to the urban growth area.

(ix) If there is physically no land available into which a city might expand, it may need to revise its proposed urban densities or population levels in order to accommodate growth on its existing land base.

(f) Evaluating the feasibility of the overall growth plan. Counties and cities should perform a check on the feasibility of the overall plan to accommodate growth. If, as a result of this evaluation, the urban growth area appears to have been drawn too small or too large, the proposal should be adjusted accordingly. Counties and cities should evaluate:

(i) The anticipated ability to finance the public facilities, public services, and open space needed in the urban growth area over the planning period. When conducting a review of the urban growth areas, counties and cities should develop an analysis of the fiscal impact of alternative land use patterns that accommodate the growth anticipated over the succeeding 20-year period. Counties and cities should identify revenue sources and develop a reasonable financial plan to support operation and maintenance of existing facilities and services, and for new or expanded facilities to accommodate projected growth over the 20-year planning period. The plan should ensure consistency between the land use element and the capital facilities plan, and demonstrate that probable funding does not fall short of the projected needs to maintain and operate public facilities, public services, and open space. This provides the public and decision makers with an estimate of the fiscal consequences of various development patterns. This analysis could be done in conjunction with the analysis required under the State Environmental Policy Act.

(ii) The effect that confining urban growth within the areas defined is likely to have on the price of property and the impact thereof on the ability of residents of all economic strata to obtain housing they can afford.

(iii) Whether the level of population and economic growth contemplated can be achieved within the capacity of available land and water resources and without environmental degradation.

(iv) The extent to which the comprehensive plan of the county and of adjacent counties and cities will influence the area needed.

(g) County actions in adopting urban growth areas.

(i) A change to the urban growth area is an amendment to the comprehensive plan and requires, at a minimum, an amendment to the land use element. Counties and cities should also review and update the transportation, capital facilities, utilities, and housing elements to maintain consistency and show how any new areas added to the urban growth area will be provided with adequate public facilities. A modification of any portion of the urban growth area affects the overall urban growth area size and has countywide implications. Because of the significant amount of resources needed to conduct a review of the urban growth area, and because some policy objectives require time to achieve, frequent, piecemeal expansion of the urban growth area should be avoided. Site-specific proposals to expand the urban growth area should be deferred until the next comprehensive review of the urban growth area.

(ii) Counties and cities that are required to participate in the buildable lands program must first have adopted and implemented reasonable measures as required by RCW 36.70A.215 before considering expansion of an urban growth area.

(iii) Consistent with countywide planning policies, counties and cities consulting on the designation of urban growth areas should consider the following implementation steps:

(A) Establishment of agreements regarding land use regulations and the provision of services in that portion of the urban growth area outside of an existing city into which it is eventually expected to expand.

(B) Negotiation of agreements for appropriate allocation of financial burdens resulting from the transition of land from county to city jurisdiction.

(C) Provision for an ongoing collaborative process to assist in implementing countywide planning policies, resolving regional issues, and adjusting growth boundaries.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-310, filed 8/15/25, effective 9/15/25; WSR 23-08-037, § 365-196-310, filed 3/29/23, effective 4/29/23; WSR 15-04-039, § 365-196-310, filed 1/27/15, effective 2/27/15; WSR 10-22-103, § 365-196-310, filed 11/2/10, effective 12/3/10; WSR 10-03-085, § 365-196-310, filed 1/19/10, effective 2/19/10.]

WAC 365-196-315 Buildable lands review and evaluation. (1) Purpose. The review and evaluation program required by RCW 36.70A.215 is referred to as the "buildable lands program." The buildable lands program is intended to determine if urban densities are being achieved within urban growth areas by comparing local planning goals and assumptions contained in the countywide planning policies and comprehensive plans with actual development and determining if actual development is consistent with the adopted plans. It also determines if there is sufficient commercial, industrial and housing capacity within the adopted urban growth area to accommodate the county's 20-year planning targets. If, through this evaluation, it is determined that there is an inconsistency between planned and built-out densities or there is insufficient development capacity, counties and cities must adopt and implement measures, other than expanding urban growth areas, that are reasonably likely to increase consistency between what was envisioned in adopted countywide planning policies, comprehensive plans and development regulations, and actual development that has occurred. These measures are referred to as "reasonable measures." Products derived through the program should be used as a technical resource to local policy makers for subsequent comprehensive plan updates.

(2) Required jurisdictions.

(a) The following counties, and the cities located within those counties, must establish and maintain a buildable lands program as required by RCW 36.70A.215:

(i) Clark;

(ii) King;

(iii) Kitsap;

(iv) Pierce;

(v) Snohomish;

(vi) Thurston; and

(vii) Whatcom.

(b) If another county or city establishes a program containing features of the buildable lands program, they are not obligated to meet the requirements of RCW 36.70A.215.

(3) Countywide planning policies and supportive documents.

(a) Buildable lands programs must be established in countywide planning policies.

(b) The buildable lands program must contain policies that establish a framework for implementation and continued administration.

(c) The buildable lands program's framework for implementation and administration may be adopted administratively. The program's framework must contain policies or procedures to:

(i) Provide guidance for the collection and analysis of data;

(ii) Provide for the evaluation of the data no later than the date specified in RCW 36.70A.215, prior to the deadline for review of comprehensive plans and development regulations required by RCW 36.70A.130, commonly referred to as the buildable lands report;

(iii) Provide for the establishment of methods to resolve disputes among jurisdictions regarding inconsistencies in collection and analysis of data; and

(iv) Provide for the amendment of the countywide policies and county and city comprehensive plans as needed to remedy inconsistencies identified through the evaluation required by this section, or to bring these policies and plans into compliance with the requirements of the act.

(d) The program's framework for implementation and administration should, in addition to the above, address the following:

(i) Establishment of the lead agency responsible for the overall coordination of the program;

(ii) Establishment of criteria and timelines for each county or city to:

(A) Make a determination as to consistency or inconsistency between what was envisioned in adopted countywide planning policies, comprehensive plans and development regulations and actual development that has occurred;

(B) Determine whether there is sufficient suitable land to accommodate the countywide population projection, and the subsequent population allocations within the county and between the county and its cities;

(C) Adopt and implement reasonable measures, if necessary;

(D) Report on the monitoring of the effectiveness of reasonable measures that have been adopted and implemented. Such reporting could be included in the subsequent buildable lands report;

(E) Transmit copies of any actions taken under (d)(ii)(A), (C) and (D) of this subsection to the department.

(iii) Providing opportunities for the public to review and comment on the following:

(A) Refinement of data collection and analysis methods for the review and evaluation elements of the program;

(B) Determinations as to consistency or inconsistency between what was envisioned in adopted countywide planning policies, comprehensive plans and development regulations and actual development that has occurred; and

(C) Adoption of reasonable measures, and reports on the monitoring of their effectiveness.

(iv) Public involvement may be accommodated during review and evaluation of a county or city comprehensive plan in consideration of the buildable land report information. This would generally include public review and comment opportunities before the planning commission or legislative body during the normal local government planning process.

(4) Buildable lands program reporting.

(a) No later than the date specified in RCW 36.70A.215, prior to the deadline for review of comprehensive plans and development regulations required by RCW 36.70A.130, the buildable lands program must compile and publish an evaluation, known as the buildable lands report. Each buildable lands report must be submitted to the department upon publication.

(b) The buildable lands reports must compare growth and development assumptions, targets, and objectives contained in the countywide planning policies and the county and city comprehensive plans with actual growth and development that has occurred since the adoption of the comprehensive plan or the last required buildable lands report. The results of this analysis are intended to aid counties and cities in reviewing and adjusting planning strategies.

(c) The publication, "*Buildable Lands Program Guidelines*," available from the department, may be used as a source for suggested approaches for meeting the requirements of the program.

(5) Criteria for determining consistency or inconsistency. The determination of consistency or inconsistency for each county or city maintaining a buildable lands program must be made under RCW 36.70A.215(3). At a minimum, the evaluation component of the program shall determine whether there is sufficient land suitable for development or redevelopment within the 20-year planning period:

(a) Evaluation under RCW 36.70A.215 (3)(a) should determine whether the comprehensive plan and development regulations sufficiently accommodate the population projection established for the county and allocated within the county and between the county and its cities, consistent with the requirements in RCW 36.70A.110; the zoned capacity of land alone is not a sufficient standard to deem land suitable for development or redevelopment within the 20-year planning period.

(b) Evaluation under RCW 36.70A.215 (3)(b) should compare the achieved densities, type and density range for commercial, industrial and residential land uses with the assumed densities that were envisioned in the applicable countywide planning policies, and the comprehensive plan, including:

(i) A review and evaluation of the land use designation and zoning/development regulations; environmental regulations (such as tree retention, stormwater, or critical area regulations) impacting development; and other regulations that could prevent assigned densities from being achieved; infrastructure gaps (including, but not limited to, transportation, water, sewer, and stormwater); and

(ii) Use of a reasonable land market supply factor when evaluating land suitable to accommodate new development or redevelopment of land for residential development and employment activities. The reasonable market supply factor identifies reductions in the amount of land suitable for development and redevelopment. The methodology for conducting a reasonable land market factor shall be determined through the guidance developed in RCW 36.70A.217.

(c) Evaluation under RCW 36.70A.215 (3)(c) should provide an analysis of county and/or city development assumptions, targets, and objectives contained in the countywide planning policies and the county and city comprehensive plans when growth targets and assumptions are not being achieved. It is not appropriate to make a finding that assumed growth contained in the countywide planning policies and the county or city comprehensive plan will occur at the end of the current comprehensive planning 20-year planning cycle without rationale;

(d) Evaluation under RCW 36.70A.215 (3)(d) should determine the actual density of housing that has been constructed and the actual

amount of land developed for commercial and industrial uses within the urban growth area since the adoption of a comprehensive plan under this chapter or since the last periodic evaluation as required by RCW 36.70A.215(1); and

(e) Evaluation under RCW 36.70A.215 (3)(e) should, based on the actual density, along with current trends and other documented factors relevant to patterns of actual growth and development as determined under RCW 36.70A.215 (3)(b), review commercial, industrial, and housing needs by type and density range to determine the amount of land needed for commercial, industrial, and housing for the remaining portion of the 20-year planning period used in the most recently adopted comprehensive plan.

(6) Measures to address inconsistencies.

(a) The legislative bodies of counties and cities are responsible for the adoption of reasonable measures requiring legislative action to amend their individual comprehensive plans and development regulations. Counties, in consultation with cities, are responsible for amending the countywide planning policies reasonably likely to increase consistency. Annual monitoring and reporting is the responsibility of the adopting jurisdiction, but may be carried out by either the adopting jurisdiction or other designated agency or person.

(b) If a county or city determines an inconsistency exists, the county or city should establish a timeline for adopting and implementing measures that are reasonably likely to increase consistency during the succeeding review and evaluation period. The responsible county or city may utilize its annual review or periodic update under RCW 36.70A.130 to make adjustments to its comprehensive plan and development regulations that are necessary to implement reasonable measures. Information regarding the adoption, implementation, and monitoring of reasonable measures should be made available to the public. Counties and cities may not rely on expansion of the urban growth area as a measure to address the inconsistency.

(i) Each county or city is responsible for implementing reasonable measures within its jurisdiction and must adopt measures that are designed to remedy the inconsistency within the remaining planning horizon of the adopted comprehensive plan;

(ii) Each county or city adopting reasonable measures is responsible for documenting its methodology and expectations for monitoring to provide a basis to evaluate whether the adopted measures have been effective in increasing consistency during the subsequent review and evaluation period;

(iii) If the monitoring of reasonable measures fails to show increased consistency relative to adopted policies, plans and development regulations during the subsequent review and evaluation period, the county or city should evaluate whether the measures in question should be revised, replaced, supplemented or rescinded;

(iv) If monitoring of reasonable measures demonstrates that such measures have remedied the inconsistency, the adopting county or city may discontinue monitoring;

(v) A copy of any action taken to adopt, amend, or rescind reasonable measures should be submitted to the department.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 23-08-037, § 365-196-315, filed 3/29/23, effective 4/29/23; WSR 15-04-039, § 365-196-315, filed 1/27/15, effective 2/27/15; WSR 10-03-085, § 365-196-315, filed 1/19/10, effective 2/19/10.]

WAC 365-196-320 Providing urban services. (1) Urban governmental services.

(a) Urban services are defined by RCW 36.70A.030 as those public services and public facilities at an intensity historically and typically provided in cities. Urban services specifically include:

(i) Sanitary sewer systems;

(ii) Storm drainage systems;

(iii) Domestic water systems;

(iv) Street cleaning services;

(v) Fire and police protection services;

(vi) Public transit services; and

(vii) Other public utilities associated with urban areas and normally not associated with rural areas.

(b) RCW 36.70A.030 defines public facilities and public services, which in addition to those defined as urban services, also include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, parks and recreational facilities, and schools, public health and environmental protection, and other governmental services.

(c) Although some of these services may be provided in rural areas, urban areas are typically served by higher capacity systems capable of providing adequate services at urban densities. Storm and sanitary sewer systems are the only services that are generally exclusively for urban growth areas. Outside of urban growth areas storm and sanitary sewer systems are appropriate in limited circumstances when necessary to protect basic public health and safety and the environment, and when such services are financially supportable at rural densities and do not permit urban development.

(d) At a minimum, adequate public facilities in urban areas should include sanitary sewer systems, and public water service from a Group A public water system under chapter 70A.120 or 70A.125 RCW because these services are usually necessary to support urban densities. The services provided must be adequate to allow development at urban densities and serve development at densities consistent with the land use element, and meet all regulatory obligations under state and federal law.

(e) If potable water demand is expected to exceed a public water system's available water rights within the 20-year planning horizon, counties and cities should develop strategies to obtain sufficient water to meet anticipated demand. Strategies may include, but are not limited to, decreasing water demand through conservation, securing additional water rights and establishing an intertie agreement with another water purveyor to purchase the necessary water.

(f) The obligation to provide urban areas with adequate public facilities is not limited to new urban areas. Counties and cities must include in their capital facilities element a plan to provide adequate public facilities to all urban areas, including those existing areas that are developed, but do not currently have a full range of urban governmental services or services necessary to support urban densities.

(g) The use of on-site sewer systems within urban growth areas may be appropriate in limited circumstances where there is no negative effect on basic public health, safety and the environment; and the use of on-site sewer systems does not preclude development at urban densities. Such circumstances may include:

(i) Use of on-site sewer systems as a transitional strategy where there is a development phasing plan in place (see WAC 365-196-330); or

(ii) To serve isolated pockets of urban land difficult to serve due to terrain, critical areas or where the benefit of providing an urban level of service is cost-prohibitive; or

(iii) Where on-site systems are the best available technology for the circumstances and are designed to serve urban densities.

(2) Appropriate providers. RCW 36.70A.110(4) states that, in general, cities are the units of government most appropriate to provide urban governmental services. However, counties, special purpose districts and private providers also provide urban services, particularly services that are regional in nature. Counties and cities should plan for a transformation of governance as urban growth areas develop, whereby annexation or incorporation occurs, and nonregional urban services provided by counties are generally transferred to cities. See WAC 365-196-305.

(3) Coordination of planning in urban growth areas.

(a) The capital facilities element and transportation element of the county or city comprehensive plan must show how adequate public facilities will be provided and by whom. If the county or city with land use authority over an area is not the provider of urban services, a process for maintaining consistency between the land use element and plans for infrastructure provision should be developed consistent with the countywide planning policies.

(b) If a city is the designated service provider outside of its municipal boundaries, the city capital facilities element must also show how urban services will be provided within their service area. This should include incorporated areas and any portion of the urban growth area that it is assigned as a service area or potential annexation area designated under RCW 36.70A.110(7). See WAC 365-196-415 for information on the capital facilities element.

(4) Level of financial certainty required when establishing urban growth areas.

(a) Any amendment to an urban growth area must be accompanied by an analysis of what capital facilities investments are necessary to ensure the provision of adequate public facilities.

(b) If new or upgraded facilities are necessary, counties and cities must amend the capital facilities and transportation elements to maintain consistency with the land use element.

(c) The amended capital facilities and transportation elements must identify those new or expanded facilities and services necessary to support development in new urban growth areas. The elements must also include cost estimates to determine the amount of funding necessary to construct needed facilities.

(d) The capital facilities and transportation elements should identify what combination of new or existing funding will be necessary to develop the needed facilities. Funding goals should be based on what can be raised by using existing resources. Use of state and federal grants should be realistic based on past trends unless the capital facilities element identifies new programs or an increased amount of available funding from state or federal sources.

(e) If funding available from existing sources is not sufficient, counties and cities should use development phasing strategies to prevent the irreversible commitment of land to urban development before adequate funding is available. Development phasing strategies are described in WAC 365-196-330. Counties and cities should then implement measures needed to close the funding gap.

(f) When considering potential changes to the urban growth area, counties should require that any proposal to expand the urban growth

area must include necessary information to demonstrate an ability to provide adequate public facilities to any potential new portions of the urban growth area.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-320, filed 8/15/25, effective 9/15/25; WSR 23-08-037, § 365-196-320, filed 3/29/23, effective 4/29/23; WSR 10-03-085, § 365-196-320, filed 1/19/10, effective 2/19/10.]

WAC 365-196-325 Providing sufficient land capacity suitable for development. (1) Requirements.

(a) RCW 36.70A.115 requires counties and cities to ensure that, taken collectively, comprehensive plans and development regulations provide sufficient capacity of land suitable for development within their jurisdictions to accommodate their allocated housing and employment growth, including the accommodation of, as appropriate, the medical, governmental, educational, institutional, commercial, and industrial facilities related to such growth, as adopted in the applicable countywide planning policies and consistent with the 20-year population forecast from the office of financial management. For housing capacity, counties and cities must provide sufficient capacity for the allocated share of countywide housing needs for moderate, low, very low, and extremely low-income households, as well as emergency housing, shelters, and permanent supportive housing. To demonstrate this requirement is met, counties and cities must conduct an evaluation of land capacity sufficiency that is commonly referred to as a "land capacity analysis."

(b) Counties and cities must complete a land capacity analysis that demonstrates sufficient land for development or redevelopment to meet their adopted share of countywide housing need during the review of urban growth areas required by RCW 36.70A.130 (3)(a). See WAC 365-196-310 for guidance in estimating and providing sufficient land capacity.

(c) Counties and cities subject to RCW 36.70A.215 must determine land capacity sufficiency as part of the buildable lands reporting requirements prior to the deadline for periodic review of comprehensive plans and development regulations required by RCW 36.70A.130, and adopt and implement measures that are reasonably likely to increase the consistency between land capacity and growth allocations. See WAC 365-196-315 for guidance.

(d) A complete land capacity analysis is not required to be undertaken for every amendment to a comprehensive plan or development regulation outside of the act's required periodic reviews. However, when considering amendments to the comprehensive plan or development regulations which increase or decrease allowed densities, counties and cities should estimate the degree of increase or decrease in development capacity on lands subject to the amendments, and estimate if the capacity change may affect its ability to provide sufficient capacity of land suitable for development. If so, the county or city should complete a land capacity analysis.

(2) Recommendations for meeting requirement.

(a) Determining land capacity sufficiency. The land capacity analysis is a comparison between the collective effects of all development regulations operating on development and the assumed densities established in the land use element. In order to achieve sufficiency, the development regulations must allow at least the low end of the

range of assumed densities established in the land use element. This assures a county or city can meet its obligation to accommodate the growth allocated through the countywide population and housing allocation process.

(b) For residential land capacity, development regulations must allow for sufficient capacity at each economic segment. See WAC 365-196-410 (2)(d).

(c) Appropriate area for analysis. The focus of the analysis is on the county or city's ability to meet its obligation to accommodate the growth allocated through the countywide population, housing needs and employment allocation process. Providing sufficient land capacity for development does not require a county or city to achieve or evaluate sufficiency for every parcel of a future land use designation provided the area as a whole ensures sufficient land capacity for development.

(d) The land capacity analysis should evaluate what the development regulations allow, rather than what development has actually occurred. Many factors beyond the control of counties and cities will control the amount and pace of actual development, what density it is built at and what types and densities of development are financially viable for any set of economic conditions. Counties and cities need not ensure that particular types of development are financially feasible in the context of short term market conditions. Counties and cities should, however, consider available information on trends in local markets to inform its evaluation of sufficient land capacity for the 20-year planning period.

(e) Development phasing. RCW 36.70A.115 does not create an obligation to ensure that all land in the urban growth area is available for development at the same time. When counties or cities establish mechanisms for development phasing, zoned densities in the short term may be established that are substantially lower than called for in the future land use designations. In these cases, a county or city ensures a sufficient land capacity suitable for development by implementing its development phasing policies to allow development to occur within the 20-year planning period. Development phasing is described in greater detail in WAC 365-196-330.

(f) The department recommends the following means of implementing the requirements of RCW 36.70A.115.

(i) Periodic evaluation. Counties and cities ensure sufficient land capacity for development by comparing the achieved density of development that has been permitted in each zoning category to the assumed densities established in the land use element using existing permitting data. If existing permitting data shows that the densities approved are lower than assumed densities established in the land use element, counties and cities should review their development regulations to determine if regulatory barriers are preventing development at the densities as envisioned. Regulatory evaluation should include barriers to indoor emergency housing and shelter, permanent supportive housing, and transitional housing; such as unreasonable regulations on the occupancy, intensity, and spacing of these housing types. This evaluation must occur as part of the urban growth area review required in RCW 36.70A.130 (3)(a) and as part of the buildable lands review and evaluation program conducted under RCW 36.70A.215.

(ii) Flexible development standards. Counties and cities could ensure sufficient land capacity for development by establishing development regulations to allow development proposals that transfer development capacity from unbuildable portions of a development parcel to

other portions of the development parcel so the underlying zoned density is still allowed. This may provide for flexibility in some dimensional standards provided development is consistent with state law and all impacts are mitigated.

(iii) Evaluation of development capacity impacts of proposed development regulation amendments. Counties and cities may also consider evaluation of whether proposed amendments to development regulations will have a significant impact on the ability of a county or city to provide sufficient capacity of land for development.

(iv) Land capacity and supportive housing types. Counties and cities must ensure that comprehensive plans and development regulations allow for the development of sufficient indoor emergency housing, indoor emergency shelter, permanent supportive housing, and transitional housing to meet the county or city allocated share of countywide housing needs. Any locally adopted regulations, including those on occupancy, spacing, and intensity of use, should be evaluated with consideration to land capacity and housing need for extremely low-income housing and emergency housing. These regulations:

(A) Must not prevent the siting of a sufficient number of each housing type to meet the county or city allocated share of countywide housing needs; and

(B) Shall be connected to public health and safety; and

(C) Must be reasonable in aim and scope and appropriate for government regulation. Under substantive due process rules, the regulation must be for a legitimate public purpose, be appropriate to accomplish the purpose, be reasonable, and be clear and easy to apply. This means that the requirements cannot be so restrictive that they make the development economically unfeasible by increasing permitting costs and permitting timelines to an extent they become unreasonable compared to permitting of other allowed housing types.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-325, filed 8/15/25, effective 9/15/25; WSR 23-08-037, § 365-196-325, filed 3/29/23, effective 4/29/23; WSR 15-04-039, § 365-196-325, filed 1/27/15, effective 2/27/15; WSR 10-22-103, § 365-196-325, filed 11/2/10, effective 12/3/10; WSR 10-03-085, § 365-196-325, filed 1/19/10, effective 2/19/10.]

WAC 365-196-330 Phasing development within the UGA. (1) Purpose of development phasing. Development phasing is the sequencing of development subareas within a city or urban growth area over the course of the 20-year planning period. Development phasing should be considered a way to achieve one or more of the following:

(a) Orderly development pursuant to RCW 36.70A.110(3), which states that urban growth should first be located in areas with existing urban development and existing service capacity; second in existing urban development areas where new services can be provided in conjunction with existing services; and third in the remainder of the urban growth area;

(b) Preventing the irreversible commitment of land to urban growth before the provision of adequate public facilities. Within the comprehensive plan, the capital facilities element, transportation element, and parks and recreation element each must contain a plan to provide urban areas with adequate public facilities. The comprehensive plan must identify those facilities needed to achieve and maintain adopted levels of service over the 20-year planning period, but only

requires a six-year financing plan. Development phasing is a tool to address those areas for which capital facility needs have been identified in the 20-year plan, but financing has not yet been identified. Because no irreversible commitment of land has been made in the zoning ordinance, if provision of urban governmental services ultimately proves infeasible, the area can be removed from the urban growth area when reassessing the land use element if probable funding falls short;

(c) Preventing a pattern of sprawling low density development from occurring or vesting in these areas prior to the ability to support urban densities. Once this pattern has occurred, it is more difficult to serve with urban services and less likely to ultimately achieve urban densities;

(d) Serving as a means of developing more detailed intergovernmental agreements or other plans to facilitate the orderly transition of governance and public services.

(2) Recommended provisions for development phasing. Comprehensive plan and development regulation provisions for development phasing should include the following:

(a) Identification of the areas to be sequenced;

(b) The criteria required to develop these areas at the ultimate urban densities envisioned. Criteria may be based on adequacy of services, existing urban development, and provisions for transition of governance. Timelines may also be used for sequencing;

(c) The densities and uses allowed in identified areas that have not yet met the criteria. Densities and intensities more typical of rural development should be considered to avoid hindering future development at urban densities. Such requirements are not inconsistent with the obligation to permit urban densities if provisions are made for conversion to urban densities over the course of the 20-year planning period. Regulations should ensure that interim uses do not preclude future development at urban densities; and

(d) The review process for transitioning to ultimate urban densities. This should involve changes to development regulations, and not require amendments to the comprehensive plan.

(3) Additional considerations.

(a) Comprehensive plans may include other tools selected to facilitate phasing.

(b) Counties and cities should coordinate the phasing of development within portions of urban growth areas assigned to cities, and throughout urban growth areas in which cities are located. Development phasing polices may be addressed in countywide planning policies.

(c) Counties and cities must still provide sufficient capacity of land suitable for development as required in RCW 36.70A.115, but lands subject to sequencing requirements should be included in this capacity as long as phasing is implemented during the planning period.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 23-08-037, § 365-196-330, filed 3/29/23, effective 4/29/23; WSR 10-03-085, § 365-196-330, filed 1/19/10, effective 2/19/10.]

WAC 365-196-335 Identification of open space corridors. (1) Requirements.

(a) Each county or city planning under the act must identify open space corridors within and between urban growth areas. They must include lands useful for recreation, wildlife habitat, trails, and connection of critical areas as defined in RCW 36.70A.030.

(b) The county or city may seek to acquire by purchase the fee simple or lesser interests in open space corridors using funds authorized by RCW 84.34.230 or other sources.

(2) Recommendations for meeting requirements.

(a) Counties and cities should consider identifying open space corridors when reviewing and updating urban growth areas, critical areas designations, and the land use element of comprehensive plans.

(b) Counties and cities should consider the various purposes and uses of identified corridors, and should state the preferred uses anticipated for each identified corridor, if known. In some cases, uses preferred for an identified corridor may preclude other incompatible uses.

(c) Counties and cities should consider how identified corridors exist in relationship to designated critical areas and natural resource lands, the extent and trends of public demands for recreational lands and access to public lands for recreation, and specific existing and planned recreational uses that may make use of identified corridors for specific uses, including nonmotorized transportation.

(d) When identifying open space corridors, counties and cities should plan an integrated system that uses identified corridors to link established large areas of parks and recreational lands, resource lands, greenbelts, streams, and wildlife corridors to help protect fish and wildlife habitat conservation areas.

(e) Counties and cities should also consider the potential to use vegetated green spaces as part of an integrated system to absorb and treat stormwater.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 10-03-085, § 365-196-335, filed 1/19/10, effective 2/19/10.]

WAC 365-196-340 Identification of lands useful for public purposes. (1) Requirements. Each county and city planning under the act must identify land useful for public purposes such as utility corridors, transportation corridors, landfills, sewage treatment facilities, stormwater management facilities, recreation, schools, and other public uses. The county must work with the state and with the cities within the county's borders to identify areas of shared need for public facilities. The jurisdictions within the county must prepare a prioritized list of lands necessary for the identified public uses including an estimated date by which the acquisition will be needed. The respective capital acquisition budgets for each jurisdiction must reflect the jointly agreed upon priorities and time schedule. See WAC 365-196-405 (2)(g), Land use element.

(2) Recommendations for meeting requirements. Counties and cities should identify lands useful for public purposes when updating the urban growth area designations and the land use, utilities and transportation elements of comprehensive plans.

(a) Such lands may include surplus public property available for transfer, lease, or other disposal of for a public benefit purpose consistent with and subject to RCW 39.33.015. Any transfer of surplus public property must be consistent with the policies and land use element of the adopted comprehensive plan.

(b) The department recommends that the information derived in meeting this requirement be made generally available only to the extent necessary to meet the requirements of the public disclosure laws.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-340, filed 8/15/25, effective 9/15/25; WSR 10-03-085, § 365-196-340, filed 1/19/10, effective 2/19/10.]

WAC 365-196-345 New fully contained communities. (1) Any county planning under the act may reserve a portion of its 20-year population projection for new fully contained communities, located outside of the designated urban growth areas.

(2) Proposals to authorize fully contained communities must be processed according to the locally established policies implementing the criteria set forth in RCW 36.70A.350. Approval of a new fully contained community has the effect of amending the comprehensive plan, therefore it is a legislative action and should follow the procedures associated with comprehensive plan amendments.

(3) The initial effective date of an action that establishes a new fully contained community is the latest of the following dates per RCW 36.70A.067:

(a) Sixty days after the publication of notice of adoption of the comprehensive plan, development regulation, or amendment to the plan or regulation, implementing the action, as provided under RCW 36.70A.290(2); or

(b) If a petition for review to the growth management hearings board is timely filed, upon issuance of the board's final order.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-345, filed 8/15/25, effective 9/15/25; WSR 10-03-085, § 365-196-345, filed 1/19/10, effective 2/19/10.]

WAC 365-196-350 Extension of public facilities and utilities to serve school sited in a rural area authorized. (1) Requirements: The Growth Management Act does not prohibit a county planning under RCW 36.70A.040 from authorizing the extension of public facilities and utilities to serve a school sited in a rural area that serves students from a rural area and an urban area so long as the following requirements are met:

(a) The applicable school district board of directors has adopted a policy addressing school service area and facility needs and educational program requirements;

(b) The applicable school district has made a finding, with the concurrence of the county legislative authority and the legislative authorities of any affected cities, that the district's proposed site is suitable to site the school and any associated recreational facilities that the district has determined cannot reasonably be collocated on an existing school site, taking into consideration the policy adopted in (a) of this subsection and the extent to which vacant or developable land within the growth area meets those requirements;

(c) The county and any affected cities agree to the extension of public facilities and utilities to serve the school sited in a rural area that serves urban and rural students at the time of concurrence in (b) of this subsection;

(d) If the public facility or utility is extended beyond the urban growth area to serve a school, the public facility or utility must serve only the school and the costs of such extension must be borne by the applicable school district based on a reasonable nexus to the im-

pacts of the school, except as provided in subsection (3) of this section; and

(e) Any impacts associated with the siting of the school are mitigated as required by the State Environmental Policy Act, chapter 43.21C RCW.

(2) The act does not prohibit either the expansion or modernization of an existing school in the rural area or the placement of portable classrooms at an existing school in the rural area.

(3) Where a public facility or utility has been extended beyond the urban growth area to serve a school, the public facility or utility may, where consistent with RCW 36.70A.110(4), serve a property or properties in addition to the school if the property owner so requests, provided that the county and any affected cities agree with the request and provided that the property is located no further from the public facility or utility than the distance that, if the property were within the urban growth area, the property would be required to connect to the public facility or utility. In such an instance, the school district may, for a period not to exceed 20 years, require reimbursement from a requesting property owner for a proportional share of the construction costs incurred by the school district for the extension of the public facility or utility.

(4) Counties and cities must identify lands useful for public purposes, such as schools in their comprehensive plan. (See RCW 36.70A.150.) As part of subdivision approval, permitting jurisdictions must ensure appropriate provisions are made for schools and school grounds. (See RCW 58.17.110.)

(5) Recommendations for meeting requirements.

(a)(i) School sites should be considered as communities are being planned, and specifically considered when permitting large developments. (See RCW 36.70A.110(2) and 36.70A.150.)

(ii) Cities, counties, and school districts should first work together to identify potential school sites within urban growth areas. To facilitate the siting of schools within urban areas, counties and cities should work with school districts to assess zoning, height limits, and other factors that may affect the ability of a school to site within an urban growth area, including joint-use facilities. County policies may address schools in the rural area, and set out locational, buffering or screening policies to protect rural character. As schools are considered in the rural area, the long-term plan for the area should be considered, but new school development should not be used to intentionally drive urban development in a rural area.

(b) Cities, counties and school districts should:

(i) Coordinate enrollment forecasts and projections with the county and city's adopted population projections.

(ii) Identify school siting criteria with the county, cities, and regional transportation planning organizations. Such criteria may be included in countywide planning policies.

(iii) Identify suitable school sites with the county and cities, with priority to siting schools in existing cities and towns in locations where students can safely walk and bicycle to the school from their homes and that can effectively be served by transit.

(iv) Consider playgrounds and fields associated with activities during the normal school day (e.g., recess and physical education) for new, expanded, or modernized school sites. Districts may consider joint use of recreational facilities as part of the proposal.

(c) If school impact fees are collected, a jurisdiction's capital facilities element must address school facility needs related to

growth. (See RCW 82.02.050 and 82.02.090(7).) Counties and cities should work with school districts to review the relationship of school district enrollment projections with local population growth projections.

(d) A school district policy adopted pursuant to RCW 36.70A.213 may include criteria for siting schools, school grade configuration, educational programming, recreational facility co-location, feeder schools, transportation routes, or other relevant factors that may affect school siting decisions.

(e) If a county or affected city concurs with the school district's finding, the county and any affected cities should also at that time agree to the extension of public facilities and utilities to serve the school. If a county or affected city finds that it cannot concur with the school district's findings regarding the proposed school, the county or city should document the reasons in their decision.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-350, filed 8/15/25, effective 9/15/25; WSR 23-08-037, § 365-196-350, filed 3/29/23, effective 4/29/23.]

PART FOUR
FEATURES OF THE COMPREHENSIVE PLAN

WAC 365-196-400 Mandatory elements. (1) Requirements.

(a) The comprehensive plan must include, at a minimum, a future land use map.

(b) The comprehensive plan must contain descriptive text covering objectives, principles, and standards used to develop the comprehensive plan.

(c) The comprehensive plan must be an internally consistent document and all elements shall be consistent with the future land use map.

(d) Each comprehensive plan must include each of the following:

(i) A land use element;

(ii) A housing element;

(iii) A capital facilities plan element;

(iv) A utilities element;

(v) A transportation element.

(e) Required elements enacted after January 1, 2002, must be included in each comprehensive plan that is updated under RCW 36.70A.130(1), but only if funds sufficient to cover applicable local government costs are appropriated and distributed by the state at least two years before the applicable review and update deadline in RCW 36.70A.130(5). The department will notify counties and cities when funds have been appropriated for this purpose. Elements enacted after January 1, 2002, include:

(i) An economic development element; and

(ii) A parks and recreation element.

(f) County comprehensive plans must also include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources.

(g) Additionally, each county and city comprehensive plan must contain:

(i) A process for identifying and siting essential public facilities.

(ii) The goals and policies of the shoreline master program adopted by the county or city, either directly in the comprehensive plan, or through incorporation by reference as described in WAC 173-26-191.

(2) Recommendations for overall design of the comprehensive plan.

(a) The planning horizon for the comprehensive plan must be at least the twenty-year period following the adoption of the comprehensive plan. Counties and cities should use consistent population projections and planning horizons. The planning horizon should start on the relevant deadline specified in RCW 36.70A.130(5).

(b) The comprehensive plan should include or reference the statutory goals and requirements of the act as guiding the development of the comprehensive plan and should also identify any supplementary goals adopted in the comprehensive plan.

(c) Each county and city comprehensive plan should include, or reference, the countywide planning policies, along with an explanation of how the countywide planning policies have been integrated into the comprehensive plan.

(d) Each comprehensive plan must contain a future land use map showing the proposed physical distribution and location of the various land uses during the planning period. This map should provide a graphic display of how and where development is expected to occur.

(e) The comprehensive plan should include a vision for the community at the end of the 20-year planning period and identify community values derived from the visioning and other citizen participation processes. Goals may be further defined with policies and objectives in each element of the comprehensive plan.

(f) Each county and city should include at the beginning of its comprehensive plan a section which summarizes, with graphics and a minimum amount of text, how the various pieces of the comprehensive plan fit together. A comprehensive plan may include overlay maps and other graphic displays depicting known critical areas, open space corridors, development patterns, phasing of development, neighborhoods or subarea definitions, and other plan features.

(g) Detailed recommendations for preparing each element of the comprehensive plan are provided in WAC 365-196-405 through 365-196-485.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 23-08-037, § 365-196-400, filed 3/29/23, effective 4/29/23; WSR 15-04-039, § 365-196-400, filed 1/27/15, effective 2/27/15; WSR 10-03-085, § 365-196-400, filed 1/19/10, effective 2/19/10.]

WAC 365-196-405 Land use element. (1) Requirements. The land use element must contain the following features:

(a) Designation of the proposed general distribution and general location and extent of the uses of land, where appropriate, for agricultural, timber, and mineral production, for housing, commerce, industry, recreation, open spaces, public utilities, public facilities, general aviation airports, military bases, rural uses, and other land uses.

(b) Population densities, building intensities, and estimates of future population growth.

(c) Provisions for protection of the quality and quantity of ground water used for public water supplies.

(d) Wherever possible, consideration of urban planning approaches to promote physical activity.

(e) Where applicable, a review of drainage, flooding, and stormwater runoff in the area covered by the plan and nearby jurisdictions, and guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.

(2) Recommendations for meeting requirements. The land use assumptions in the land use element form the basis for all growth-related planning functions in the comprehensive plan, including transportation, housing, capital facilities, and, for counties, the rural element. Preparing the land use element is an iterative process. Linking all plan elements to the land use assumptions in the land use element helps meet the act's requirement for internal consistency. The following steps are recommended in preparing the land use element:

(a) Counties and cities should integrate relevant countywide planning policies and, where applicable, multicounty planning policies, into the local planning process, and ensure local goals and policies are consistent.

(b) Counties and cities should identify the existing general distribution and location of various land uses, the approximate acreage, and general range of density or intensity of existing uses.

(c) Counties and cities should estimate the extent to which existing buildings and housing, together with development or redevelopment of vacant, partially used and underutilized land, can support anticipated growth over the planning period. Redevelopment of fully built properties may also be considered.

(i) Estimation of development or redevelopment capacity may include:

(A) Identification of individual properties or areas likely to convert because of market pressure or because they are built below allowed densities; or

(B) Use of an estimated percentage of area-wide growth during the planning period anticipated to occur through redevelopment, based on likely future trends for the local area or comparable jurisdictions; or

(C) Some combination of (c)(i)(A) and (B) of this subsection.

(ii) Estimates of development or redevelopment capacity should be included in a land capacity analysis as part of a countywide process described in WAC 365-196-305 and 365-196-310 or, as applicable, WAC 365-196-315.

(d) Counties and cities should identify special characteristics and uses of the land which may influence land use or regulation. These may include:

(i) The location of agriculture, forest and mineral resource lands of long-term commercial significance.

(ii) The general location of any known critical areas that limit suitability of land for development.

(iii) Influences or threats to the quality and quantity of ground water used for public water supplies. These may be identified from information sources such as the following:

(A) Designated critical aquifer recharge areas that identify areas where potentially hazardous material use should be limited, or for direction on where managing development practices that influence the aquifer would be important;

(B) Watershed plans approved under chapter 90.82 RCW; ground water management plans approved under RCW 90.44.400; coordinated water

system plans adopted under chapter 70A.100 RCW; and watershed plans adopted under chapter 90.54 RCW as outlined in RCW 90.03.386.

(C) Instream flow rules prepared by the department of ecology and limitations and recommendations therein that may inform land use decisions.

(iv) Areas adjacent to general aviation airports where incompatible uses should be discouraged, as required by RCW 36.70A.510 and 36.70.547, with guidance in WAC 365-196-455.

(v) Areas adjacent to military bases where incompatible uses should be discouraged, as required by RCW 36.70A.530 with guidance in WAC 365-196-475.

(vi) Existing or potential open space corridors within and between urban growth areas as required by RCW 36.70A.160 for recreation, wildlife habitat, trails, and connection of critical areas as defined in RCW 36.70A.030. Counties and cities may consult WAC 365-196-335 for additional information.

(vii) Where applicable, sites that are particularly well suited for industry. Counties and cities should consult WAC 365-196-310 (3)(c)(iv) for information on industrial land uses. For counties, the process described in WAC 365-196-465 and 365-196-470 may be relevant for industrial areas outside of an urban growth area.

(viii) Other features that may be relevant to this information gathering process may include view corridors, brownfield sites, national scenic areas, historic districts, or other opportunity sites, or other special characteristics which may be useful to inform future land use decisions.

(e) Counties and cities must review drainage, flooding, and stormwater runoff in the area or nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound. Water quality information may be integrated from the following sources:

(i) Planning and regulatory requirements of municipal stormwater general permits issued by the department of ecology that apply to the county or city.

(ii) Local waters listed under Washington state's water quality assessment and any water quality concerns associated with those waters.

(iii) Interjurisdictional plans, such as total maximum daily loads.

(f) Counties and cities must obtain 20-year population and housing needs allocations for their planning area as part of a countywide process described in WAC 365-196-305(4) and 365-196-310. Using information from the housing needs analysis and housing needs allocation, identify the amount of land suitable for development at a variety of densities consistent with the number and type of residential units likely to be needed over the planning period. Densities and type of residential units needed should take into account what housing types can serve housing needs at different potential economic segments as described in WAC 365-196-410(2). At a minimum, cities must plan for the population and housing needs allocated to them, but may plan for additional growth within incorporated areas.

(g) Counties and cities should estimate the level of commercial space, and industrial land needed using information from the economic development element, if available, or from other relevant economic development plans.

(h) Counties and cities should identify the general location and estimated quantity of land needed for public purposes such as utility corridors, landfills or solid waste transfer stations, sewage treatment facilities, stormwater management facilities, recreation, schools, and other public uses. Counties and cities should consider corridors needed for transportation including automobile, rail, and trail use in and between planning areas, consistent with the transportation element and coordinate with adjacent jurisdictions for connectivity.

(i) Counties and cities should select land use designations and implement zoning. Select appropriate commercial, industrial, and residential densities and their distribution based on the total analysis of land features, population and housing needs allocation to be supported, implementation of regional planning strategies, and needed capital facilities.

(i) It is strongly recommended that a table be included showing the acreage in each land use designation, the acreage in each implementing zone, the approximate densities that are assumed, and how this provides capacity for the 20-year allocations of housing need.

(ii) Counties and cities should prepare a future land use map including land use designations, municipal and urban growth area boundaries, and any other relevant features consistent with other elements of the comprehensive plan.

(j) Wherever possible, counties and cities should consider urban planning approaches that promote physical activity. Urban planning approaches that promote physical activity may include:

(i) Higher intensity residential or mixed-use land use designations to support walkable and diverse urban, town and neighborhood centers.

(ii) Transit-oriented districts around public transportation transfer facilities, rail stations, or higher intensity development along a corridor served by high quality transit service.

(iii) Policies for siting or colocating public facilities such as schools, parks, libraries, community centers and athletic centers to place them within walking or cycling distance of their users.

(iv) Policies supporting linear parks and shared-use paths, interconnected street networks or other urban forms supporting bicycle and pedestrian transportation.

(v) Policies supporting multimodal approaches to concurrency consistent with other elements of the plan.

(vi) Traditional or main street commercial corridors with street front buildings and limited parking and driveway interruption.

(vii) Opportunities for promoting physical activity through these and other policies should be sought in existing as well as newly developing areas. Regulatory or policy barriers to promoting physical activity for new or existing development should also be removed or lessened where feasible.

(k) Counties and cities may prepare an implementation strategy describing the steps needed to accomplish the vision and the densities and distributions identified in the land use element. Where greater intensity of development is proposed, the strategy may include a design scheme to encourage new development that is compatible with existing or desired community character.

(l) Counties and cities may prepare a schedule for the phasing of the planned development contemplated consistent with the availability of capital facilities as provided in the capital facilities element.

WAC 365-196-330 provides additional information regarding development phasing.

(m) Counties and cities should reassess the land use element in light of:

(i) The projected capacity for financing the needed capital facilities over the planning period; and

(ii) An assessment of whether the planned densities and distribution of growth can be achieved within the capacity of available land and water resources and without environmental degradation.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-405, filed 8/15/25, effective 9/15/25; WSR 23-08-037, § 365-196-405, filed 3/29/23, effective 4/29/23; WSR 10-22-103, § 365-196-405, filed 11/2/10, effective 12/3/10; WSR 10-03-085, § 365-196-405, filed 1/19/10, effective 2/19/10.]

WAC 365-196-410 Housing element. (1) Requirements. Counties and cities must develop a housing element ensuring vitality and character of established residential neighborhoods. The housing element must contain at least the following features:

(a) An inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth, as provided by the department, including units for moderate, low, very low, and extremely low-income households, and emergency housing, emergency shelters, and permanent supportive housing.

(b) A statement of the goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences, and within an urban growth area boundary, moderate density housing options including, but not limited to, duplexes, triplexes, and townhomes.

(c) Identification of sufficient land for housing including, but not limited to, government-assisted housing, housing for moderate, low, very low, and extremely low-income households, manufactured housing, multifamily housing, group homes, foster care facilities, emergency housing, emergency shelters, permanent supportive housing, and within an urban growth area boundary, consideration of duplexes, triplexes, and townhomes.

(d) Adequate provisions for existing and projected housing needs of all economic segments of the county or city including:

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

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

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

(iv) Consideration of the role of accessory dwelling units in meeting housing needs.

(e) Identification of local policies and regulations that result in racially disparate impacts, displacement, and exclusion in housing, including zoning that may have a discriminatory effect, disinvestment, and infrastructure availability.

(f) Identification and implementation of policies and regulations to address and begin to undo racially disparate impacts, displacement, and exclusion in housing caused by local policies, plans, and actions.

(g) Identification of areas that may be at higher risk of displacement from market forces that occur with changes to zoning development regulations and capital investments.

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

(2) Recommendations for meeting requirements. The housing element shows how a county or city will accommodate anticipated growth and the allocated share of countywide housing needs of all economic segments (low, very low, extremely low, and moderate-income housing, permanent supportive housing, and emergency housing/shelters), provide a variety of housing types at a variety of densities, identify barriers to affordable housing for all economic segments of the county or city and actions to address housing availability, ensure the vitality of established residential neighborhoods, and address racially disparate impacts, exclusion and displacement in housing. The analysis of emergency housing and emergency shelters may be grouped together in the housing element. The following components should appear in the housing element:

(a) Statement of goals, policies, and mandatory provisions.

(i) The goals and policies serve as a guide to the creation and adoption of development regulations and may also guide the exercise of discretion in the permitting process.

(ii) The housing goals and policies of counties and cities should be consistent with countywide planning policies and, where applicable, multicounty planning policies.

(iii) Housing goals and policies should address at least the following:

(A) Housing affordable to all economic segments of the population;

(B) A variety of housing types along with a variety of densities;

(C) Preservation of existing housing stock, especially affordable housing;

(D) Consideration of character of established residential neighborhoods;

(E) Improvement and development of housing; and

(F) Within urban growth areas, provision of moderate density housing options including, but not limited to, duplexes, triplexes, and townhomes.

(iv) Housing goals and policies should be written to allow the evaluation of progress toward achieving the housing element's goals and policies.

(v) Mandatory provisions include a summary of required changes to accompany a comprehensive plan for consistency with state law. This includes, but is not limited to, a statement of regulatory changes needed to show sufficient land capacity and regulatory and policy changes needed to meet state law requirements.

(b) Housing inventory.

(i) The purpose of the required inventory is to gauge the availability of existing housing for all economic segments of the county or city.

(ii) The inventory should identify the amount of various types of housing that exist in a county or city. The act does not require that

a housing inventory be in a specific form. Counties and cities should consider WAC 365-196-050 (3) and (4) when determining how to meet the housing inventory requirement and may rely on existing data.

(iii) The housing inventory should show the affordability of different types of housing, based on available data about the median sales prices of homes and average rental prices.

(iv) The housing inventory should include information about other types of housing available within the county or city such as:

(A) The number of beds available in group homes, nursing homes and/or assisted living facilities;

(B) The number of dwelling units available specifically for senior citizens;

(C) The number of government-assisted housing units for lower-income households; and

(D) The number of units of permanent supportive housing and transitional housing, and the number of units or beds of indoor emergency shelter and indoor emergency housing.

(c) Housing needs analysis.

(i) The purpose of the needs analysis is to estimate the type and densities of future housing needed to serve all economic segments of the county or city. The housing needs analysis should compare the number of housing units identified in the housing inventory by economic segment to the local allocation of projected 20-year countywide housing needs by economic segment to determine the total number of net new units needed.

(ii) When considering local shares of countywide housing need, counties and cities should consider the regional context of growth patterns, existing housing, neighboring jurisdictions and economies.

(iii) Counties should determine the local share of countywide housing needs by economic segment by coordinating with their cities and towns based on applicable countywide planning policies and multicounty planning policies, the availability of infrastructure and services, and other locally determined factors. When allocating projected housing needs, counties and cities should use the following minimum standards:

(A) The housing needs for each economic segment, permanent supportive housing, and emergency housing must use the same locally selected population projection as the input for the housing need projections provided by the department.

(B) Allocations must be consistent with relevant countywide planning policies or multicounty planning policies.

(C) The sum of all allocated housing needs must be no less than the total projected countywide need for each economic segment including permanent supportive housing and emergency housing. Within city limits, cities may choose to plan for more capacity than the allocated housing need if it is supported by necessary infrastructure and services and coordinated with surrounding jurisdictions.

(D) Counties should not plan for very low- or extremely low-income housing, permanent supportive housing or emergency housing outside of urban growth areas and LAMIRDs. New multifamily housing is generally required to reach these affordability levels, which is not appropriate in rural areas.

(E) Counties' and cities' allocations of projected housing needs by economic segment, permanent supportive housing and emergency housing must be in a public-facing document and used consistently in their comprehensive plans.

(iv) Counties and cities should analyze housing data by race to determine if there is evidence of racially disparate impacts, displacement and exclusion in housing, as well as identify areas at higher risk of displacement.

(d) Housing capacity.

(i) The housing needs analysis should identify the number, types, and general densities of new housing units needed to serve the local allocation of housing needs by economic segment.

(ii) To determine the number, types, and general densities needed, counties and cities should identify the types and densities of different housing types that will serve respective economic segments. For example, larger single family housing will likely serve households above moderate income (greater than 120 percent of Area Median Income) and could possibly serve moderate income households (80-120 percent AMI), therefore counties and cities should assume that capacity for those economic segments are met by the residential capacity of zones where this is the predominant housing type constructed.

(iii) Counties and cities should use the number, types, and densities of housing needed in the housing needs analysis to designate sufficient land capacity suitable for development in the land use element. Counties and cities may address accommodating capacity for housing needs at moderate-income levels and below by:

(A) Counting capacity for accessory dwelling units. Counties and cities should only assume a portion of residential parcels will develop an accessory dwelling unit within the planning period, based on market trends, infrastructure constraints, and existing homeownership association covenants. Accessory dwelling units should be counted towards capacity of the economic segment that best represents the costs of renting or purchasing this housing in the county or city.

(B) Increasing the variety of housing types allowed, increasing densities, and reducing parking requirements.

(C) Developing local incentives for more affordable housing, such as density bonuses, tax exemptions like the multifamily property tax exemption program, or fee or impact waivers for affordable housing. Counties and cities may also require affordable housing with market rate housing.

(iv) Counties and cities may use a variety of considerations to identify appropriate housing types, densities, and location of housing to accommodate housing needs, including:

(A) Location of low-income housing in proximity to jobs, transportation, services, and infrastructure.

(B) Jobs-to-housing balance, which is the number of jobs in a county or city relative to the number of housing units.

(C) The location of infrastructure and the costs to upgrade or extend needed infrastructure to serve higher density housing.

(D) Housing policies and regulations that have led to racially disparate impacts, exclusion, displacement, or displacement risk.

(E) Reasonable measures to address inconsistencies found in buildable lands reports prepared under RCW 36.70A.215.

(F) Housing needed to address an observed pattern of a larger quantity of second homes in destination communities.

(v) To demonstrate sufficient land capacity to meet the 20-year housing needs allocation, counties and cities should document in the housing element or an appendix:

(A) Their calculations for determining residential capacity in each zone including the data and assumptions used for acreages, densities, and market factors influencing development. The analysis must

also show assumptions for which economic segments can afford the allowed housing types and densities. The calculations must also show the capacity for emergency housing and shelters by zone.

(B) The total capacity of housing units by economic segment compared to the 20-year housing needs allocation by economic segment, presented in a table;

(C) The zoning changes needed to provide a sufficient capacity of housing at all economic segments and an estimate of housing capacity by income segment under the updated zoning, to illustrate changes needed to address deficiencies. This should include emergency housing and shelters and permanent supportive housing. Jurisdictions must demonstrate that the zoning changes create housing capacity for each economic segment equal to or greater than allocated housing needs; and

(D) Calculations and analysis consistent with the department's technical guidance for performing a land capacity analysis.

(vi) The housing needs by economic segment in the housing element will serve as benchmarks to evaluate progress and guide decisions regarding development regulations.

(e) Adequate provisions. RCW 36.70A.070 requires counties and cities, in their housing element, to make adequate provisions for existing and projected needs for all economic segments of the county or city. All economic segments must include moderate, low, very low, and extremely low-income households and emergency housing, emergency shelter, and permanent supportive housing needs. Affordable housing under RCW 36.130.020 includes indoor emergency housing and transitional housing administered through a lease and permanent supportive housing.

(i) When determining which housing units are affordable, consider:

(A) In the case of dwelling units for sale, affordable housing has mortgages, amortization, taxes, insurance and condominium or association fees, if any, that consume no more than 30 percent of the owner's gross annual household income.

(B) In the case of dwelling units for rent, affordable housing has rent and utility costs, other than telephone, as defined by the county or city, that cost no more than 30 percent of the tenant's gross annual household income.

(C) Income ranges used when considering affordability. When planning for affordable housing, counties or cities should use income ranges consistent with the department's model for housing needs and the United States Department of Housing and Urban Development (HUD).

(ii) Adequate housing for all economic segments within the county or city requires planning from a regional perspective. Countywide planning policies must address housing affordable to all economic segments and its distribution among counties and cities.

Countywide planning policies should include consideration of the distribution of housing needs to begin to undo racially disparate impacts, exclusion, and displacement.

(iii) To make adequate provisions, counties and cities should identify barriers to addressing housing needs for all economic segments of the population, along with, but not limited to, development regulations, process obstacles, and funding gaps. Counties and cities should document the programs and actions needed to achieve housing availability, including the removal of housing barriers, through changes to development regulations, processes, incentives, and local funding opportunities. Jurisdictions should begin to take actions to address these barriers upon adoption of the plan.

(A) Examples of development regulation barriers include, but are not limited to, unclear or inconsistent development regulations, prohibiting more affordable housing types, large lot sizes, low maximum densities or building heights, large setbacks, and high off-street parking requirements.

(B) Examples of process obstacles include, but are not limited to, conditional use permit processes; lengthy or cumbersome design review; lack of clear information on processes and fees; high permitting, impact, or utility connection fees; and long permitting processing times.

(C) Examples of local funding opportunities include, but are not limited to, housing and related services sales tax, affordable housing property tax levy, real estate excise taxes, designating surplus lands for affordable housing projects, impact fee reductions or waivers for affordable housing projects in compliance with RCW 39.33.015, and the multi-family property tax exemption program.

(iv) The actions to address housing availability and barriers to housing production serve as benchmarks to evaluate progress and guide decisions regarding development regulations.

(v) When planning for all economic segments through housing capacity or adequate provisions, counties and cities should consider housing locations in relation to employment. This includes consideration of higher densities and capacities in proximity to employment centers, the location of housing in relation to public transit to employment centers, and consideration of the types of housing that local employees can afford.

(vi) Accessory dwelling units can help meet local housing needs. Counties and cities should consider the kinds of accessory dwelling units most likely to develop in their county or city, how the units will be used, anticipated capacity to accommodate project needs, and the barriers to developing the units.

(f) Racially disparate impacts, displacement, exclusion, and displacement risk.

(i) To identify and remove those policies and regulations that create and perpetuate inequitable housing outcomes, the department recommends counties and cities:

(A) Engage with the community. Identify the communities that may be experiencing disparate impacts, exclusion, or displacement, specifically communities that identify as Black, Indigenous, and People of Color (BIPOC), and develop a program of community engagement to support your analysis and assessment of racially disparate impacts in your existing policies and regulations.

(B) Gather and analyze data. Analyze data to assess racially disparate impacts, displacement, and exclusion in housing, and identify areas at risk of displacement. Analyze data by race and/or ethnicity in connection with the housing needs analysis. Counties and cities should engage impacted people and communities and other knowledgeable stakeholders to help interpret the findings from the analysis and provide greater insight into the factors that may cause racially disparate impacts in local housing policies or regulations.

(C) Evaluate policies. Based on information from (f)(i)(A) and (B) of this subsection, review existing housing policies and identify changes or new policies and regulations to address and begin to undo the racially disparate impacts and exclusion in housing and address displacement impacts.

(D) Revise policies. Revise existing policies to reduce and undo the disparate impacts, displacement, and exclusion, and develop policies to prevent displacement.

(E) Review and update regulations. Review and update regulations to achieve the goals and policies of the housing element in (f)(i)(D) of this subsection.

(ii) A variety of policy and regulatory solutions are available to counties and cities to address racially disparate impacts, exclusion, and displacement, including:

(A) Increasing affordable housing production through the generation of revenue for affordable housing and/or encouraging more affordable housing production through options such as, but not limited to, affordable housing incentive programs, density bonuses, zoning reforms, tax incentives, and fee waiver programs.

(B) Preservation of existing affordable housing through programs or policies including, but not limited to, mobile home park preservation or conversion to cooperative, supporting third-party purchases of existing affordable housing, creation of community land trusts, notice of intent to sell ordinances, and regulating short-term rentals.

(C) Protecting existing communities and households through programs or policies including, but not limited to, homeownership programs, such as those that support financial assistance to low-income homeowners or home repair and rehabilitation assistance; rental assistance; and tenant protections, such as right to return policies, rental inspection and registry programs, deferral of taxes, and tenant opportunity to purchase programs.

(D) Ensuring benefits of investment and development are equitably distributed through programs such as community benefit agreements, support of community-led investments, or monitoring of equitable outcomes.

(g) Implementation plan.

(i) The housing element should identify strategies designed to help meet the needs identified for all economic segments of the population within the planning area and the actions needed to remove barriers to local housing needs. It should include, but not be limited to, the following:

(A) Consideration of the range of housing choices to be encouraged including, but not limited to, multifamily housing, mixed uses, manufactured houses, accessory dwelling units, and detached houses;

(B) Consideration of various lot sizes and densities, and of clustering and other design configurations;

(C) Consideration of incentives to encourage development of affordable housing such as density bonuses, fee waivers or exemptions, parking reductions, and expedited permitting;

(D) Identification of a sufficient amount of appropriately zoned land to accommodate the identified housing needs of all economic segments over the planning period; and

(E) Evaluation of the capacity of local public and private entities and the availability of financing to produce housing to meet the identified need.

(ii) The housing element should also address how the county or city will provide for group homes, foster care facilities, and facilities for other populations with special needs, including indoor emergency housing, transitional housing, shelters, and permanent supportive housing. The housing element should provide for an equitable distribution of these facilities among neighborhoods within the county or city.

(iii) The housing element should identify strategies designed to ensure the vitality and character of existing neighborhoods. It should show how growth and change will preserve or improve existing residential qualities. The housing element may not focus on one requirement (e.g., preserving existing housing) to the exclusion of the other requirements (e.g., affordable housing) in RCW 36.70A.070(2). It should explain how various needs are reconciled.

(iv) The housing element should include provisions to monitor the performance of its housing strategy. A monitoring program may include the following:

(A) The collection and analysis of information about the housing market;

(B) Data about the supply of developable residential building lots at various land-use densities and the supply of rental and for-sale housing at various price levels;

(C) A comparison of actual housing development to the housing need allocations, policies and goals contained in the housing element;

(D) Identification of thresholds at which steps should be taken to adjust and revise goals and policies;

(E) A description of the types of adjustments and revisions that the county or city may consider; and

(F) Coordination with review and evaluation reports. For counties and cities subject to the buildable lands review and evaluation report requirements of RCW 36.70A.215, and the implementation progress report required in RCW 36.70A.130(9), any revision of the housing element shall include consideration of prior buildable lands reports and any reasonable measures identified.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-410, filed 8/15/25, effective 9/15/25; WSR 23-08-037, § 365-196-410, filed 3/29/23, effective 4/29/23; WSR 10-03-085, § 365-196-410, filed 1/19/10, effective 2/19/10.]

WAC 365-196-415 Capital facilities element. (1) Requirements. The capital facilities element of a comprehensive plan must contain at least the following features:

(a) An inventory of existing capital facilities owned by public entities, also referred to as "public facilities," showing the locations and capacities of the capital facilities;

(b) A forecast of the future needs for such capital facilities based on the land use element;

(c) The proposed locations and capacities of expanded or new capital facilities;

(d) At least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and

(e) A requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent. Park and recreation facilities shall be included in the capital facilities plan element.

(2) Recommendations for meeting requirements.

(a) Inventory of existing facilities.

(i) Counties and cities should create an inventory of existing capital facilities showing locations and capacities, including the ex-

tent to which existing facilities have capacity available for future growth.

(ii) Capital facilities involved should include, at a minimum, water systems, sanitary sewer systems, stormwater facilities, reclaimed water facilities, schools, parks and recreational facilities, police and fire protection facilities.

(iii) Capital facilities that are needed to support other comprehensive plan elements, such as transportation, the parks and recreation or the utilities elements, may be addressed in the capital facility element or in the specific element.

(iv) Counties and cities should periodically review and update the inventory. At a minimum this review must occur as part of the periodic update required by RCW 36.70A.130(1). Counties and cities may also maintain this inventory annually in response to changes in the annual capital budget.

(v) Counties and cities should consider where infrastructure availability or lack thereof may have resulted in racially disparate impacts, displacement, or exclusion in housing as a result of local policies or regulations. Where the lack of infrastructure limits the ability to achieve infill development, cities required to allow middle housing must plan for adequate infrastructure, such as sewer, to allow new infill development.

(b) Forecast of future needs.

(i) Counties and cities should forecast needs for capital facilities during the planning period, based on the levels of service or planning assumptions selected and consistent with the growth, densities and distribution of growth anticipated in the land use element. The forecast should include reasonable assumptions about the effect of any identified system management or demand management approaches to preserve capacity or avoid the need for new facilities.

(ii) The capital facilities element should identify all capital facilities that are planned to be provided within the planning period, including general location and capacity.

(A) Counties and cities should identify those improvements that are necessary to address existing deficiencies or to preserve the ability to maintain existing capacity.

(B) Counties and cities should identify those improvements that are necessary for development.

(C) Counties and cities may identify any other improvements desired to raise levels of services above locally adopted minimum standards, to enhance the quality of life in the community or meet other community needs not related to growth such as administrative offices, courts or jail facilities. Counties and cities are not required to set level of service standards for facilities that are not necessary for development. Because these facilities are not necessary for development, the failure to fund these facilities as planned would not require a reassessment of the land use element if funding falls short as required by RCW 36.70A.070 (3)(e).

(D) Counties and cities should consider improvements to address and begin to undo racially disparate impacts, displacement, or exclusion in housing caused by disinvestment or lack of infrastructure availability as detailed in RCW 36.70A.070 (2)(e) and (f).

(c) Financing plan.

(i) The capital facilities element should include creation of at least a six-year capital facilities plan for financing capital facilities needed within that time frame. Counties and cities should forecast projected funding capacities based on revenues available under

existing laws and ordinances, followed by the identification of sources of public or private funds for which there is reasonable assurance of availability. Where the services and capital facilities are provided by other entities, these other providers should provide financial information as well. If the funding strategy relies on new or previously untapped sources of revenue, the capital facilities element should include an estimate of new funding that will be supplied. Adoption of the development regulations or other actions to secure these funding sources should be included in the implementation strategy.

(ii) The six-year plan should be updated at least biennially so financial planning remains sufficiently ahead of the present for concurrency to be evaluated. Such an update of the capital facilities element may be integrated with the county's or city's annual budget process for capital facilities.

(d) Reassessment.

(i) Counties and cities must reassess the land use element and other elements of the comprehensive plan if the probable funding falls short of meeting the need for facilities that are determined by a county or city to be necessary for development. Counties and cities should identify a mechanism to periodically evaluate the adequacy of public facilities based on adopted levels of service or other objective standards. The evaluation should determine if a combination of existing and funded facilities are adequate to maintain or exceed adopted level of service standards.

(ii) This evaluation must occur, at a minimum, as part of the periodic review and update required in RCW 36.70A.130 (1) and (3) and as major changes are made to the capital facilities element.

(iii) If public facilities are inadequate, local governments must address this inadequacy. If the reassessment identifies a lack of adequate public facilities, counties and cities may use a variety of strategies including, but not limited to, the following:

(A) Reducing demand through demand management strategies;

(B) Reducing levels of service standards;

(C) Increasing revenue;

(D) Reducing the cost of the needed facilities;

(E) Reallocating or redirecting planned population and employment growth within or among counties or cities in the urban growth area to make better use of existing facilities;

(F) Phasing growth or adopting other measures to adjust the timing of development, if public facilities or services are lacking in the short term for a portion of the planning period;

(G) Revising countywide population forecasts within the allowable range, or revising the countywide employment forecast.

(3) Relationship between the capital facilities element and the land use element.

(a) Providing adequate public facilities is a component of the affirmative duty created by the act for counties and cities to accommodate the growth that is selected and allocated, to provide sufficient capacity of land suitable for development, to make adequate provisions for existing and projected needs of all economic segments of the population, and to permit urban densities.

(b) The needs for capital facilities should be dictated by the land use element. The future land use map designates sufficient land use densities, intensities, and housing types to accommodate the population and employment that is selected and allocated. The land uses and assumed densities identified in the land use element determine the location and timing of the need for new or expanded facilities.

(c) A capital facilities element includes the new and expanded facilities necessary for growth over the 20-year life of the comprehensive plan. Facilities needed for new growth, combined with needs for maintenance and rehabilitation of the existing systems, and the need to address existing deficiencies constitutes the capital facilities demand.

(4) Relationship between the capital facilities element and the housing element. Capital investments must identify areas that may be of higher risk of displacement per WAC 365-196-410 (1)(g).

(5) Relationship to plans of other service providers or plans adopted by reference. A county or city should not meet their responsibility to prepare a capital facilities element by relying only on assurances of availability from other service providers. When system plans or master plans from other service providers are adopted by reference, counties and cities should do the following:

(a) Summarize this information within the capital facilities element;

(b) Synthesize the information from the various providers to show that the actions, taken together, provide adequate public facilities; and

(c) Conclude that the capital facilities element shows how the area will be provided with adequate public facilities.

(6) Relationship between growth and provision of adequate public facilities.

(a) Counties and cities should identify in the capital facility element which types of facilities it considers to be necessary for development.

(i) Counties and cities should identify facilities as necessary for development if the need for new facilities is reasonably related to the impacts of development.

(ii) Capital facilities must be identified as necessary for development if a county or city imposes an impact fee as a funding strategy for those facilities.

(iii) In urban areas, all facilities necessary to achieve urban densities must be identified as necessary for development.

(b) For those capital facilities deemed necessary for development, adequate public facilities may be maintained as follows:

(i) Transportation facilities are the only facilities required to have a concurrency mechanism, although a local government may adopt a concurrency mechanism for other facilities that are deemed necessary for development. See WAC 365-196-840.

(ii) Counties and cities should determine which capital facilities will be required as a condition of project approval, but not subject to concurrency. These may include, for example: Capital facilities required to ensure adequate water availability, capital facilities necessary to handle wastewater, and capital facilities necessary to manage stormwater.

(iii) For capital facilities that are necessary for development, but not identified in subsection (2)(b)(ii)(A) or (B) of this section, counties and cities should set a minimum level of service standard, or provide some other objective basis for assessing the need for new facilities or capacity. This standard must be indicated as the baseline standard, below which the jurisdiction will not allow service to fall. Policies must require periodic analysis to determine if the adopted level of service is being met consistent with this section. If applicable, this analysis should be included in the implementation progress report required in RCW 36.70A.130(9).

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-415, filed 8/15/25, effective 9/15/25; WSR 23-08-037, § 365-196-415, filed 3/29/23, effective 4/29/23; WSR 15-04-039, § 365-196-415, filed 1/27/15, effective 2/27/15; WSR 10-03-085, § 365-196-415, filed 1/19/10, effective 2/19/10.]

WAC 365-196-420 Utilities element. (1) Requirements. The utilities element shall contain at least the following features: The general location, proposed location, and capacity of all existing and proposed utilities including, but not limited to, electrical lines, telecommunication lines, and natural gas lines.

(2) Recommendations for meeting requirements. Counties and cities should consider the following:

(a) The general location and capacity of existing and proposed utility facilities should be integrated with the land use element. Proposed utilities are those awaiting approval when the comprehensive plan is adopted.

(b) In consultation with serving utilities, counties and cities should prepare an analysis of the capacity needs for various utilities over the planning period, to serve the growth anticipated at the locations and densities proposed within the county's or city's planning area. The capacity needs analysis should include consideration of comprehensive utility plans, least-cost plans, load forecasts, and other planning efforts.

(c) The utility element should identify the general location of utility lines and facilities required to furnish anticipated capacity needs for the planning period. This should be developed in consultation with serving utilities as a part of the process of identifying lands useful for public purposes.

(d) Counties and cities should evaluate whether any utilities should be identified and classified as essential public facilities, subject in cases of siting difficulty to the separate siting process established under the comprehensive plan for such facilities.

(e) Counties and cities should evaluate whether any utility facilities within their planning area are subject to countywide planning policies for siting public facilities of a countywide or statewide nature.

(f) Counties and cities should include local criteria for siting utilities over the planning period, including:

(i) Consideration of whether a siting proposal is consistent with the locations and densities for growth as designated in the land use element.

(ii) Consideration of any public service obligations of the utility involved.

(iii) Evaluation of whether the siting decision will adversely affect the ability of the utility to provide service throughout its service area.

(iv) Balancing of local design considerations against articulated needs for system-wide uniformity.

(g) Counties and cities should adopt policies that call for:

(i) Joint use of transportation rights of way and utility corridors, where possible.

(ii) Timely and effective notification of interested utilities about road construction, and of maintenance and upgrades of existing

roads to facilitate coordination of public and private utility trenching activities.

(iii) Consideration of utility permit applications simultaneously with the project permit application for the project proposal requesting service and, when possible, approval of utility permits when the project permit application for the project to be served is approved.

(iv) Municipal utilities to reduce or waive connection fees for affordable housing. This includes properties owned or developed by, or on behalf of, a nonprofit organization, public development authority, housing authority, or a local agency that provides emergency shelter or emergency housing, transitional housing, permanent supportive housing, or other affordable housing consistent with chapter 35.95 RCW.

(v) Cooperation and collaboration between the county or city and the utility provider to develop vegetation management policies and plans for utility corridors.

(A) Coordination and cooperation between the county or city and the utility provider to educate the public on avoiding preventable utility conflicts through choosing proper vegetation (i.e., "Right Tree, Right Place").

(B) Coordination and cooperation between the county or city and the utility provider to reduce potential critical areas conflicts through the consideration of alternate utility routes, expedited vegetation management permitting, coordinated vegetation management activities, and/or long-term vegetation management plans.

(h) Adjacent counties and cities should coordinate to ensure the consistency of each jurisdiction's utilities element and regional utility plan, and to develop a coordinated process for siting regional utility facilities in a timely manner.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-420, filed 8/15/25, effective 9/15/25; WSR 23-08-037, § 365-196-420, filed 3/29/23, effective 4/29/23; WSR 10-03-085, § 365-196-420, filed 1/19/10, effective 2/19/10.]

WAC 365-196-425 Rural element. Counties must include a rural element in their comprehensive plan. This element shall include lands that are not designated for urban growth, agriculture, forest, or mineral resources. The rural element shall permit land uses that are compatible with the rural character of such lands and provide for a variety of rural densities.

(1) Developing a written record. When developing the rural element, a county may consider local circumstances in establishing patterns of rural densities and uses, but must develop a written record explaining how the rural element harmonizes the planning goals in the act and meets the requirements of the act. This record should document local circumstances the county considered and the historic patterns of development in the rural areas.

(2) Establishing a definition of rural character.

(a) The rural element shall include measures that apply to rural development and protect rural character. Counties must define rural character to guide the development of the rural element and the implementing development regulations.

(b) The act identifies rural character as patterns of land use and development that:

(i) Allow open space, the natural landscape, and vegetation to predominate over the built environment;

(ii) Foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;

(iii) Provide visual landscapes that are traditionally found in rural areas and communities;

(iv) Are compatible with the use of land by wildlife and for fish and wildlife habitat;

(v) Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;

(vi) Generally do not require the extension of urban governmental services; and

(vii) Are consistent with protection of natural surface water flows and ground water and surface water recharge and discharge areas.

(c) Counties should adopt a locally appropriate definition of rural character. Rural areas are diverse in visual character and in density, across the state and across a particular county. Rural development may consist of a variety of densities and uses. It may, for example, include clustered residential development at levels consistent with the preservation of rural character. Counties should define rural development both in terms of its visual character and in terms of the density and intensity of uses. Defining rural development in this way allows the county to use its definition of rural development both in its future land use designations and in its development regulations governing rural development.

(3) Rural densities.

(a) The rural element should provide for a variety of densities that are consistent with the pattern of development established in its definition of rural character. The rural comprehensive plan designations should be shown on the future land use map. Rural densities are a range of densities that:

(i) Are compatible with the primary use of land for natural resource production;

(ii) Do not make intensive use of the land;

(iii) Allow open space, the natural landscape, and vegetation to predominate over the built environment;

(iv) Foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;

(v) Provide visual landscapes that are traditionally found in rural areas and communities;

(vi) Are compatible with the use of the land by wildlife and for fish and wildlife habitat;

(vii) Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;

(viii) Generally do not require the extension of urban governmental services;

(ix) Are consistent with the protection of natural surface water flows and ground water and surface water recharge and discharge areas; and

(x) Do not create urban densities in rural areas or abrogate the county's responsibility to encourage new development in urban areas.

(b) Counties should consider the adverse impact of wildfires when establishing rural densities. Counties may reduce rural densities in areas vulnerable to wildland fires as a mitigation strategy to protect natural resource lands, critical areas, water quality, or rural character.

(c) Counties should perform a periodic analysis of development occurring in rural areas, to determine if patterns of rural development are protecting rural character and encouraging development in ur-

ban areas. This analysis should occur along with the urban growth area review required in RCW 36.70A.130 (3)(a) and the implementation progress report required in RCW 36.70A.130(9). The analysis may include the following:

(i) Patterns of development occurring in rural areas.

(ii) The percentage of new growth occurring in rural versus urban areas.

(iii) Patterns of rural comprehensive plan or zoning amendments.

(iv) Numbers of permits issued in rural areas.

(v) Numbers of new approved wells and septic systems.

(vi) Growth in traffic levels on rural roads.

(vii) Growth in public facilities and public services costs in rural areas.

(viii) Changes in rural land values and rural employment.

(ix) Potential build-out at the allowed rural densities.

(x) The degree to which the growth that is occurring in the rural areas is consistent with patterns of rural land use and development established in the rural element.

(4) Rural governmental services.

(a) Rural governmental services are those public facilities and services historically and typically delivered at intensities usually found in rural areas, and may include the following:

(i) Domestic water system;

(ii) Fire and police protection;

(iii) Transportation and public transportation; and

(iv) Public utilities, such as electrical, telecommunications and natural gas lines.

(b) Rural services do not include storm or sanitary sewers. Urban governmental services that pass through rural areas when connecting urban areas do not constitute an extension of urban services into a rural area provided those public services are not provided in the rural area. Sanitary sewer service may be provided only if it:

(i) Is necessary to protect basic public health and safety and the environment;

(ii) Is financially supportable at rural densities; and

(iii) Does not permit urban development.

(c) When establishing levels of service in the capital facilities and transportation element, each county should establish rural levels of service, for those rural services that are necessary for development, to determine if it is providing adequate public facilities. Counties are not required to use a single level of service for the entire rural area and may establish varying levels of service for public services in different rural areas. Where private purveyors or other public entities provide rural services, counties should coordinate with them to establish and document appropriate levels of service.

(d) Rural areas typically rely on natural systems to adequately manage stormwater and typically rely on on-site sewage systems to treat wastewater. Development in rural areas also typically relies on individual wells, exempt wells or small water systems for water. Counties should ensure the densities it establishes in rural areas do not overwhelm the ability of natural systems to provide these services without compromising either public health or the vitality of the surrounding ecosystem.

(e) Rural road systems are not typically designed to handle large traffic volumes. Local conditions may influence varying levels of service for rural road system, and level of service standards for rural arterials should be set accordingly. Generally, level of service

standards should reflect the expectation that high levels of local traffic and the associated road improvements are not usually associated with rural areas.

(f) Levels of public services decrease, and corresponding costs increase when demand is spread over a large area. This is especially true for public safety services and both school and public transportation services. Counties should provide clear expectations to the public about the availability of rural public services. Counties should ensure the densities it establishes in rural areas do not overwhelm the capacity of rural public services.

(5) Innovative zoning techniques.

(a) Innovative zoning techniques allow greater flexibility in rural development regulations to create forms of development that are more consistent with rural character than forms of development generated by conventional large-lot zoning. Innovative zoning techniques may allow forms of rural development that:

(i) Result in rural development that is more visually compatible with the surrounding rural areas;

(ii) Maximize the availability of rural land for either resource use or wildlife habitat;

(iii) Increase the operational compatibility of the rural development with use of the land for resource production;

(iv) Decrease the impact of the rural development on the surrounding ecosystem;

(v) Does not allow urban growth; and

(vi) Does not require the extension of urban governmental services.

(b) Rural clusters. One common form of innovative zoning technique is the rural cluster. A rural cluster can create smaller individual lots than would normally be allowed in exchange for open space that preserves a significant portion of the original parcel.

(i) When calculating the density of development for zoning purposes, counties should calculate density based on the number of dwelling units over the entire development parcel, rather than the size of the individual lots created.

(ii) The open space portion of the original parcel should be held by an easement, parcel or tract for open space or resource use. This should be held in perpetuity, without an expiration date.

(iii) If a county allows bonus densities in a rural cluster, the resulting density after applying the bonus must be a rural density.

(iv) Rural clusters may not create a pattern of development that relies on or requires urban governmental services. Counties should establish a limit on the size of the residential cluster so that a cluster does not constitute urban growth in a rural area. A very large project may create multiple smaller clusters that are separated from each other and use a different access point to avoid creating a pattern of development that would constitute urban growth.

(v) Development regulations governing rural clusters should include design criteria that preserve rural visual character.

(6) Limited areas of more intense rural development. The act allows counties to plan for isolated pockets of more intense development in the rural area. These are referred to in the act as limited areas of more intense rural development or LAMIRDs.

(a) LAMIRDs serve the following purposes:

(i) To recognize existing areas of more intense rural development and to minimize and contain these areas to prevent low density sprawl;

(ii) To allow for small-scale commercial uses that rely on a rural location;

(iii) To allow for small-scale economic development and employment consistent with rural character; and

(iv) To allow for redevelopment of existing industrial areas within rural areas.

(b) An existing area or existing use is one that was in existence on the date the county became subject to all of the provisions of the act:

(i) For a county initially required to fully plan under the act, on July 1, 1990.

(ii) For a county that chooses to fully plan under the act, on the date the county adopted the resolution under RCW 36.70A.040(2).

(iii) For a county that becomes subject to all of the requirements of the act under RCW 36.70A.040(5), on the date the office of financial management certifies the county's population.

(c) Counties may allow for more intensive uses in a LAMIRD than would otherwise be allowed in rural areas and may allow public facilities and services that are appropriate and necessary to serve LAMIRDs subject to the following requirements:

(i) Type 1 LAMIRDs - Isolated areas of existing more intense development. Within these areas, rural development consists of infill, development, or redevelopment of existing areas. These areas may include a variety of uses including commercial, industrial, residential, or mixed-use areas. These may be also characterized as shoreline development, villages, hamlets, rural activity centers, or crossroads developments.

(A) Development or redevelopment in LAMIRDs may be both allowed and encouraged if it is consistent with local character and if existing providers of public facilities and public services confirm there is sufficient capacity of existing public facilities and public services to serve new or additional demand. Counties may allow new uses of property within a LAMIRD, including development of vacant land.

(B) Allowed commercial development or redevelopment. Any commercial development or redevelopment within a mixed use area must be principally designed to serve the existing and projected rural population and must meet the following requirements:

(I) Any included retail or food service space must not exceed the footprint of previously occupied space or 5,000 square feet, whichever is greater, for the same or similar use; unless the retail space is for an essential rural retail service and the designated limited area is located at least 10 miles from an existing urban growth area, then the retail space must not exceed the footprint of the previously occupied space or 10,000 square feet, whichever is greater; and

(II) Any included retail or food service space must not exceed 2,500 square feet for a new use unless the new retail space is for an essential rural retail service and the designated limited area is located at least 10 miles from an existing urban growth area, then the new retail space must not exceed 10,000 square feet; and

(III) For the purposes of this section, "essential rural retail services" means services including grocery, pharmacy, hardware, automotive parts, and similar uses that sell or provide products necessary for health and safety, such as food, medication, sanitation supplies, and products to maintain habitability and mobility as defined in RCW 36.70A.070.

(C) When establishing a Type I LAMIRD, counties must establish a logical outer boundary. The purpose of the logical outer boundary is

to minimize and contain the areas of more intensive rural development to the existing areas. Uses, densities or intensities not normally allowed in a rural area may be allowed inside the logical outer boundary consistent with the existing character of the LAMIRD. Appropriate and necessary levels of public facilities and services not otherwise provided in rural areas may be provided inside the logical outer boundary.

(D) The logical outer boundary must be delineated primarily by the built environment as it existed on the date the county became subject to the planning requirements of the act.

(I) Some vacant land may be included within the logical outer boundary provided it is limited and does not create a significant amount of new development within the LAMIRD.

(II) Construction that defines the built environment may include above or below ground improvements. The built environment does not include patterns of vesting or preexisting zoning, nor does it include roads, clearing, grading, or the inclusion within a sewer or water service area if no physical improvements are in place. Although vested lots and structures built after the county became subject to the act's requirements should not be considered when identifying the built environment, they may be included within the logical outer boundary as infill.

(III) The logical outer boundary is not required to strictly follow parcel boundaries. If a large parcel contains an existing structure, a county may include part of the parcel in the LAMIRD boundary without including the entire parcel, to avoid a significant increase in the amount of development allowed within the LAMIRD.

(E) The fundamental purpose of the logical outer boundary is to minimize and contain the LAMIRD. Counties should favor the configuration that best minimizes and contains the LAMIRD to the area of existing development as of the date the county became subject to the planning requirements of the act. When evaluating alternative configurations of the logical outer boundary, counties should determine how much new growth will occur at build out and determine if this level of new growth is consistent with rural character and can be accommodated with the appropriate level of public facilities and public services. Counties should use the following criteria to evaluate various configurations when establishing the logical outer boundary:

(I) The need to preserve the character of existing natural neighborhoods and communities;

(II) Physical boundaries such as bodies of water, streets and highways, and land forms and contours;

(III) The prevention of abnormally irregular boundaries; and

(IV) The ability to provide public facilities and public services in a manner that does not permit low-density sprawl.

(F) Counties should not propose or accept applications that would expand or create a new Type-1 LAMIRD. Once a logical outer boundary has been adopted, counties may consider changes to the boundary in subsequent amendments if there was an error in application of the original criteria. When doing so, the county must use the same criteria used when originally designating the boundary. Counties should avoid adding new undeveloped parcels as infill, especially if doing so would add to the capacity of the LAMIRD.

(ii) Type 2 LAMIRDs - Small-scale recreational uses. Counties may allow small-scale tourist or recreational uses in rural areas. Small-scale recreational or tourist uses rely on a rural location and set-

ting and need not be principally designed to serve the existing and projected rural population.

(A) Counties may allow small-scale tourist or recreational uses through redevelopment of an existing site, intensification of an existing site, or new development on a previously undeveloped site, but not new residential development. Counties may allow public services and facilities that are limited to those necessary to serve the recreation or tourist uses and that do not permit low-density sprawl. Small-scale recreational or tourist uses may be added as accessory uses for resource-based industry. For accessory uses on agricultural lands of long-term commercial significance, see WAC 365-196-815.

(B) Counties are not required to designate Type 2 LAMIRDs on the future land use map and may allow them as a conditional use. If using a conditional use process, counties should include in their development regulations conditions that address all the statutory criteria for the location of a Type 2 LAMIRD. Conditions must assure that Type 2 LAMIRDs:

(I) Are isolated, both from urban areas and from each other. Conditions should include spacing criteria to avoid creating a pattern of strip development;

(II) Are small in scale;

(III) Are consistent with rural character;

(IV) Rely on a rural location or a natural setting;

(V) Do not include new residential development;

(VI) Do not require services and facilities beyond what is available in the rural area; and

(VII) Are operationally compatible with surrounding resource-based industries.

(iii) Type 3 LAMIRDs - Small-scale businesses and cottage industries. Counties may allow isolated small-scale businesses and cottage industries that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents, through the intensification of development on existing lots or on undeveloped sites.

(A) Counties may allow the expansion of small-scale businesses in rural areas as long as those small-scale businesses are consistent with the rural character of the area as defined by the county in the rural element. Counties may also allow new small-scale businesses to use a site previously occupied by an existing business as long as the new small-scale business conforms to the rural character of the area. Any public services and public facilities provided to the cottage industry or small-scale business must be limited to those necessary to serve the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl.

(B) Counties are not required to designate Type 3 LAMIRDs on the future land use map and may allow them as a conditional use. If using a conditional use process, counties should include in their development regulations conditions that address all the statutory criteria for the location of a Type 3 LAMIRD. Conditions must assure that Type 3 LAMIRDs:

(I) Are isolated, both from urban areas and from each other. Conditions should include spacing criteria to avoid creating a pattern of strip development;

(II) Are small in scale;

(III) Are consistent with rural character;

(IV) Do not include new residential development;

(V) Do not require public services and facilities beyond what is available in the rural area; and

(VI) Are operationally compatible with surrounding resource-based industries.

(d) The initial effective date of an action that creates or expands a limited area of more intense development is the latest of the following dates per RCW 36.70A.067:

(i) Sixty days after the publication of notice of adoption of the comprehensive plan, development regulation, or amendment to the plan or regulation, implementing the action, as provided under RCW 36.70A.290(2); or

(ii) If a petition for review to the growth management hearings board is timely filed, upon issuance of the board's final order.

(e) Major industrial developments and master planned resorts governed by other requirements. Counties may not use the provisions of RCW 36.70A.070 (5)(d)(iii) to permit a major industrial development or a master planned resort. These types of development must comply with the requirements of RCW 36.70A.360 through 36.70A.368. For more information about major industrial developments, see WAC 365-196-465. For more information about master planned resorts, see WAC 365-196-460.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-425, filed 8/15/25, effective 9/15/25; WSR 23-08-037, § 365-196-425, filed 3/29/23, effective 4/29/23; WSR 15-04-039, § 365-196-425, filed 1/27/15, effective 2/27/15; WSR 10-22-103, § 365-196-425, filed 11/2/10, effective 12/3/10; WSR 10-03-085, § 365-196-425, filed 1/19/10, effective 2/19/10.]

WAC 365-196-430 Transportation element. (1) Requirements. Each comprehensive plan shall include a transportation element that implements, and is consistent with, the land use element. The transportation element shall contain at least the following subelements:

(a) Land use assumptions used in estimating travel;

(b) Estimated traffic impacts to state-owned transportation facilities resulting from land use assumptions to assist the department of transportation in monitoring the performance of state facilities, to plan improvements for the facilities, and to assess the impact of land-use decisions on state-owned transportation facilities;

(c) Facilities and services needs, including:

(i) An inventory of air, water, and ground transportation facilities and services, including transit alignments and general aviation airports facilities, to define existing capital facilities and travel levels as a basis for future planning. This inventory must include state-owned transportation facilities within the county's or city's jurisdictional boundaries;

(ii) Level of service standards for all locally owned arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;

(iii) For state-owned transportation facilities, level of service standards for highways, as prescribed in chapters 47.06 and 47.80 RCW, to gauge the performance of the system. The purposes of reflecting level of service standards for state highways in the local comprehensive plan are to monitor the performance of the system, to evaluate improvement strategies, and to facilitate coordination between the county's or city's six-year street, road, or transit program and the department of transportation's 10-year investment program. The concur-

rency requirements of RCW 36.70A.070 (6)(b) do not apply to transportation facilities and services of statewide significance except for counties consisting of islands whose only connection to the mainland are state highways or ferry routes. In these island counties, state highways and ferry route capacity must be a factor in meeting the concurrency requirements in RCW 36.70A.070 (6)(b);

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

(v) Forecasts of traffic for at least 10 years based on the adopted land use plan to provide information on the location, timing, and capacity needs of future growth;

(vi) Identification of state and local system needs to meet current and future demands. Identified needs on state-owned transportation facilities must be consistent with the statewide multimodal transportation plan required under chapter 47.06 RCW;

(d) Finance, including:

(i) An analysis of funding capability to judge needs against probable funding resources;

(ii) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems. The multiyear financing plan should be coordinated with the 10-year improvement program developed by the department of transportation as required by RCW 47.05.030;

(iii) If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met;

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

(f) Demand-management strategies;

(g) Pedestrian and bicycle component to include collaborative efforts to identify and designate planned improvements for pedestrian and bicycle facilities and corridors that address and encourage enhanced community access and promote healthy lifestyles;

(h) The transportation element, and the six-year plan required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, RCW 35.58.2795 for public transportation systems, and the 10-year plan required by RCW 47.05.030 for the state, must be consistent.

(2) Recommendations for meeting element requirements.

(a) Consistency with the land use element, regional and state planning.

(i) RCW 36.70A.070(6) requires that the transportation element implement and be consistent with the land use element. Counties and cities should use consistent land use assumptions, population forecasts, and planning periods for both elements. Coordination of the land use and transportation elements should address how the implementation of the transportation element supports the desired land uses and form established in the land use element. Recognizing that there is a direct relationship between land use and how it is accessed.

(ii) Counties and cities should refer to the statewide multimodal transportation plan produced by the department of transportation under chapter 47.06 RCW to ensure consistency between the transportation element and the statewide multimodal transportation plan. Local trans-

portation elements should also reference applicable department of transportation corridor planning studies, including scenic byway corridor management plans, active transportation plans, and recreation and conservation office state trails plan.

(iii) Counties and cities should refer to the regional transportation plan developed by their regional transportation planning organization under chapter 47.80 RCW to ensure the transportation element reflects regional guidelines and principles; is consistent with the regional transportation plan; and is consistent with adopted regional growth and transportation strategies. Considering consistency during the development and review of the transportation element will facilitate the certification of transportation elements by the regional transportation planning organization as required by RCW 47.80.023(3).

(iv) Counties and cities should develop their transportation elements using the framework established in countywide planning policies, and where applicable, multicounty planning policies. Using this framework ensures their transportation elements are coordinated and consistent with the comprehensive plans of other counties and cities sharing common borders or related regional issues as required by RCW 36.70A.100 and 36.70A.210.

(v) Counties and cities should refer to the six-year transit plans developed by municipalities or regional transit authorities pursuant to RCW 35.58.2795 to ensure their transportation element is consistent with transit development plans as required by RCW 36.70A.070 (6)(c).

(vi) Land use elements and transportation elements may incorporate commute trip reduction plans to ensure consistency between the commute trip reduction plans and the comprehensive plan as required by RCW 70A.15.4060. Counties and cities may also include transportation demand management programs for growth and transportation efficiency centers designated in accordance with RCW 70A.15.4030.

(b) The transportation element should contain goals and policies to guide the development and implementation of the transportation element. The goals and policies should be consistent with statewide and regional goals and policies. Goals and policies should address the following:

(i) Roadways and roadway design that provides safe access and travel for all users, including pedestrians, bicyclists, transit vehicles and riders, and motorists;

(ii) Public transportation, including public transit and passenger rail, intermodal transfers, and access to transit stations and stops by people walking, bicycling, or transferring from another vehicle;

(iii) Bicycle and pedestrian travel including measures of facility quality such as level of traffic stress (an indicator used to quantify the stress experienced by a cyclist or pedestrian on the segments of a road network), route directness, and network completeness;

(iv) Transportation demand management, including education, encouragement and law enforcement strategies;

(v) Freight mobility including port facilities, truck, air, rail, and water-based freight;

(vi) Transportation finance including strategies for addressing impacts of development through concurrency, impact fees, and other mitigation; and

(vii) Policies to preserve the functionality of state highways within the local jurisdiction such as policies to provide an adequate local network of streets, paths, and transit service so that local

short-range trips do not require single-occupant vehicle travel on the state highway system; and policies to mitigate traffic and stormwater impacts on state-owned transportation facilities and services as development occurs.

(c) Inventory and analysis of transportation facilities and services. RCW 36.70A.070 (6)(a)(iii)(A) requires an inventory of air, water, and ground transportation facilities and services, including transit alignments and general aviation airport facilities. The inventory should include facilities for active transportation such as bicycle and pedestrian travel. The inventory defines existing capital facilities and travel levels as a basis for future planning. The inventory must include state-owned transportation facilities within the city's or county's jurisdictional boundaries. Counties and cities should identify transportation facilities which are owned or operated by others. For those facilities operated by others, counties and cities should refer to the responsible agencies for information concerning current and projected plans for transportation facilities and services. Counties, cities, and agencies responsible for transportation facilities and services should cooperate in identifying and resolving land use and transportation compatibility issues.

(i) Air transportation facilities.

(A) Where applicable, counties and cities should describe the location of facilities and services provided by any general aviation airport within or adjacent to the county or city, and should reference any relevant airport planning documents including airport master plans, airport layout plans or technical assistance materials made available by airport sponsor and in coordination with the Washington state department of transportation, aviation division.

(B) Counties and cities should identify supporting transportation infrastructure such as roads, rail, and routes for freight, employee, and passenger access, and assess the impact to the local transportation system.

(C) Counties and cities should assess the compatibility of land uses adjacent to the airport and discourage the siting of incompatible uses in the land use element as directed by RCW 36.70A.510 and WAC 365-196-455 and in accordance with the best practices recommended by the Washington state department of transportation, aviation division.

(ii) Water transportation facilities.

(A) Where applicable, counties and cities should describe or map any ferry facilities and services, including ownership, and should reference any relevant ferry planning documents. The inventory should identify if a ferry route is subject to concurrency under RCW 36.70A.070 (6)(b). A ferry route is subject to concurrency if it serves counties consisting of islands whose only connection to the mainland are state highways or ferry routes.

(B) Counties and cities should identify supporting infrastructure such as parking and transfer facilities, bicycle, pedestrian, and vehicle access to ferry terminals and assess the impact on the local transportation system.

(C) Where applicable, counties and cities should describe marine and inland waterways, and related port facilities and services. Counties and cities should identify supporting transportation infrastructure, and assess the impact to the local transportation system.

(iii) Ground transportation facilities and services.

(A) Roadways. Counties and cities must include a map of roadways owned or operated by city, county, and state governments.

(I) Counties and cities may describe the general travel market (i.e., commuter, tourist, farm to market, etc.) served by the transportation network. The inventory may include information such as: Traffic volumes, truck volumes and classification, functional classification, strategic freight corridor designation, preferred freight routes, scenic and recreational highway designation, high occupancy vehicle lanes, business access and transit lanes, transit queue jumps, other transit priority features, bicycle facilities, sidewalks, and ownership.

(II) For state highways, counties and cities should coordinate with the regional office of the Washington state department of transportation to identify designated high occupancy vehicle or high occupancy toll lanes, access classification, roadside classification, functional classification, and whether the highway is a state-designated highway of statewide significance, or state scenic and recreational highway designated under chapter 47.39 RCW. These designations may impact future development along state highway corridors. If these classifications impact future land use, this information should be included in the comprehensive plan along with reference to any relevant corridor planning documents.

(B) Public transportation and rail facilities and services.

(I) RCW 36.70A.070 (6)(a)(iii)(A) requires an inventory of transit alignments. Where applicable, counties and cities must inventory existing public transportation facilities and services. This section should reference transit development plans that provide local services. The inventory should contain a description of regional and intercity rail, and local, regional, and intercity bus service, paratransit, or other services. Counties and cities should include a map of local transit routes. The map should categorize routes by frequency and span of service. The inventory should also identify locations of passenger rail stations and major public transit transfer stations for appropriate land use. The inventory should identify major transit stops.

(II) Where applicable, such as where a major freight transfer facility is located, counties and cities should include a map of existing freight rail lines, and reference any relevant planning documents. Counties and cities should assess the adequacy of supporting transportation infrastructure such as roads, rail, and navigational routes for freight, employee, and passenger access, and the impact on the local transportation system.

(d) If the planning area is within a National Ambient Air Quality Standards nonattainment area, compliance with the Clean Air Act Amendments of 1990 is required. Where applicable, the transportation element should include: A map of the area designated as the nonattainment area for ozone, carbon monoxide, and particulate matter (PM10 and PM2.5); a discussion of the severity of the violation(s) contributed by transportation-related sources; and a description of measures that will be implemented consistent with the state implementation plan for air quality. Counties and cities should refer to chapter 173-420 WAC, and to local air quality agencies and metropolitan planning organizations for assistance.

(e) Level of service standards. Level of service standards serve to monitor the performance of the system, to evaluate improvement strategies, and to facilitate coordination between city, county and state transportation investment programs.

(i) RCW 36.70A.070 (6)(a)(iii)(B) requires the transportation element to include level of service standards for all locally owned ar-

terials. Counties and cities may adopt level of service standards for all travel modes. Counties and cities may adopt level of service standards for locally owned roads that are not classified as arterials.

(ii) RCW 36.70A.070 (6)(a)(iii)(C) requires level of service standards for state-owned highways, as reflected in chapters 47.06 and 47.80 RCW, to gauge the performance of the transportation system. The department of transportation, in consultation with counties and cities, establishes level of service standards for state highways and ferry routes of statewide significance. Counties and cities should refer to the state highway and ferry plans developed in accordance with chapter 47.06 RCW for the adopted level of service standards.

(iii) Regional transportation planning organizations and the department of transportation jointly develop level of service standards for all other state highways and ferry routes. Counties and cities should refer to the regional transportation plans developed in accordance with chapter 47.80 RCW for the adopted level of service standards.

(iv) RCW 36.70A.070 (6)(a)(iii)(B) requires the transportation element to include level of service standards for all transit routes. To identify level of service standards for public transit services, counties and cities should include the established level of service or performance standards from the transit provider and should reference any relevant planning documents.

(v) Adopted level of service standards should reflect access, mobility, mode-split, or capacity goals for the transportation facility depending upon the surrounding development density and community goals, and should be developed in consultation with transit agencies serving the planning area. Level of service standards should also advance the state's vehicle miles per capita reduction goals as identified in RCW 47.01.440.

(vi) The measurement methodology and standards should vary based on the urban or rural character of the surrounding area. The county or city should also balance the desired community character, funding capacity, and traveler expectations when selecting level of service methodologies and standards for all transportation modes. A county or city may select different ways to measure travel performance depending on how a county or city balances these factors and the characteristics of travel in their community. For example, counties and cities may measure performance at different times of day, week, or month (peak versus off-peak, weekday versus weekend, summer versus winter). Counties and cities may also measure performance at different geographic scales (intersections, road or route segments, travel corridors, or travel zones), or in terms of the supply of multimodal capacity available in a corridor.

(vii) In urban areas RCW 36.70A.108 encourages the use of methodologies analyzing the transportation system from a comprehensive, multimodal perspective. Multimodal levels of service methodologies and standards should consider the needs of travelers using the four major travel modes (pedestrian, bicycle, public transportation, motor vehicle), their impacts on each other as they share the street, and their mode specific requirements for street design and operation. For example, bicycle and pedestrian level of service standards should emphasize the availability of facilities and user stress based on facility attributes, traffic speed, traffic volume, number of lanes, frequency of parking turnover, ease of intersection crossings and others. Uti-

lizing additional level of services standards can help make these modes accessible to a broad share of the population.

(f) Travel forecasts. RCW 36.70A.070 (6)(a)(iii)(E) requires forecasts of traffic for at least 10 years based on the adopted land use plan to provide information on the location, timing, and capacity needs of future growth. Counties and cities must include at least a 10-year travel forecast in the transportation element. The forecast time period and underlying assumptions must be consistent with the land use element. Counties and cities may forecast travel for the 20-year planning period. Counties and cities may include bicycle, pedestrian, and/or planned transit service in a multimodal forecast. Travel forecasts should be based on adopted regional growth strategies, the regional transportation plan, and comprehensive plans within the region to ensure consistency. Counties and cities should use the most current traffic forecasting methodologies that better account for the different traffic generating characteristics of different land use patterns. Traffic forecasts are one piece of information and should be balanced with other data and goals in the formation of the transportation element.

(g) Identify transportation system needs.

(i) RCW 36.70A.070 (6)(a)(iii)(D) requires that the transportation element include specific actions and requirements for bringing into compliance locally owned transportation facilities or services that are below established level of service standards. Such actions and requirements identified should include improvements to active transportation and transit access, improvements in proximity of destinations, and trip avoidance through telework and other use of telecommunications.

(ii) System needs are those improvements needed to meet and maintain adopted levels of service over at least the required 10-year forecasting period. If counties and cities use a 20-year forecasting period, they should also identify needs for the entire 20-year period.

(iii) RCW 47.80.030(3) requires identified needs on regional facilities or services to be consistent with the regional transportation plan and the adopted regional growth and transportation strategies. RCW 36.70A.070 (6)(a)(iii)(F) requires identified needs on state-owned transportation facilities to be consistent with the statewide multimodal transportation plan.

(iv) Counties and cities should cooperate with public transit providers to analyze projected transit services and needs based on projected land use assumptions, and consistent with regional land use and transportation planning. Coordination may also include identification of mixed use centers, and consider opportunities for intermodal integration and appropriate multimodal access, particularly bicycle and pedestrian access.

(v) Counties and cities must include state transportation investments identified in the statewide multimodal transportation plan required under chapter 47.06 RCW and funded in the Washington state department of transportation's 10-year improvement program. Identified needs must be consistent with regional transportation improvements identified in regional transportation plans required under chapter 47.80 RCW. The transportation element should also include plans for new or expanded public transit and be coordinated with local transit providers.

(vi) The identified transportation system needs may include: Considerations for repair, replacement, enhancement, or expansion of pedestrian, bicycle, transit, vehicular facilities; ADA transitions; en-

hanced or expanded transit services; system management; or demand management approaches.

(vii) Transportation system needs may include transportation system management measures increasing the motor vehicle capacity of the existing street and road system. They may include, but are not limited to signal timing, traffic channelization, intersection reconfiguration, exclusive turn lanes or turn prohibitions, bus turn-out bays, grade separations, removal of on-street parking or improving street network connectivity.

(viii) When identifying system needs, counties and cities may identify a timeline for improvements. Identification of a timeline provides clarity as to when and where specific transportation investments are planned and provides the opportunity to coordinate and cooperate in transportation planning and permitting decisions.

(ix) Counties and cities should consider how the improvements relate to adjacent counties or cities.

(x) State policy goals as outlined in RCW 47.04.280. Growth in travel demand should first be met through improvements to active transportation and transit access, improvements in proximity of destinations, and trip avoidance through telework and other use of telecommunications. This approach is consistent with statewide goals to reduce per capita vehicle miles traveled and greenhouse gas emissions.

(xi) The transportation element may include, in addition to improvements or strategies to accommodate the impacts of development authorized under RCW 36.70A.070 (6)(b), multimodal transportation improvements or strategies that are made concurrent with the development. These transportation improvements or strategies may include, but are not limited to, measures implementing or evaluating:

(A) Multiple modes of transportation with peak and nonpeak hour capacity performance standards for locally owned transportation facilities; and

(B) Modal performance standards meeting the peak and nonpeak hour capacity performance standards.

(xii) When identifying system needs, counties and cities should consider improvements to address and begin to undo racially disparate impacts, displacement, or exclusion in housing caused by disinvestment or lack of infrastructure availability as detailed in RCW 36.70A.070 (2)(e) and (f).

(h) Local impacts to state transportation facilities. RCW 36.70A.070 (6)(a)(ii) requires counties and cities to estimate traffic impacts to state-owned transportation facilities resulting from land use assumptions to assist the Washington state department of transportation in monitoring the performance of state facilities, to plan improvements for the facilities, and to assess the impact of land-use decisions on state-owned transportation facilities. Traffic impacts should include the number of motor vehicle, bicycle, public transit, and pedestrian trips estimated to use the state highway and ferry systems throughout the planning period. Counties and cities should work with the Washington state department of transportation to understand the limits of state facilities throughout the planning period and should avoid increasing vehicle demand beyond planned capacity of state facilities.

(i) Transportation demand management.

(i) RCW 36.70A.070 (6)(a)(vi) requires that the transportation element include transportation demand management strategies. These strategies are designed to encourage the use of alternatives to single

occupancy travel and to reduce congestion, especially during peak times.

(ii) Where applicable, counties and cities may include the goals and relevant strategies of employer-based commute trip reduction programs developed under RCW 70.94.521 through 70.94.555. All other counties and cities should consider strategies which may include, but are not limited to ridesharing, vanpooling, promotion of bicycling, walking and use of public transportation, transportation-efficient parking and land use policies, and high occupancy vehicle subsidy programs.

(j) Pedestrian and bicycle component. RCW 36.70A.070 (6)(a)(vii) requires the transportation element to include a pedestrian and bicycle component that includes collaborative efforts to identify and designate planned improvements for pedestrian and bicycle facilities and corridors that address and encourage enhanced community access and promote healthy lifestyles.

(i) Collaborative efforts may include referencing local, regional, state pedestrian and bicycle planning documents, and ADA transition plans if any. Designated shared use paths, which are part of bicycle and pedestrian networks, should be consistent with those in the parks, recreation and open space element.

(ii) To identify and designate planned improvements for bicycle facilities and corridors, the pedestrian and bicycle component should include a map of bicycle facilities, such as bicycle lanes, shared use paths, paved road shoulders. This map should identify state and local designated bicycle routes, and describe how the facilities link to those in adjacent jurisdictions. This map should also identify the level of traffic stress for each of the facilities. Jurisdictions are encouraged to consider demographic groups that may have special transportation needs, such as older adults, youth, people with low incomes, people with disabilities, and people with limited English proficiency when identifying and designating planned improvements.

(iii) To identify and designate planned improvements for pedestrian facilities and corridors, the pedestrian and bicycle component should include a map of pedestrian facilities such as sidewalks, pedestrian connectors, and other designated facilities, especially in areas of high pedestrian use such as designated centers, major transit routes, and route plans designated by school districts under WAC 392-151-025.

(iv) The pedestrian and bicycle component should plan a network that connects residential and employment areas with community and regional destinations, schools, and public transportation services. The plan should consider route directness, network completeness, and level of traffic stress.

(v) The pedestrian and bicycle component should also plan pedestrian facilities that improve pedestrian and bicycle safety following a safe systems approach and consider existing pedestrian and bicycle collision data, vehicle speeds and volumes, and level of separation of modes.

(k) Multiyear financing plan.

(i) RCW 36.70A.070 (6)(a)(iii)(B) requires that the transportation element include a multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which develop a financing plan that addresses all identified multimodal transportation facilities and services and strategies throughout the 20-year planning period. The identified needs shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795

for public transportation systems. The multiyear financing plan should reflect regional improvements identified in regional transportation plans required under chapter 47.80 RCW and be coordinated with the 10-year investment program developed by the Washington state department of transportation as required by RCW 47.05.030;

(ii) The horizon year for the multiyear plan should be the same as the time period for the travel forecast and identified needs. The financing plan should include cost estimates for new and enhanced locally owned roadway facilities including new or enhanced bicycle and pedestrian facilities to estimate the cost of future facilities and the ability of the local government to fund the improvements.

(iii) Sources of proposed funding may include:

(A) Federal or state funding.

(B) Local funding from taxes, bonds, or other sources.

(C) Developer contributions, which may include:

(I) Impact or mitigation fees assessed according to chapter 82.02 RCW, or the Local Transportation Act (chapter 39.92 RCW).

(II) Contributions or improvements required under SEPA (RCW 43.21C.060).

(III) Concurrency requirements implemented according to RCW 36.70A.070 (6)(b).

(D) Transportation benefit districts established under RCW 35.21.225 and chapter 36.73 RCW.

(iv) RCW 36.70A.070 (6)(a)(iv)(A) requires an analysis of funding capability to judge needs against probable funding resources. When considering the cost of new facilities, counties and cities should consider the life-cycle cost of maintaining facilities in addition to the cost of their initial construction. Counties and cities should forecast projected funding capacities based on revenues that are reasonably expected to be available, under existing laws and ordinances, to carry out the plan. If the funding strategy relies on new or previously untapped sources of revenue, the financing plan should include a realistic estimate of new funding that will be supplied.

(l) Reassessment if probable funding falls short.

(i) RCW 36.70A.070 (6)(a)(iv)(C) requires reassessment if probable funding falls short of meeting identified needs. Counties and cities must discuss how additional funding will be raised or how land use assumptions will be reassessed to ensure that level of service standards will be met.

(ii) This review must take place, at a minimum, as part of the periodic review and update required in RCW 36.70A.130 (1) and (3), and as major changes are made to the transportation element.

(iii) If probable funding falls short of meeting identified needs, counties and cities have several choices. For example, they may choose to:

(A) Seek additional sources of funding for identified transportation improvements;

(B) Adjust level of service standards to reduce the number and cost of needed facilities;

(C) Revisit identified needs and use of transportation system management or transportation demand management strategies to reduce the need for new facilities; or

(D) Revise the land use element to shift future travel to areas with adequate capacity, to lower average trip length by encouraging mixed-use developments to increase the share of people who can walk, bicycle, or take transit to meet daily needs, or to avoid the need for new facilities in undeveloped areas;

(E) If needed, adjustments should be made throughout the comprehensive plan to maintain consistency.

(m) Implementation measures. Counties and cities may include an implementation section that broadly defines regulatory and nonregulatory actions and programs designed to proactively implement the transportation element. Implementation measures may include:

(i) Public works guidelines to reflect multimodal transportation standards for pedestrians, bicycles and transit; or adoption of Washington state department of transportation standards or the National Association of City Transportation Officials standards for bicycle and pedestrian facilities;

(ii) Transportation concurrency ordinances affecting development review;

(iii) Parking standards, especially in urban centers, to reduce or eliminate vehicle parking minimum requirements, provide vehicle parking maximums and include bicycle parking;

(iv) Commute trip reduction ordinances and transportation demand management programs;

(v) Access management ordinances;

(vi) Active transportation funding programs;

(vii) Maintenance procedures and pavement management systems to include bicycle, pedestrians and transit considerations;

(viii) Subdivision standards to reflect multimodal goals, including providing complete and connected networks, particularly for bicycle and pedestrian travel; and

(ix) Transit compatibility policies and rules to guide development review procedures to incorporate review of bicycle, pedestrian and transit access to sites.

(3) Relationship between the transportation element and the housing element. Capital investments must identify areas that may be of higher risk of displacement per WAC 365-196-410 (1)(g).

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-430, filed 8/15/25, effective 9/15/25; WSR 23-08-037, § 365-196-430, filed 3/29/23, effective 4/29/23; WSR 15-04-039, § 365-196-430, filed 1/27/15, effective 2/27/15; WSR 10-03-085, § 365-196-430, filed 1/19/10, effective 2/19/10.]

WAC 365-196-435 Economic development element. (1) Requirements.

(a) The economic development element should establish local goals, policies, objectives, and provisions for economic growth and vitality and a high quality of life. An economic development element should include:

(i) A summary of the local economy such as population, employment, payroll, sectors, businesses, sales, and other information as appropriate;

(ii) A summary of the strengths and weaknesses of the local economy defined as the commercial and industrial sectors and supporting factors such as land use, transportation, utilities, education, workforce, housing, and natural/cultural resources; and

(iii) An identification of policies, programs, and projects to foster economic growth and development and to address future needs. Identification of these policies, programs, and projects should include a summary of each.

(b) A city that has chosen to be a residential community is exempt from the economic development element requirement of this subsection.

(c) The requirement to include an economic development element is null and void until sufficient funds to cover applicable local governments costs are appropriated and distributed at least two years before the due date for the periodic review and update required in RCW 36.70A.130(1).

(2) Recommendations for meeting the requirements. Counties and cities should consider using existing economic development plans developed at the county and regional level and may adopt them by reference as a means of including an economic development element within their comprehensive plan. Counties and cities should consider developing partnerships with organizations within the community and with state and federal agencies and the private sector. Because labor markets typically encompass at least one county and may encompass a multicounty region, counties and cities should coordinate economic development activities on a regional basis. The department recommends counties and cities consider the following in preparing an economic development element:

(a) A summary of the local economy.

(i) Economic development begins with information gathering. The purpose of information gathering is to provide a summary of the local economy. Much of this information is available from regional, state or federal agencies.

(ii) Counties and cities should use population information consistent with the information used in the land use element and the housing element.

(iii) Counties and cities are not required to generate original data, but can rely on available data from the agencies who report the information. Employment, payroll, and other economic information is available from state and federal agencies, such as the Washington state department of employment security, the Bureau of Labor Statistics and the Census Bureau. Some of this information may not be available at the city level, but may be available only at the countywide level. Government agencies that report this data may be prohibited from releasing certain data to avoid disclosing proprietary information. Local governments should also consult with their associate development organization, economic development council and economic development districts. Counties and cities may also use data such as permit volume, local inventories of available land and other data generated from their activities that is useful for economic development planning.

(b) Summary of strengths and weaknesses of the local economy.

(i) Counties and cities should consult with their associated development organization, economic development council and/or economic development district to help with identifying appropriate commercial and industrial sectors.

(ii) Shift-share analysis is one method of identifying strengths and weaknesses of the local economy. This method identifies industrial sectors that have a relatively greater proportion of the local area's employment than exists in the national economy. It is one method of identifying sectors with a local competitive advantage. This is a method that can be employed using readily available existing data.

(iii) Identification of industry clusters is another method of identifying strengths and weaknesses of the local economy. State and local economic development organizations, including some associated

development organizations and the department, have identified a number of industry clusters in the state. An industry cluster is a group of related firms that provide interdependent specialized goods or services. The presence of existing suppliers of specialized services and a specialized work force makes attracting additional economic activity in the cluster easier.

(iv) Identifying strong industry sectors or clusters can help determine strengths and weaknesses, help a city or county develop a realistic profile of land and infrastructure needs, and identify ways to focus economic development activities. It does not confer preferred status on any particular firm or industry. Counties and cities should still treat all individuals and firms as equal under the law.

(v) Counties and cities may also refer to information and public input collected during public participation to identify strengths and weaknesses based on community perception of their community. Counties and cities may conduct a separate visioning exercise to help identify strengths and weaknesses.

(vi) Counties and cities may employ asset mapping, which builds from the information gathered. Asset mapping is similar to traditional strengths, weaknesses, opportunities, and threats (SWOT) analysis with several significant distinctions. Under the SWOT analysis, strength and opportunity factors may not be linked together.

(c) Identification of policies, programs, and projects to foster economic growth and development and to address future needs.

(i) After identifying strengths and weaknesses, the economic development element may identify policies, programs and projects that foster economic growth and development and address future needs. The programs and policies should be targeted at addressing weaknesses or capitalizing on strengths identified in the community.

(ii) Counties and cities should consider using specific, quantified, and time-framed performance targets that provide a measurement of the success of an economic development element and serve as a reference point in the economic development process.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 23-08-037, § 365-196-435, filed 3/29/23, effective 4/29/23; WSR 10-03-085, § 365-196-435, filed 1/19/10, effective 2/19/10.]

WAC 365-196-440 Parks and recreation element. (1) Requirements.

(a) The park and recreation element of the comprehensive plan must contain at least the following features:

(i) Consistency with the capital facilities element as it relates to park and recreation facilities;

(ii) Estimates of park and recreation demand for at least a ten-year period;

(iii) An evaluation of facilities and service needs; and

(iv) An evaluation of intergovernmental coordination opportunities to provide regional approaches for meeting park and recreational demand.

(b) The requirement to include a parks and recreation element is null and void until sufficient funds to cover applicable local governments costs are appropriated and distributed at least two years before the due date for the periodic review and update required in RCW 36.70A.130(1).

(2) Recommendations for meeting requirements.

(a) Consistency and integration with other plan elements. Counties and cities should pay particular attention to consistency with the land use element, approaches to protecting critical areas and conserving natural resource lands, and identification of open space corridors and lands useful for public purposes. Planning policies and implementing regulations in each of these elements should complement each other to achieve adopted community goals.

(b) Visioning process. Counties and cities should start with a visioning process. This process should engage the public in the process of identifying needs, evaluating their satisfaction with existing recreational opportunities, and developing goals to guide the development of the parks and recreation element.

(c) Establishing level of service standards.

(i) The visioning process should be used when establishing levels of service for the parks and recreation element. Select levels of service or planning assumptions that reflect local priorities.

(ii) Methods used to establish levels of service should reflect community goals, and may be adapted from approaches recommended by the Washington state recreation and conservation office or the National Recreation and Parks Association; facilities and services. Level of service standards should reflect local priorities.

(iii) Level of service standards should focus on those aspects that relate most directly to factors influenced by growth and development, to allow for counties and cities to more clearly identify the impact on the demand for park facilities resulting from new development.

(d) Evaluation of facilities and service needs.

(i) Counties and cities should ensure consistency with the land use element when identifying existing and future public facilities and services.

(ii) Counties and cities should prepare an inventory of all existing park, recreation and open space lands, and related services. The inventory should describe the location, size and type of each facility or service, its current condition and capacity, and its intended service area. It should include a description of the park and recreation facilities and services of other private and public entities, including state park and recreation services.

(iii) Counties and cities should estimate demand for parks, open space and recreational services. Estimates must be for at least a planning period of ten years, and jurisdictions should consider a planning period that matches that used for other comprehensive plan elements (e.g., twenty years). In preparing estimates, factors that should be considered include, but are not limited to:

(A) Population forecasts and other demographic projections;

(B) Levels of service selected for each type of facility or service to be provided;

(C) User information and participation rates from current facilities and programs;

(D) Surveys or other means of assessing community priorities for park and recreational services;

(E) National and local trends in recreational demands and services;

(F) Facilities and services provided by other private or public entities; and

(G) Review of statewide recreation plans, assessments and recreation trends made available through the department, the Washington state department of fish and wildlife, the Washington state department

of natural resources, the recreation and conservation office, and the state parks and recreation commission.

(e) The parks and recreation element should identify future facilities and services needed to meet the estimated demand for parks, open space and recreational programs, consistent with levels of service or planning assumptions and the projections for distribution of growth in the land use element. Consistency with the capital facilities and land use elements should be ensured when identifying existing and future public facilities and services to meet the estimated demand. The parks and recreation element should provide for an integrated parks, recreation and open space system. The system should consist of a complementary set of parks and open spaces that, considered together, meet the needs of a full range of community interests.

(f) Opportunities for intergovernmental coordination.

(i) When preparing the parks and recreation element, counties and cities should review other local, statewide, and regional recreation and land use plans to identify any future facilities that may help in meeting the future demand for parks and recreation facilities.

(ii) Counties and cities should evaluate opportunities for intergovernmental or public/private partnership approaches to meeting regional demand for park and recreation services including, but not limited to:

(A) Joint facility use agreements or contracts;

(B) Interlocal agreements for land acquisition or facility construction to serve region-wide needs;

(C) Contracts with private service providers;

(D) Formation of a single, large regional service provider such as a park and recreation district (chapter 36.69 RCW), park and recreation service area (RCW 36.68.400 through 36.68.620), or metropolitan park district (chapter 35.61 RCW); and

(E) Partnerships with nearby state parks and recreation facilities and services.

(g) Strategies for achieving adopted goals.

(i) Counties and cities should prepare strategies for achieving the adopted goals, policies and objectives, and for meeting the future facilities and service needs. Strategies may include:

(A) Developing needed facilities and programs;

(B) Coordinating intergovernmental efforts to provide needed facilities and programs; or

(C) Adopting development regulations that require provision of needed facilities as a condition of development.

(ii) When creating plans for new park facilities, counties and cities should develop site selection criteria to enable strategic prioritization of acquisition and development opportunities.

(iii) Strategies for financing must be consistent with the financing plan in the capital facilities element. If a local government intends to adopt impact fees as a strategy, it must identify those facilities as necessary for development and should identify them in:

(A) The parks and recreation element;

(B) A separate parks plan; or

(C) In the capital facilities element.

(iv) Counties and cities should evaluate if the identified strategies are sufficient to meet the adopted levels of service. If not, counties and cities should use the priorities set in the visioning process to realign the level of service standards with available resources.

(v) A county or city should also develop protocols to monitor and evaluate the parks and recreation element. These protocols should be consistent with the policies adopted in the capital facilities element regarding reassessment. See WAC 365-196-415. The protocol should include plans to monitor the community's changing recreation needs, evaluate progress toward implementation, and adapt to new information, such as changes to plans of other public or private park and recreation service providers.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 10-03-085, § 365-196-440, filed 1/19/10, effective 2/19/10.]

WAC 365-196-445 Optional elements. (1) A comprehensive plan may include additional elements, items, or studies dealing with other subjects relating to the physical development within its jurisdiction, including, but not limited to:

(a) Conservation;

(b) Solar energy.

(2) A comprehensive plan may include, where appropriate, subarea plans. Subarea plans must be consistent with the comprehensive plan.

(3) The department recommends that counties and cities give strong consideration to including elements on the following within comprehensive plans:

(a) Environmental protection (including critical areas);

(b) Natural resource lands (where applicable);

(c) Design;

(d) Historic preservation;

(e) Natural hazard reduction.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 10-03-085, § 365-196-445, filed 1/19/10, effective 2/19/10.]

WAC 365-196-450 Historic preservation. (1) RCW 36.70A.020(13) calls on counties and cities to identify and encourage the preservation of lands, sites, and structures that have historical or archaeological significance, herein referred to as "cultural resources." Although the act does not require a separate historic preservation element, counties and cities must be guided by the historic preservation goal in their comprehensive plan.

(2) Recommendations for meeting requirements. Counties and cities should address historic preservation in coordination with their other associated obligations.

(a) Identifying cultural resources.

(i) Counties and cities may use existing programs to identify cultural resources. Counties and cities may consult with the department of archaeology and historic preservation for information and technical assistance regarding identification and protection of cultural resources.

(ii) Examples of existing programs that identify cultural resources include:

(A) The National Register of Historic Places;

(B) The Washington Heritage Register;

(C) Properties that are identified by the department of archaeology and historic preservation (DAHP) to be eligible for listing in either one of these registers; and

(D) Properties which are listed in a local register of historic places.

(iii) Counties and cities should also identify areas designated as traditional cultural properties. A "traditional cultural property" is a property which has traditional cultural significance. It is associated with the cultural practices or beliefs of a living community that are rooted in that community's history, and are important in maintaining the continuing cultural identity of the community. Because the location of these sites is uncertain and not on a public register, counties and cities should cooperate with the cultural resource officers of any potentially affected tribal governments to establish a protocol to identify cultural resources and procedures to protect any cultural resources that are identified or discovered during development activity. Counties and cities may establish a cultural resource data-sharing agreement with the department of archaeology and historic preservation to help identify sites with potential cultural historic or archaeological significance.

(iv) Counties and cities may, through existing data, attempt to identify sites with a high likelihood of containing cultural resources. If cultural resources are discovered during construction, irreversible damage to the resource may occur and significant and costly project delays are likely to occur. Establishing an early identification process can reduce the likelihood of these problems.

(b) Encouraging preservation of cultural resources.

(i) Counties and cities should include a process for encouraging the preservation of cultural resources. Counties and cities should start with an identification of existing state and federal requirements that encourage the preservation of cultural resources. These requirements include:

(A) Executive Order 05-05;

(B) Archaeological sites and resources (chapter 27.53 RCW);

(C) Archaeological excavation and removal permit (chapter 25-48 WAC);

(D) Indian graves and records (chapter 27.44 RCW);

(E) Human remains legislation (HB 2624);

(F) Abandoned and historic cemeteries and historic graves (chapter 68.60 RCW);

(G) Surcharge for preservation of historical documents (RCW 36.22.170);

(H) Shoreline Management Act (RCW 90.58.100);

(I) SEPA procedures (WAC 197-11-960).

(ii) Other potential strategies. Counties and cities should then assess if any additional steps are needed to implement the goals and policies established in the comprehensive plan regarding preservation of cultural resources. If a city or county determines any additional steps are needed, the following are other measures that are a means of encouraging the preservation of cultural resources:

(A) Establish a local preservation program and a historic preservation commission through adoption of a local preservation ordinance. The department of archaeology and historic preservation provides guidance on using the National Certified Local Government program as a local program.

(B) Establish zoning, financial, and procedural incentives for cultural and historic resource protection.

(C) Authorize a special valuation for historic properties tax incentive program.

(D) Establish incentives such as preservation covenants/easements and/or current use/open space taxation programs.

(E) Establish design guidelines, and authorize historic overlay/historic district zoning.

(F) Adopt the historic building code.

(G) Establish a program for transfer of development rights to encourage historic preservation.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-450, filed 8/15/25, effective 9/15/25; WSR 10-03-085, § 365-196-450, filed 1/19/10, effective 2/19/10.]

WAC 365-196-455 Land use compatibility adjacent to general aviation airports. (1) Requirements:

(a) Counties and cities in which there is located a general aviation airport operated for the benefit of the general public must, through their comprehensive plans and development regulations, discourage the siting of incompatible uses adjacent to such an airport.

(b) Comprehensive plans or development regulations that affect lands adjacent to a general aviation airport may only be adopted or amended after formal consultation with the following: Airport owners and managers, private airport operators, general aviation pilots, ports, and the aviation division of the Washington state department of transportation.

(c) All proposed and adopted plans and regulations must be filed with the aviation division of the Washington state department of transportation within a reasonable time after release for public consideration and comment, but at least sixty days before adoption. See WAC 365-196-630 regarding notice to state agencies.

(d) General aviation airports are essential public facilities. Counties and cities must also ensure that proposed changes to comprehensive plans and development regulations are consistent with policies governing siting essential public facilities adopted under RCW 36.70A.200. See WAC 365-196-550 regarding essential public facilities.

(2) Recommendations for requirements:

(a) Counties and cities should invite formal consultation for any proposed change to the comprehensive plan or development regulations that may affect airport operations. This should include: Any comprehensive plan or development regulation proposal that may affect land uses within the airport traffic pattern and approach in ways that may be incompatible with airport operations; and any proposal that may create an airspace hazard or obstruction.

(b) Counties and cities should coordinate closely with the aviation division of the Washington state department of transportation, and consider technical assistance materials, including airport master plans, airport layout plans, and other resources made available by the aviation division. Counties and cities are encouraged to contact the aviation division of the Washington state department of transportation early in the process of drafting development regulations and comprehensive plan policies that implement RCW 36.70.547.

(c) Counties and cities may, in coordination with the airport owner, conduct an evaluation of compatible and incompatible land uses adjacent to the airport. In most instances an evaluation would include a radius of at least one mile around the airport and the approach. This evaluation and related planning processes may address the following:

(i) Incompatibly issues of residential encroachment;

(ii) High intensity uses such as K-12 schools, hospitals and major sporting events;

(iii) Airspace and height hazard obstructions;

(iv) Noise and safety issues; and

(v) Other issues unique to each airport, such as topography and geographic features.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 10-03-085, § 365-196-455, filed 1/19/10, effective 2/19/10.]

WAC 365-196-460 Master planned resorts. (1) The act allows for master planned resorts to provide counties with a means of capitalizing on areas of significant natural amenities to provide sustainable economic development for its rural areas. The requirements allow for master planned resorts without degrading the rural character of the county or imposing a public service burden on the county.

(2) A master planned resort is a self-contained, fully integrated planned unit development, in a setting of significant natural amenities, with primary focus on destination resort facilities, consisting of short-term visitor accommodations associated with a range of developed on-site indoor or outdoor recreational facilities. Residential uses are permitted only if they are integrated into and support the on-site recreational nature of the resort.

(3) Master planned resorts may include public facilities and services beyond those normally provided in rural areas. However, those provided on-site must be limited to those that meet the needs of the master planned resort. Services may be developed on-site or may be provided by other service providers, including special purpose districts or municipalities. All costs associated with service extensions and capacity increases directly attributable to the master planned resort must be borne by the resort, rather than the county. A master planned resort may enter into development agreements with service providers to share facilities, provided the services serve either an existing urban growth area or the master planned resort. Such agreements may not allow or facilitate extension of urban services outside of the urban growth area or the master planned resort. When approving the master planned resort, the county must conclude that on-site and offsite infrastructure and service impacts are fully considered and mitigated.

(4) A county must include policies in its rural element to guide the development of master planned resorts before it can approve a master planned resort. These policies must preclude new urban or suburban land uses in the vicinity of the master planned resort unless those uses are otherwise within a designated urban growth area.

(5) When approving a master planned resort, a county must conclude, supported by the record before it, that the master planned resort is consistent with the development regulations protecting critical areas.

(6) If the area designated as a master planned resort includes resource lands of long-term commercial significance, a county must conclude, supported by the record before it, that the land is better suited, and has more long-term importance for the master planned resort than for the commercial harvesting of timber, minerals, or agricultural production. Because this conclusion effects a dedesignation of resource lands, it must be based on the criteria and the process

contained in chapter 365-190 WAC. Even if lands are dedesignated, the master planned resort may not operationally interfere with the continued use of any adjacent resource lands of long-term commercial significance for natural resource production.

(7) The initial effective date of an action that creates or expands a master planned resort is the latest of the following dates per RCW 36.70A.067:

(a) Sixty days after the publication of notice of adoption of the comprehensive plan, development regulation, or amendment to the plan or regulation, implementing the action, as provided under RCW 36.70A.290(2); or

(b) If a petition for review to the growth management hearings board is timely filed, upon issuance of the board's final order.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-460, filed 8/15/25, effective 9/15/25; WSR 10-03-085, § 365-196-460, filed 1/19/10, effective 2/19/10.]

WAC 365-196-465 Major industrial developments. (1) General authority for major industrial developments. A county required or choosing to plan under the act may establish, in consultation with cities under the countywide planning policies outlined in RCW 36.70A.210, a process for reviewing and approving proposals to authorize siting of specific major industrial developments outside urban growth areas.

(2)(a) "Major industrial development" means a master planned location for specific manufacturing, industrial, or commercial businesses that:

(i) Requires a parcel of land so large that no suitable parcels are available within an urban growth area; or

(ii) Is a natural resource-based industry requiring a location near agricultural land, forest land, or mineral resource land upon which it is dependent.

(b) The major industrial development shall not be for the purpose of retail commercial development or multitenant office parks.

(3) Establishment of a review process required. Before reviewing an application for a major industrial development, counties, in consultation with cities, must establish a process for reviewing and approving applications.

(4) Criteria for approving a major industrial development. A major industrial development may be approved outside an urban growth area if criteria including, but not limited to the following, are met:

(a) New infrastructure is provided for and/or applicable impact fees are paid;

(b) Transit-oriented site planning and traffic demand management programs are implemented;

(c) Buffers are provided between the major industrial development and adjacent nonurban areas;

(d) Environmental protection including air and water quality has been addressed and provided for;

(e) Development regulations are established to ensure that urban growth will not occur in adjacent nonurban areas;

(f) Provision is made to mitigate adverse impacts on designated agricultural lands, forest lands, and mineral resource lands;

(g) The major industrial development plan is consistent with the county's development regulations for critical areas;

(h) An inventory of developable land has been conducted and the county has determined and entered findings that land suitable to site the major industrial development is unavailable within the urban growth area. Priority shall be given to applications for sites that are adjacent to or in close proximity to the urban growth area.

(5) Amendment to the comprehensive plan.

(a) Final approval of an application for a major industrial development is an amendment to the comprehensive plan adopted pursuant to RCW 36.70A.070, designating the major industrial development site on the land use map as an urban growth area. The major industrial development is considered urban growth. Urban services may be provided at any scale and intensity. Major industrial developments are not required to be consistent with rural character or limited to the scale and intensity of an existing rural location.

(b) An application for a major industrial development may be considered at any time and is an exception to the general rule that amendments should be considered no more frequently than once per year.

(6) Public participation.

(a) Counties should address public participation procedures for major industrial developments when establishing the process for approval of major industrial developments. Counties should use existing public participation procedures for amending the comprehensive plan and amending the urban growth area as a starting point and modify these procedures, if necessary, to address considerations and requirements particular to major industrial developments.

(b) The public participation process should identify how a project proposal meets the statutory criteria for siting a major industrial development. However, the act does not require these proposals to undergo a greater degree of public participation than any other action.

(7) RCW 36.70A.070 (5)(e) does not prohibit the location of a major industrial development within or adjacent to an existing limited area of more intense rural development (LAMIRD) provided it is approved consistent with RCW 36.70A.365.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 23-08-037, § 365-196-465, filed 3/29/23, effective 4/29/23; WSR 10-03-085, § 365-196-465, filed 1/19/10, effective 2/19/10.]

WAC 365-196-470 Industrial land banks. (1) In addition to the major industrial development allowed under RCW 36.70A.365, a county planning under RCW 36.70A.040 that meets the criteria in subsection (2) of this section may establish a process for designating an industrial land bank consisting of no more than two master planned locations for major industrial activity outside urban growth areas.

(a) "Industrial land bank" means up to two master planned locations, each consisting of a parcel or parcels of contiguous land, sufficiently large so as not to be readily available within the urban growth area of a city, or otherwise meeting the criteria contained in RCW 36.70A.367 (4)(a), suitable for manufacturing, industrial, or commercial businesses and designated by the county through the comprehensive planning process specifically for major industrial use.

(b) The process of designating industrial land banks must occur in consultation with cities consistent with the countywide planning policies and, where applicable multicounty planning policies.

(c) A master planned location for major industrial developments may be approved through a two-step process: Designation of an industrial land bank area in the comprehensive plan; and subsequent approval of specific major industrial developments through a local master plan process described under subsection (3)(f) of this section.

(2) Counties eligible to create an industrial land bank. Only counties that meet one of the following criteria may designate an industrial land bank:

(a) Has a population greater than 250,000 and is part of a metropolitan area that includes a city in another state with a population greater than 250,000;

(b) Has a population greater than 140,000 and is adjacent to another country;

(c) Has a population greater than 40,000 but less than 75,000 and has an average level of unemployment for the preceding three years that exceeds the average state unemployment for those years by 20 percent and is:

(i) Bordered by the Pacific Ocean;

(ii) Located in the Interstate 5 or Interstate 90 corridor; or

(iii) Bordered by Hood Canal.

(d) Is east of the Cascade divide; and

(i) Borders another state to the south; or

(ii) Is located wholly south of Interstate 90 and borders the Columbia River to the east;

(e) Has an average population density of less than 100 persons per square mile as determined by the office of financial management, and is bordered by the Pacific Ocean and by Hood Canal; or

(f) Meets all of the following criteria:

(i) Has a population greater than 40,000 but fewer than 80,000;

(ii) Has an average level of unemployment for the preceding three years that exceeds the average state unemployment for those years by 20 percent; and

(iii) Is located in the Interstate 5 or Interstate 90 corridor.

(g) A county's authority to create an industrial land bank expires on the due date for the next periodic update found in RCW 36.70A.130(4) occurring prior to December 31, 2014. Once a land bank area has been identified in the county's comprehensive plan, the authority of the county to process a master plan or site projects within an approved master plan does not expire.

(3) How to create an industrial land bank.

(a) Creation of an industrial land bank requires an amendment to a county's comprehensive plan and the adoption of development regulations.

(b) The comprehensive plan amendment that designates an industrial land bank must be accompanied by or contain an analysis that:

(i) Identifies locations suited to major industrial development due to proximity to transportation or resource assets. This should be based on an inventory of developable land as provided in RCW 36.70A.365. See WAC 365-196-465 for recommendations on major industrial developments.

(ii) Identifies the maximum size of the industrial land bank area and any limitations on major industrial developments based on local limiting factors, but does not need to specify a particular parcel or parcels of property or identify any specific use or user except as limited by this section.

(iii) Gives priority to locations that are adjacent to, or in close proximity to, an urban growth area. This should include an anal-

ysis of the availability of alternative sites within urban growth areas and the long-term annexation feasibility of sites outside of urban growth areas.

(c) The environmental review for amendment of the comprehensive plan should be at the programmatic level.

(d) A comprehensive plan amendment creating an industrial land bank may be considered at any time and is an exception to the requirement in RCW 36.70A.130(1) that the comprehensive plan may be amended no more often than once per year.

(e) Once the industrial land bank is created through the comprehensive plan amendment, approval of a specific major industrial development within the industrial land bank area requires no further amendment of the comprehensive plan.

(f) Development regulations. A county must also adopt development regulations for review and approval of specific major industrial developments through a master plan process. The development regulations governing the master plan process shall ensure, at a minimum, that:

(i) Urban growth will not occur in adjacent nonurban areas;

(ii) Development is consistent with the county's development regulations adopted for protection of critical areas;

(iii) Required infrastructure is identified and provided concurrent with development. Such infrastructure, however, may be phased in with development;

(iv) Transit-oriented site planning and demand management programs are specifically addressed as part of the master plan approval;

(v) Provision is made for addressing environmental protection, including air and water quality, as part of the master plan approval;

(vi) The master plan approval includes a requirement that interlocal agreements between the county and service providers, including cities and special purpose districts providing facilities or services to the approved master plan, be in place at the time of master plan approval;

(vii) A major industrial development is used primarily by industrial and manufacturing businesses, and that the gross floor area of all commercial and service buildings or facilities locating within the major industrial development do not exceed 10 percent of the total gross floor area of buildings or facilities in the development. The intent of this provision for commercial or service use is to meet the needs of employees, clients, customers, vendors, and others having business at the industrial site, to attract and retain a quality workforce, and to further other public objectives, such as trip reduction. These uses may not be promoted to attract additional clientele from the surrounding area. Commercial and service businesses must be established concurrently with or subsequent to the industrial or manufacturing businesses;

(viii) New infrastructure is provided for and/or applicable impact fees are paid to assure that adequate facilities are provided concurrently with the development. Infrastructure may be achieved in phases as development proceeds;

(ix) Buffers are provided between the major industrial development and adjacent rural areas;

(x) Provision is made to mitigate adverse impacts on designated agricultural lands, forest lands, and mineral resource lands; and

(xi) An open record public hearing is held before either the planning commission or hearing examiner with notice published at least 30 days before the hearing date and mailed to all property owners within one mile of the site.

(g) Required procedures. In addition to other procedural requirements that may apply, a county seeking to designate an industrial land bank under this section must:

(i) Provide countywide notice, in conformance with RCW 36.70A.035, of the intent to designate an industrial land bank. Notice must be published in a newspaper or newspapers of general circulation reasonably likely to reach subscribers in all geographic areas of the county. Notice must be provided not less than 30 days prior to commencement of consideration by the county legislative body; and

(ii) Make a written determination of the criteria and rationale used by the legislative body as the basis for siting an industrial land bank under this chapter.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 23-08-037, § 365-196-470, filed 3/29/23, effective 4/29/23; WSR 10-03-085, § 365-196-470, filed 1/19/10, effective 2/19/10.]

WAC 365-196-475 Land use compatibility with military installations. (1) Military installations are of particular importance to the economic health of the state of Washington. It is a priority of the state to protect the land surrounding military installations from incompatible development. Military training, testing, and operating areas are also critical to the mission viability of Washington's military installations.

(2) A comprehensive plan, amendment to a comprehensive plan, a development regulation, or amendment to a development regulation, should not allow development in the vicinity of a military installation that is incompatible with the installation's ability to carry out its mission requirements. A county or city may find that an existing comprehensive plan or development regulations are compatible with the installation's ability to carry out its mission requirements.

(3) As part of the requirements of RCW 36.70A.070(1), each county or city planning under the act that has a federal military installation, other than a reserve center, that employs 100 or more personnel and is operated by the United States Department of Defense within or adjacent to its border, must notify the commander of the military installation of the county's or city's intent to amend its comprehensive plan or development regulations to address lands adjacent to the military installation to ensure those lands are protected from incompatible development.

(4) The notice must request from the commander of the military installation a written recommendation and supporting facts relating to the use of land being considered in the adoption of a comprehensive plan or an amendment to a plan. The notice must provide 60 days for a response from the commander. If the commander does not submit a response to such request within 60 days, the county or city may presume that implementation of the proposed plan or amendment will not have any adverse effect on the operation of the military installation.

(5) When a county or city intends to amend its development regulations to be consistent with the comprehensive plan elements addressed in subsection (4) of this section, notice shall be provided to the commander of the military installation consistent with subsection (3) of this section. The notice shall request from the commander of the military installation a written recommendation and supporting facts relating to the use of land being considered in the amendment to the development regulations. The notice shall provide 60 days for a

response from the commander to the requesting government. If the commander does not submit a response to such request within 60 days, the local government may presume that implementation of the proposed development regulation or amendment will not have any adverse effect on the operation of the installation.

(6) Counties must provide written notification to the Department of Defense upon receipt of an application for a permit to site an energy plant or alternative energy resource that is connected to electrical transmission facilities of a nominal voltage of at least 115,000 volts. Counties should consider comprehensive plan policies or development regulations to ensure compliance with the notice requirements in RCW 36.01.320.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 23-08-037, § 365-196-475, filed 3/29/23, effective 4/29/23; WSR 10-03-085, § 365-196-475, filed 1/19/10, effective 2/19/10.]

WAC 365-196-480 Natural resource lands. (1) Requirements.

(a) In the initial period following adoption of the act, and prior to the development of comprehensive plans, counties and cities planning under the act were required to designate natural resource lands of long-term commercial significance and adopt development regulations to assure their conservation. Natural resource lands include agricultural, forest, and mineral resource lands. The previous designations and development regulations shall be reviewed in connection with the comprehensive plan adoption process and, where necessary, altered to ensure consistency.

(b) Counties and cities planning under the act must review their natural resource lands designations, comprehensive plans, policies, and development regulations as part of the required periodic update under RCW 36.70A.130(1) and 36.70A.131.

(c) Counties and cities not planning under RCW 36.70A.040 must review their natural resource lands designations, and if necessary revise those designations as part of the required periodic update under RCW 36.70A.130(1) and 36.70A.131.

(d) Forest land and agricultural land located within urban growth areas shall not be designated as forest resource land or agricultural resource land unless the county or city has enacted a program authorizing transfer or purchase of development rights.

(e) Mineral lands may be designated as mineral resource lands within urban growth areas. There may be subsequent reuse of mineral resource lands when the minerals have been mined out. In cases where designated mineral resource lands are likely to be mined out and closed to further mining within the planning period, the surface mine reclamation plan and permit from the department of natural resources division of geology should be reviewed to ensure it is consistent with the adopted comprehensive land use plan.

(f) In adopting development regulations to conserve natural resource lands, counties and cities shall address the need to buffer land uses adjacent to the natural resource lands. Where buffering is used it should be on land within the adjacent development unless an alternative is mutually agreed on by adjacent landowners.

(g) The initial effective date of an action that removes the designation of agricultural, forest, or mineral resource land is the latest of the following dates per RCW 36.70A.067:

(i) Sixty days after the publication of notice of adoption of the comprehensive plan, development regulation, or amendment to the plan or regulation, implementing the action, as provided under RCW 36.70A.290(2); or

(ii) If a petition for review to the growth management hearings board is timely filed, upon issuance of the board's final order.

(2) Recommendations for meeting requirements.

(a) In the initial period following adoption of the act, much of the analysis which was the basis for the comprehensive plan came later than the initial identification and regulation of natural resource lands. In all cases, counties and cities must address inconsistencies between plan policies, development regulations and previously adopted natural resource land provisions.

(b) The department issued guidelines for the classification and designation of natural resource lands which are contained in chapter 365-190 WAC. In general, natural resource lands should be located beyond the boundaries of urban growth areas; and urban growth areas should avoid including designated natural resource lands. In most cases, the designated purposes of natural resource lands are incompatible with urban densities. For inclusion in the urban growth area, counties and cities must first review the natural resource lands designation and conclude the lands no longer meet the designation criteria for resource lands of long-term commercial significance.

(c) As noted in subsection (1)(f) of this section, mineral resource lands are a possible exception to the requirement that natural resource lands be designated outside the urban growth area. This guidance is based on the significant cost savings from using minerals close to their source, and the potential for reusing the mined out lands for other purposes after mining is complete. Counties and cities should consider the potential loss of access to mineral resource lands if they are not designated and conserved, and should also consider the consumptive use of mineral resources when designating specific mineral resource lands.

(d) Counties and cities may also consider retaining local agricultural lands in or near urban growth areas as part of a local strategy promoting food security, agricultural education, or in support of local food banks, schools, or other large institutions.

(e) The review of existing designations should be done on a countywide basis, and in most cases, be limited to the question of consistency with the comprehensive plan, rather than revisiting the entire prior designation and regulation process. However, to the extent that new information is available or errors have been discovered, the review process should take this information into account. Review for consistency in this context should include whether the planned use of lands adjacent to agricultural, forest, or mineral resource lands will interfere with the continued use, in an accustomed manner and in accordance with the best management practices, of the designated lands for the production of food, agricultural products, or timber, or for the extraction of minerals. Counties and cities must defer reviews of resource lands until they are able to conduct a comprehensive countywide analysis consistent with WAC 365-190-040(10).

(f) Development regulations must assure that the planned use of lands adjacent to natural resource lands will not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of these designated lands. Guidance on development regulations ensuring the conservation of designated resource lands is found in WAC 365-196-815.

(g) Counties and cities are encouraged to use a coordinated program that includes nonregulatory programs and incentives to supplement development regulations to conserve natural resource lands. Guidance for addressing the designation of natural resource lands is located under WAC 365-190-040 through 365-190-070.

(h) When adopting comprehensive plan policies on siting energy facilities on or adjacent to natural resource lands, counties and cities must ensure that development does not result in conversion to a use that removes the land from resource production, or interferes with the usual and accustomed operations of the natural resource lands. Counties and cities are encouraged to adopt policies and regulations regarding the appropriate location for siting energy facilities on or adjacent to natural resource lands. Policies and regulations may emphasize dual-use strategies that preserve or improve natural resource lands, provide clarity to developers, and support renewable energy goals.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-480, filed 8/15/25, effective 9/15/25; WSR 23-08-037, § 365-196-480, filed 3/29/23, effective 4/29/23; WSR 10-03-085, § 365-196-480, filed 1/19/10, effective 2/19/10.]

WAC 365-196-485 Critical areas. (1) Relationship to the comprehensive plan.

(a) The act requires that the planning goals in RCW 36.70A.020 guide the development and adoption of comprehensive plans and development regulations. These goals include retaining open space; enhancing recreation opportunities; conserving fish and wildlife habitat; protecting the environment and enhancing the state's high quality of life, including air and water quality, and the availability of water.

(b) Jurisdictions are required to include the best available science in developing policies and development regulations to protect the functions and values of critical areas.

(c) Counties and cities are required to identify open space corridors within and between urban growth areas for multiple purposes, including those areas needed as critical habitat by wildlife.

(d) RCW 36.70A.070(1) requires counties and cities to provide for protection of the quality and quantity of ground water used for public water supplies in the land use element. Where applicable, the land use element must review drainage, flooding, and stormwater runoff in the area and in nearby jurisdictions, and provide guidance to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.

(e) Because the critical areas regulations must be consistent with the comprehensive plan, each comprehensive plan should set forth the underlying policies for the jurisdiction's critical areas program.

(f) In pursuing the environmental protection and open space goals of the act, such policies should identify nonregulatory measures for protecting critical areas as well as regulatory approaches. Nonregulatory measures include, but are not limited to: Incentives, public education, and public recognition, and could include innovative programs such as the purchase or transfer of development rights. When such policies are incorporated into the plan (either in a separate element or as a part of the land use element), the consistency of the regulations can be readily assessed.

(2) Requirements. Prior to the original development of comprehensive plans under the act, counties and cities were required to designate critical areas and adopt development regulations protecting them. Any previous designations and regulations must be reviewed in the comprehensive plan process to ensure consistency between previous designations and the comprehensive plan. Critical areas include the following areas and ecosystems:

(a) Wetlands;

(b) Areas of critical recharging effect on aquifers used for potable water;

(c) Fish and wildlife habitat conservation areas;

(d) Frequently flooded areas; and

(e) Geologically hazardous areas.

(3) Recommendations for meeting requirements.

(a) In the initial period following adoption of the act, much of the analysis which was the basis for the comprehensive plan came later than the initial identification and regulation of critical areas. Upon the adoption of the initial comprehensive plans, such designations and regulations were to be reviewed and, where necessary, altered to achieve consistency with the comprehensive plan. Subsequently, jurisdictions updating local critical areas ordinances are required to include the best available science.

(b) The department has issued guidelines for the classification and designation of critical areas which are contained in chapter 365-190 WAC.

(c) Critical areas must be designated and protected wherever the applicable environmental conditions exist, whether within or outside of urban growth areas. Critical areas may overlap each other, and requirements to protect critical areas apply in addition to the requirements of the underlying zoning.

(d) The review of existing designations during the comprehensive plan adoption process should, in most cases, be limited to the question of consistency with the comprehensive plan, rather than a revisiting of the entire prior designation and regulation process; however, counties and cities must address the requirements to include the best available science in reviewing designations and developing policies and development regulations to protect the functions and values of critical areas, and give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries. To the extent that new information is available or errors have been discovered, the review process must take this information into account unless the jurisdiction provides a reasoned, science-based justification for departure.

(e) The department recommends counties and cities review plan, regulation and permit implementation monitoring results and, where applicable, incorporate adaptive management measures to ensure regulations are efficient and effective at protecting critical area functions and values.

(f) The department recommends that planning jurisdictions identify the policies by which decisions are made on when and how regulations will be used and when and how other means will be employed (purchases, development rights, etc.). See WAC 365-196-855.

(4) Avoiding impacts through appropriate land use designations.

(a) Many existing data sources can identify, in advance of the development review process, the likely presence of critical areas. When developing and reviewing the comprehensive plan and future land use designations, counties and cities should use available information

to avoid directing new growth to areas with a high probability of conflicts between new development and protecting critical areas. Identifying areas with a high probability of critical areas conflicts can help identify lands that are likely to be unsuitable for development and help a county or city better provide sufficient capacity of land that is suitable for development as required by RCW 36.70A.115. Impacts to these areas could be minimized through measures such as green infrastructure planning, open space acquisition, open space zoning, and the purchase or transfer of development rights.

(b) When considering expanding the urban growth area, counties and cities should avoid including lands that contain large amounts of mapped critical areas. Counties and cities should not designate new urban areas within the 100-year flood plain unless no other alternatives exist, and if included, impacts on the flood plain must be mitigated. RCW 36.70.110(8) prohibits expansion of the urban growth area into the 100-year flood plain in some cases. See WAC 365-196-310.

(c) If critical areas are included in urban growth areas, they still must be designated and protected. See WAC 365-196-310.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 23-08-037, § 365-196-485, filed 3/29/23, effective 4/29/23; WSR 10-22-103, § 365-196-485, filed 11/2/10, effective 12/3/10; WSR 10-03-085, § 365-196-485, filed 1/19/10, effective 2/19/10.]

PART FIVE
CONSISTENCY AND COORDINATION

WAC 365-196-500 Internal consistency. (1) Comprehensive plans must be internally consistent. This requirement means that differing parts of the comprehensive plan must fit together so that no one feature precludes the achievement of any other.

(2) Use of compatible assumptions. A county or city must use compatible assumptions in different aspects of the plan.

(a) A county or city should use common numeric assumptions to the fullest extent possible, particularly in the long-term growth assumptions used in developing the land use, capital facilities and other elements of the comprehensive plan.

(b) If a county or city relies on forecasts, inventories, or functional plans developed by other entities, these plans might have been developed using different time horizons or different boundaries. If these differences create inconsistent assumptions, a county or city should include an analysis in its comprehensive plan of the differences and reconcile them to create a plan that uses compatible assumptions.

(3) The development regulations must be internally consistent and be consistent with and implement the comprehensive plan.

(4) Consistency review. Each comprehensive plan should provide mechanisms for ongoing review of its implementation and adjustment of its terms whenever internal conflicts become apparent. At a minimum, any amendment to the comprehensive plan or development regulations must be reviewed for consistency. The review and update processes required in RCW 36.70A.130 (1) and (3) should include a review of the comprehensive plan and development regulations for consistency.

(5) See WAC 365-196-800 for more information on the relationship between development regulations and the comprehensive plan. See WAC

356-196-305 for more information on the relationship between countywide planning policies and the comprehensive plan. See WAC 365-196-315 (5)(a) for information on consistencies between assumptions and observed development for cities or counties subject to monitoring requirements in RCW 36.70A.215.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 23-08-037, § 365-196-500, filed 3/29/23, effective 4/29/23; WSR 10-03-085, § 365-196-500, filed 1/19/10, effective 2/19/10.]

WAC 365-196-510 Interjurisdictional consistency. (1) Each county or city comprehensive plan must be coordinated with, and consistent with, the comprehensive plans of other counties and cities that share common borders or related regional issues with that county or city. Determining consistency in this interjurisdictional context is complicated by the differences in timing of comprehensive plan adoption and subsequent amendments.

(2) Initially, interjurisdictional consistency should be met by the adoption of comprehensive plans, and subsequent amendments, which are consistent with and carry out the relevant countywide planning policies and, where applicable, the relevant multicounty planning policies. Adopted countywide planning policies are designed to ensure that county and city comprehensive plans are consistent. More detailed recommendations about countywide planning policies are contained in WAC 365-196-305.

(3) To better ensure consistency of comprehensive plans, counties and cities should consider using similar policies and assumptions that apply to common areas or issues.

(4) Counties and cities should use consistent population projections and planning horizons when completing the periodic review and evaluation of comprehensive plans and development regulations. The planning horizon should start on the relevant deadline specified in RCW 36.70A.130(5) and encompass a minimum of 20 years.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 23-08-037, § 365-196-510, filed 3/29/23, effective 4/29/23; WSR 10-03-085, § 365-196-510, filed 1/19/10, effective 2/19/10.]

WAC 365-196-520 Coordination with other county and city comprehensive plans. (1) Each county and city planning under the act should circulate its proposed comprehensive plan to other counties and cities with which it shares a common border or has related regional issues. The proposed comprehensive plan should be accompanied by the relevant environmental documents.

(2) Reviewing counties and cities are presumed to have concurred with the provisions of the comprehensive plan, unless within a reasonable period of time, they provide written comment identifying comprehensive plan features that will preclude or interfere with the achievement of their own comprehensive plans.

(3) All counties and cities should attempt to resolve conflicts over interjurisdictional consistency through consultation and negotiation. Additional guidance for interjurisdictional consistency is located in WAC 365-196-510.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 10-03-085, § 365-196-520, filed 1/19/10, effective 2/19/10.]

WAC 365-196-530 State agency compliance. (1) RCW 36.70A.103 requires that state agencies comply with the local comprehensive plans and development regulations, and subsequent amendments, adopted pursuant to the act. An exception to this requirement exists for the state's authority to site and operate a special commitment center and a secure community transition facility to house persons conditionally released to a less restrictive alternative on McNeil Island under RCW 36.70A.200.

(2) The department construes RCW 36.70A.103 to require each state agency to meet local siting and building requirements when it occupies the position of an applicant proposing development, except where specific legislation explicitly dictates otherwise. This means that development of state facilities is subject to local approval procedures and substantive provisions, including zoning, density, setbacks, bulk and height restrictions.

(3) Under RCW 36.70A.210(4), state agencies must follow adopted countywide planning policies. Consistent with other statutory mandates, state programs should be administered in a manner which does not interfere with implementation of the county framework for interjurisdictional consistency, or the exercise by any local government of its responsibilities and authorities under the act.

(4) Overall, the broad sweep of policy contained in the act implies a requirement that all programs at the state level accommodate the outcomes of the growth management process wherever possible. The exercise of statutory powers, whether in permit functions, grant funding, property acquisition or otherwise, routinely involves such agencies in discretionary decision making. The discretion they exercise should take into account legislatively mandated local growth management programs. State agencies that approve plans of special purpose districts that are required to be consistent with local comprehensive plans should provide guidance or technical assistance to those entities to explain the need to coordinate their planning with the local government comprehensive plans within which they provide service.

(5) After local adoption of comprehensive plans and development regulations under the act, state agencies should review their existing programs in light of the local plans and regulations. Within relevant legal constraints, this review should lead to redirecting the state's actions in the interests of consistency with the growth management effort.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 23-08-037, § 365-196-530, filed 3/29/23, effective 4/29/23; WSR 10-03-085, § 365-196-530, filed 1/19/10, effective 2/19/10.]

WAC 365-196-540 Compliance by regional agencies and special purpose districts. (1) Regional agencies and special purpose districts possess statutorily defined powers which include:

(a) Planning;

(b) Development;

(c) Regulatory;

(d) Facility management; and

(e) Taxing functions.
(2) Such entities include:
(a) Regional air pollution control authorities;
(b) Metropolitan municipal corporations;
(c) Fire protection districts;
(d) Port districts;
(e) Public utility districts;
(f) School districts;
(g) Sewer districts;
(h) Water districts;
(i) Irrigation districts;
(j) Flood control districts;
(k) Diking and drainage districts; and
(l) Park and recreation districts.
(3) Except as otherwise provided by the legislature, the act requires that regional agencies and special purpose districts comply with the comprehensive plans and development regulations adopted under the act. WAC 365-196-745 lists statutes that provide direction to maintain consistency between special district plans and comprehensive plans.
(4) The plans of regional agencies and special purpose districts should be developed using local comprehensive plans as a basis for determining future development patterns. Regional agencies and special purpose districts should consult the land use, housing, and other relevant elements of the plans for information on future growth and development patterns, and should contact the local governments to ensure that special purpose districts can provide adequate public facilities to the area over the twenty-year life of the plan.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 10-03-085, § 365-196-540, filed 1/19/10, effective 2/19/10.]

WAC 365-196-550 Essential public facilities. (1) Determining what facilities are essential public facilities.
(a) The term "essential public facilities" refers to public facilities that are typically difficult to site. Consistent with countywide planning policies, counties and cities should create their own lists of "essential public facilities," to include at a minimum those set forth in RCW 36.70A.200.
(b) For the purposes of identifying facilities subject to the "essential public facilities" siting process, it is not necessary that the facilities be publicly owned.
(c) Essential public facilities include both new and existing facilities. It may include the expansion of existing essential public facilities or support activities and facilities necessary for an essential public facility.
(d) The following facilities and types of facilities are identified in RCW 36.70A.200 as essential public facilities:
(i) Airports;
(ii) State education facilities;
(iii) State or regional transportation facilities;
(iv) Transportation facilities of statewide significance as defined in RCW 47.06.140. These include:
(A) The interstate highway system;
(B) Interregional state principal arterials including ferry connections that serve statewide travel;

(C) Intercity passenger rail services;

(D) Intercity high-speed ground transportation;

(E) Major passenger intermodal terminals excluding all airport facilities and services;

(F) The freight railroad system;

(G) The Columbia/Snake navigable river system;

(H) Marine port facilities and services that are related solely to marine activities affecting international and interstate trade;

(I) High capacity transportation systems.

(v) Regional transit authority facilities as defined under RCW 81.112.020;

(vi) State and local correctional facilities;

(vii) Solid waste handling facilities;

(viii) Opioid treatment programs including both mobile and fixed-site medication units, recovery residences, and harm reduction programs excluding safe injection sites. Harm reduction programs means programs that emphasize engaging directly with people who use drugs to prevent overdose and infectious disease transmission, improve the physical, mental, and social well-being of those served, and offer low threshold options for accessing substance use disorder treatment and other services.

(ix) In-patient facilities, including substance use disorder treatment facilities;

(x) Mental health facilities;

(xi) Group homes;

(xii) Secure community transition facilities;

(xiii) Any facility on the state 10-year capital plan maintained by the office of financial management.

(e) Essential public facility criteria apply to the facilities and not the operator. Counties and cities may not require applicants who operate essential public facilities to use an essential public facility siting process for projects that would otherwise be allowed by the development regulations. Applicants who operate essential public facilities may not use an essential public facility siting process to obtain approval for projects that are not essential public facilities.

(f) Regardless of whether it is a new, existing or an expansion or modification of an existing public facility, the major component in the identification of an essential public facility is whether it provides or is necessary to provide a public service and whether it is difficult to site.

(2) Criteria to determine if the facility is difficult to site. Any one or more of the following conditions is sufficient to make a facility difficult to site.

(a) The public facility needs a specific type of site of such as size, location, available public services, which there are few choices.

(b) The public facility needs to be located near another public facility or is an expansion of an essential public facility at an existing location.

(c) The public facility has, or is generally perceived by the public to have, significant adverse impacts that make it difficult to site.

(d) Use of the normal development review process would effectively preclude the siting of an essential public facility.

(e) Development regulations require the proposed facility to use an essential public facility siting process.

(3) Preclusion of essential public facilities.

(a) Counties and cities may not use their comprehensive plan or development regulations to preclude the siting of essential public facilities. Comprehensive plan provisions or development regulations preclude the siting of an essential public facility if their combined effects would make the siting of an essential public facility impossible or impracticable.

(i) Siting of an essential public facility is "impracticable" if it is incapable of being performed or accomplished by the means employed or at command.

(ii) Impracticability may also include restrictive zoning; comprehensive plan policies directing opposition to a regional decision; or the imposition of unreasonable conditions or requirements.

(iii) Limitations on essential public facilities such as capacity limits; internal staffing requirements; resident eligibility restrictions; internal security plan requirements; and provisions to demonstrate need may be considered preclusive in some circumstances.

(b) A local jurisdiction may not include criteria in its land use approval process which would allow the essential public facility to be denied, but may impose reasonable permitting requirements and require mitigation of the essential public facility's adverse effects.

(c) An essential public facility is not precluded simply because the comprehensive plan provisions would be too costly or time consuming to comply with.

(d) If the essential public facility and its location have been evaluated through a state or regional siting process, the county or city may not require the facility to go through the local siting process.

(e) Essential public facilities that are sited through a regional or state agency are distinct from those that are "sited by" a county or city or a private organization or individual. When a county or city is siting its own essential public facility, public or private, it is free to establish a nonpreclusive siting process with reasonable criteria.

(4) Comprehensive plan.

(a) Requirements:

(i) Each comprehensive plan shall include a process for identifying and siting essential public facilities. This process must be consistent with and implement applicable countywide planning policies.

(ii) No local comprehensive plan may preclude the siting of essential public facilities.

(b) Recommendations for meeting requirements:

(i) Identification of essential public facilities. When identifying essential public facilities, counties and cities should take a broad view of what constitutes a public facility, involving the full range of services to the public provided by the government, substantially funded by the government, contracted for by the government, or provided by private entities subject to public service obligations.

(ii) Agreements among jurisdictions should be sought to mitigate any disproportionate financial burden which may fall on the county or city which becomes the site of a facility of a statewide, regional, or countywide nature.

(iii) Where essential public facilities may be provided by special districts, the plans under which those districts operate must be consistent with the comprehensive plan of the county or city. Counties and cities should adopt provisions for consultation to ensure that such districts exercise their powers in a way that does not conflict with the relevant comprehensive plan.

(c) The siting process should take into consideration the need for countywide, regional, or statewide uniformity in connection with the kind of facility under review.

(5) Development regulations governing essential public facilities.

(a) Development regulations governing the siting of essential public facilities must be consistent with and implement the process set forth in the comprehensive plan.

(b) Except where countywide planning policies have otherwise dictated siting choices, provision should be made for the possibility of siting each of the listed essential public facilities somewhere within each county's or city's planning area.

(c) Counties and cities should consider the criteria established in their comprehensive plan, in consultation with this section to determine if a project is an essential public facility. Counties and cities may also adopt criteria for identifying an essential public facility.

(d) If an essential public facility does not present siting difficulties and can be permitted through the normal development review process, project review should be through the normal development review process otherwise applicable to facilities of its type.

(e) If an essential public facility presents siting difficulties, the application should be reviewed using the essential public facility siting process.

(6) The essential public facility siting process.

(a) The siting process may not be used to deny the approval of the essential public facility. The purpose of the essential public facility siting process is to allow a county or city to impose reasonable conditions on an essential public facility necessary to mitigate the impacts of the project while ensuring that its development regulations do not preclude the siting of an essential public facility.

(b) The review process for siting essential public facilities should include a requirement for notice and an opportunity to comment to other interested counties and cities and the public.

(c) The permit process may include reasonable requirements such as a conditional use permit, but the process used must ensure a decision on the essential public facility is completed without unreasonable delay.

(d) The essential public facility siting process should identify what conditions are necessary to mitigate the impacts associated with the essential public facility. The combination of any existing development regulations and any new conditions may not render impossible or impracticable, the siting, development or operation of the essential public facility.

(e) Counties and cities should consider the extent to which design conditions can be used to make a facility compatible with its surroundings. Counties and cities may also consider provisions for amenities or incentives for neighborhoods in which facilities are sited. Any conditions imposed must be necessary to mitigate an identified impact of the essential public facility.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-550, filed 8/15/25, effective 9/15/25; WSR 23-08-037, § 365-196-550, filed 3/29/23, effective 4/29/23; WSR 10-22-103, § 365-196-550, filed 11/2/10, effective 12/3/10; WSR 10-03-085, § 365-196-550, filed 1/19/10, effective 2/19/10.]

WAC 365-196-560 Special siting statutes. (1) Comprehensive plans and development regulations adopted under the act should accommodate situations where the state has explicitly preempted all local land use regulations, as for example, in the siting of major energy facilities under RCW 80.50.110.

(2) Where special statutes relate specifically to the setting aside of designated areas for particular purposes and under particular management programs, local land use regulations adopted under the act should be consistent with those purposes and programs. Examples in this category are the statutes relating to:

(a) Natural resource conservation areas;

(b) Natural area preserves;

(c) Seashore conservation area;

(d) Scenic rivers.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 10-03-085, § 365-196-560, filed 1/19/10, effective 2/19/10.]

WAC 365-196-570 Secure community transition facilities. Requirements.

(1) Secure community transition facilities are essential public facilities.

(2) Counties and cities must either establish an essential public facility siting process, or amend their existing process to allow for the siting of secure community transition facilities, or be subject to preemption by the Washington state department of social and health services consistent with RCW 71.09.342.

(3) A failure to act before the September 1, 2002, deadline does not constitute noncompliance for the purposes of grants and loans, and does not subject a county or city to a failure to act challenge to the growth management hearings board.

(4) If a county or city does not adopt an essential public facility siting process or does not amend its existing process to allow for the siting of a secure community transition facility, then the Washington state department of social and health services may preempt local development regulations as necessary to site and operate a secure community transition facility under RCW 71.09.285 through 71.09.342. If the Washington state department of social and health services preempts local development regulations, the county or city may still participate in the siting process as provided in RCW 71.09.342.

(5) A local secure community transition facility siting process established by a city or county must be consistent with, and no more restrictive than, the siting process established in RCW 71.09.285 through 71.09.342. The Washington state department of social and health services has final authority to determine if a locally adopted siting process allows for the siting of secure community transition facilities in compliance with RCW 71.09.285.

[Statutory Authority: RCW 36.70A.050, 36.70A.190. WSR 10-22-103, § 365-196-570, filed 11/2/10, effective 12/3/10; WSR 10-03-085, § 365-196-570, filed 1/19/10, effective 2/19/10.]

WAC 365-196-580 Integration with the Shoreline Management Act. (1) For shorelines of the state, the goals and policies of the Shore-

line Management Act as set forth under RCW 90.58.020 are added as one of the goals of this chapter as set forth under RCW 36.70A.020 without creating an order of priority among the fourteen goals. The goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

(2) The shoreline master program shall be adopted pursuant to the procedures under chapter 90.58 RCW rather than the goals, policies, and procedures set forth in chapter 36.70A RCW for the adoption of a comprehensive plan or development regulations.

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

(b) Except as otherwise provided in (c) of this subsection, development regulations adopted under chapter 36.70A RCW to protect critical areas within shorelines of the state apply within shorelines of the state until the department of ecology approves one of the following: A comprehensive master program update, as defined under RCW 90.58.030; a segment of a master program relating to critical areas, as provided under RCW 90.58.090; or a new or amended master program approved by the department of ecology on or after March 1, 2002, as provided under RCW 90.58.080. The adoption or update of development regulations to protect critical areas under chapter 36.70A RCW prior to department of ecology approval of a master program update as provided in this subsection is not a comprehensive or segment update to the master program.

(c)(i) Until the department of ecology approves a master program or segment of a master program as provided in (b) of this subsection, a use or structure legally located within shorelines of the state that was established or vested on or before the effective date of the local government's development regulations to protect critical areas may continue as a conforming use and may be redeveloped or modified if:

(A) The redevelopment or modification is consistent with the local government's master program; and

(B) The local government determines that the proposed redevelopment or modification will result in no net loss of shoreline ecological functions. The local government may waive this requirement if the redevelopment or modification is consistent with the master program and the local government's development regulations to protect critical areas.

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

(d) Upon department of ecology approval of a shoreline master program or critical area segment of a shoreline master program, critical areas within shorelines of the state are protected under chapter 90.58 RCW and are not subject to the procedural and substantive requirements of chapter 36.70A RCW, except as provided in subsection (6) of this section. Nothing in chapter 321, Laws of 2003 or the act is

intended to affect whether or to what extent agricultural activities, as defined under RCW 90.58.065, are subject to chapter 36.70A RCW.

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

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

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

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

(7) County participation in the voluntary stewardship program does not change applicability of the Shoreline Management Act, or requirements of local shoreline master programs.

(a) As required by RCW 90.58.065, shoreline master programs shall not limit or modify existing and ongoing agricultural activities occurring on agricultural lands.

(b) Master programs shall include provisions addressing new agricultural activities on land not meeting the definition of agricultural land, conversion of agricultural lands to other uses, and other development on agricultural land that does not meet the definition of agricultural activities.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 17-20-100, § 365-196-580, filed 10/4/17, effective 11/4/17; WSR 10-22-103, § 365-196-580, filed 11/2/10, effective 12/3/10.]

WAC 365-196-585 Tracking eligibility for state grants and loans. (1) This section defines the procedures used by the department to track and report the status of a county or city with completion of the review and revision requirement under RCW 36.70A.130, and to track any compliance orders issued by the growth management hearings board, or board, as defined under WAC 242-03-030 and established under RCW 36.70A.260.

(2) These procedures assure that the department provides timely and accurate reporting to state agencies regarding a county or city's eligibility for state grants or loans, and it assures that a county or city applicant, and the state agency reviewing grant or loan eligibility, understand the role of the department in this process for determining eligibility for state grants or loans, where applicable.

(3) These procedures are also designed to encourage and enable timely redress of overdue periodic updates or noncompliance issues. To accomplish this, a county or city must be aware of its current status so it may take necessary legislative action to achieve compliance with deadlines or board orders.

(4) Under RCW 36.70A.130(7), the act directs state agencies to consider compliance in the award of state financial assistance from a number of state grant and loan programs as follows:

(a) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW 36.70A.040(1). Only those counties and cities that meet the following criteria may receive grants, loans, pledges, or financial guarantees under chapter 43.155 or 70A.135 RCW:

(i) Complying with the deadlines in this section; or

(ii) Demonstrating substantial progress towards compliance with the schedules in this section for development regulations that protect critical areas.

(b) A county or city that is fewer than 12 months out of compliance with the schedules in this section for development regulations that protect critical areas is making substantial progress towards compliance. Only those counties and cities in compliance with the schedules in this section may receive preference for grants or loans subject to the provisions of RCW 43.17.250.

(5) Counties and cities must notify the department in writing that the jurisdiction considers the periodic update complete. WAC 365-196-610 (2)(c) provides recommendations on documenting completion of the periodic update, either in whole or in part.

(a) Counties and cities must take legislative action, in the form of an ordinance or resolution, following a public hearing. The ordinance or resolution should clearly state the periodic update required by RCW 36.70A.130 is complete. If a county or city took multiple legislative actions as part of the periodic update process, the final ordinance or resolution should reference all prior legislative actions.

(b) Counties and cities must submit a notice of adoption to the department after taking legislative action on a comprehensive plan or development regulation amendment. The department considers the notice of adoption, required under RCW 36.70A.106(2), along with the final ordinance or resolution documenting the completion of the periodic update, as written notice.

(c) In lieu of an ordinance or resolution clearly stating that the periodic update required by RCW 36.70A.130 is complete, the department may consider a written letter from the mayor, county executive, or chair of the board of county commissioners stating that the periodic update is complete.

(6) The following state grant and loan programs use GMA compliance in the course of awarding state funds under the following programs under RCW 36.70A.130(7):

(a) Public works trust fund (public works board) under RCW 43.155.070 and WAC 399-30-030;

(b) Centennial clean water fund (department of ecology) under WAC 173-95A-610;

(c) Drinking water state revolving fund (department of health) under RCW 70A.125.070 and WAC 246-296-130;

(d) Recreation and conservation office;

(e) Transportation improvement board funding under RCW 47.26.086 and WAC 479-14-121;

(f) Predisaster mitigation grants (emergency management division, Washington military department); and

(g) Water pollution control facilities grants under RCW 70A.135.070.

The department does not determine eligibility for any particular grant or loan program administered by another state agency or board. Eligibility, including the effect of the compliance status of a city or county may have on eligibility, is determined by the state agency authorized to administer a grant or loan program.

(7) As the designated coordinator for state government regarding implementation of chapter 36.70A RCW, the department tracks local government implementation with the act. A state agency may consult with the department in the course of administering its grant and loan program, regarding the status of a county or city progress implementing the act.

(8) The department does not determine compliance by county or city with the provisions of chapter 36.70A RCW.

(a) For completion of the periodic update under RCW 36.70A.130, compliance with the requirement is determined by the county or city. This determination must be in the form of written notice of completion provided by the county or city to the department.

(b) For all other matters, compliance is determined by the board.

(9) For compliance matters related to a board final decision and order, a county or city may avoid being determined ineligible or otherwise penalized in the award of grants or loans during a period of remand by taking action to delay the effective date of a challenged ordinance or resolution as follows:

(a) A county or city may delay the effective date of the action subject to the petition before the board until after the board issues a final determination; or

(b) Within 30 days of receiving notice of a petition for review by the board, a county or city may delay the effective date of the action subject to the petition before the board until after the board issues a final determination.

(c) To avoid a penalty, a county or city must notify the department in writing that it has delayed the effective date of the challenged ordinance. Notice must be accompanied by the board order and a copy of the ordinance or resolution showing the delay to the effective date.

(d) A delay in the effective date will not prevent a determination of ineligibility or other penalty if the board makes a determination of invalidity.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 23-08-037, § 365-196-585, filed 3/29/23, effective 4/29/23.]

PART SIX
REVIEWING, AMENDING, AND UPDATING COMPREHENSIVE PLANS AND DEVELOPMENT REGULATIONS

WAC 365-196-600 Public participation. (1) Requirements.

(a) Each county and city planning under the act must establish procedures for early and continuous public participation in the development and amendment of comprehensive plans and development regula-

tions. The procedures are not required to be reestablished for each set of amendments.

(b) The procedures must provide for broad dissemination of proposals and alternatives, opportunity for written comments, public meetings after effective notice, provision for open discussion, communication programs, information services, and consideration of and response to public comments.

(c) Federally recognized tribes may voluntarily participate in local governments' comprehensive planning processes. Upon receipt of notice in the form of a tribal resolution from a federally recognized Indian tribe whose reservation or ceded lands lie within the county, which indicates the tribe has a planning process or intends to initiate a parallel planning process, the county, cities, and other local governments conducting the planning under this chapter shall enter into good faith negotiations to develop a mutually agreeable memorandum of agreement with such tribes in regard to collaboration and participation in the planning process. If a mutually agreeable memorandum of agreement cannot be reached, the parties must enter mediation as provided in RCW 36.70A.040 (8)(a).

(d) Errors in exact compliance with the established procedures do not render the comprehensive plan or development regulations invalid if the spirit of the procedures is observed.

(2) Record of process.

(a) Whenever a provision of the comprehensive plan or development regulation is based on factual data, a clear reference to its source should be made part of the adoption record.

(b) The record should show how the public participation requirement was met.

(c) All public hearings should be recorded.

(3) Recommendations for meeting public participation requirements. These recommendations are a list of suggestions for meeting the public participation requirement.

(a) Designing the public participation program.

(i) Implementation of the act requires a series of interrelated steps, including: Development of the initial comprehensive plan, evaluating amendments as part of the docket cycle, conducting the periodic update and reviewing the urban growth boundaries, amending development regulations, and conducting subarea planning. Each of these has different levels of significance and different procedural requirements.

(ii) Counties and cities are not required to establish individual public participation programs for each individual amendment. Counties and cities may wish to consider establishing a public program for annual amendments, and establishing separate or updated programs for major periodic updates. When developing a public participation plan for a project not covered by the existing public participation plan, a county or city should develop a public participation plan tailored to the type of action under consideration. This public participation plan should be focused on the type of public involvement appropriate for that type of action.

(iii) The public participation plan should identify which procedural requirements apply for the type of action under consideration and how the county or city intends to meet those requirements.

(iv) To avoid duplication of effort, counties and cities should integrate public involvement required by the State Environmental Policy Act, chapter 43.21C RCW, and rules adopted thereunder, into the overall public participation plan.

(v) Where a proposed amendment involves shorelines of the state, a county or city should integrate the public participation requirements of the Shoreline Management Act, chapter 90.58 RCW, into its public participation plan, as appropriate.

(vi) The public participation program should include outreach and early coordination with state and tribal agencies with subject matter expertise. Coordination with state agencies and tribes is recommended as draft policies and regulations are being developed.

(vii) Once established, the public participation plan must be broadly disseminated.

(b) Visioning. When developing a new comprehensive plan or a significant update to an existing comprehensive plan, counties and cities should consider using a visioning process. The public should be involved, because the purpose of a visioning process is to gain public input on the desired features of the community. The comprehensive plan can then be designed to achieve these features.

(c) Planning commission. The public participation program should clearly describe the role of the planning commission, ensuring consistency with requirements of chapter 36.70, 35.63, or 35A.63 RCW.

(4) Each county or city should try to involve a broad cross-section of the community, so groups not previously involved in planning become involved. Counties and cities should implement innovative techniques that support meaningful and inclusive engagement for people of color and low-income people. Counties and cities should consider potential barriers to participation that may arise due to race, color, ethnicity, religion, age, disability, income, or education level. Counties and cities should also engage those who may have been impacted by racially disparate impacts, displacement, or exclusion to help identify policies and regulations that contributed to or resulted in these impacts, and identify policies and regulations to address and begin to undo those impacts as required in RCW 36.70A.070 (2)(e) and (f).

(5) Counties and cities should take a broad view of public participation. The act contains no requirements or qualifications that an individual must meet in order to participate in the public process. If an individual or organization chooses to participate, it is an interested party for purposes of public participation.

(6) Providing adequate notice.

(a) Counties and cities are encouraged to consider a variety of opportunities to adequately communicate with the public. These methods of notification may include, but are not limited to, traditional forms of mailed notices, published announcements, electronic mail, and internet websites to distribute informational brochures, meeting times, project timelines, and design and map proposals to provide an opportunity for the public to participate.

(b) Counties and cities must provide effective notice. In order to be effective, notice must be designed to accomplish the following:

(i) Notice must be timely, reasonably available and reasonably likely to reach interested persons. Notice of all events where public input is sought should be broadly disseminated at least one week in advance of any public hearing. Newspaper or online articles do not substitute for the requirement that jurisdictions publish the action taken. When appropriate, notices should announce the availability of relevant draft documents and how they may be obtained.

(ii) Broad dissemination means that a county or city has made the documents widely available and provided information on how to access

the available documents and how to provide comments. Examples of methods of broad dissemination may include:

(A) Posting electronic copies of draft documents on the county and city official website;

(B) Providing copies to local libraries;

(C) Providing copies as appropriate to other affected counties and cities, state and federal agencies;

(D) Providing notice to local newspapers; and

(E) Maintaining a list of individuals who have expressed an interest and providing them with notice when new materials are available.

(iii) Certain proposals may also require particularized notice to specific individuals if required by statute or adopted local policy.

(iv) The public notice must clearly specify the nature of the proposal under consideration and how the public may participate. Whenever public input is sought on proposals and alternatives, the relevant drafts should be available. The county or city must make available copies of the proposal that will be available prior to the public hearing so participants can comment appropriately. The notice should specify the range of alternatives considered or scope of alternatives available for public comment in accordance with RCW 36.70A.035 (2)(b)(i) and (ii).

(v) The public notice must specify the first and last date and time to submit written public comment.

(7) Receiving public comment.

(a) Public meetings on draft comprehensive plans. Once a comprehensive plan amendment or other proposal is completed in draft form, or as parts of it are drafted, the county or city may consider holding a series of public meetings or workshops at various locations throughout the jurisdiction to obtain public comments and suggestions.

(b) Public hearings. When the final draft of the comprehensive plan is completed, at least one public hearing should be held prior to the presentation of the final draft to the county or city legislative authority adopting it.

(c) Written comment. At each stage of the process when public input is sought, opportunity should be provided to make written comment.

(d) Attendance for all meetings and hearings to which the public is invited should be free and open. At hearings all persons desiring to speak should be allowed to do so. A county or city may establish a reasonable time limitation on spoken presentations during meetings or public hearings, particularly if written comments are allowed.

(8) Continuous public involvement.

(a) Consideration of and response to public comments. All public comments should be reviewed. Adequate time should be provided between the public hearing and the date of adoption for all or any part of the comprehensive plan to evaluate and respond to public comments. The county or city should provide a written summary of all public comments with a specific response and explanation for any subsequent action taken based on the public comments. This written summary should be included in the record of adoption for the plan.

(b) Ending the opportunity for comment prior to deliberation. After the end of public comment, the local government legislative body may hold additional meetings to deliberate on the information obtained in the public hearing.

(c) Additional meetings may be necessary if the public hearings provided the county or city with new evidence or information they wish to consider. If during deliberation, the county or city legislative

body identifies new information for consideration after the record of adoption has been closed, then it must provide further opportunity for public comment so this information can be included in the record.

(9) Considering changes to an amendment after the opportunity for public review has closed.

(a) If the county or city legislative body considers a change to an amendment, and the opportunity for public review and comment has already closed, then the county or city must provide an opportunity for the public to review and comment on the proposed change before the legislative body takes action.

(b) The county or city may limit the opportunity for public comment to only the proposed change to the amendment.

(c) Although counties and cities are required to provide an opportunity for public comment, alternatives to a scheduled public hearing may suffice. Adequate notice must be provided indicating how the public may obtain information and offer comments.

(d) A county or city is not required to provide an additional opportunity for public comment under (a) of this subsection if one of the following exceptions applies (see RCW 36.70A.035 (2)(a)):

(i) An environmental impact statement has been prepared under chapter 43.21C RCW, and the proposal falls within the range of alternatives considered in the environmental impact statement;

(ii) The proposed change is within the range of alternatives available for public comment. When initiating the public participation process, a county or city should consider defining the range of alternatives under consideration;

(iii) The proposed change only corrects typographical errors, corrects cross-references, makes address or name changes, or clarifies language of a proposed ordinance or resolution without changing its effect;

(iv) The proposed change is to a resolution or ordinance making a capital budget decision as provided in RCW 36.70A.120; or

(v) The proposed change is to an ordinance or resolution enacting a moratorium or interim control adopted in compliance with RCW 36.70A.390.

(e) If a county or city adopts an amendment without providing an additional opportunity for public comment as described under (a) of this subsection, the findings of the adopted ordinance or resolution should identify which exception under RCW 36.70A.035 (2)(b) applies.

(10) Any amendment to the comprehensive plan or development regulation must follow the applicable procedural requirements and the county or city public participation plan. A county or city should not enter into an agreement that is a de facto amendment to the comprehensive plan accomplished without complying with the statutory public participation requirements. Examples of a de facto amendment include agreements that:

(a) Obligate the county or city, or authorizes another party, to act in a manner that is inconsistent with the comprehensive plan;

(b) Authorize an action the comprehensive plan prohibits; or

(c) Obligate the county or city to adopt a subsequent amendment to the comprehensive plan.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-600, filed 8/15/25, effective 9/15/25; WSR 23-08-037, § 365-196-600, filed 3/29/23, effective 4/29/23; WSR 15-04-039, § 365-196-600, filed 1/27/15, effective 2/27/15; WSR 10-03-085, § 365-196-600, filed 1/19/10, effective 2/19/10.]

WAC 365-196-610 Periodic review and update of comprehensive plans and development regulations. (1) Requirements.

(a) Counties and cities must periodically take legislative action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of the act. This review and revision, required under RCW 36.70A.130(1), is referred to in this section as the periodic update.

(b)(i) Deadlines for periodic update. Comprehensive plans and development regulations are subject to periodic update on a schedule established in RCW 36.70A.130(5).

(ii) Certain smaller, slower-growing counties and cities may take up to an additional two years to complete the update.

(A) The eligibility of a county for the two-year extension does not affect the eligibility of the cities within the county.

(B) A county is eligible if it has a population of less than 50,000 and a growth rate of less than 17 percent.

(C) A city is eligible if it has a population of less than 5,000, and either a growth rate of less than 17 percent or a total population growth of less than 100 persons.

(D) Growth rates are measured using the 10-year period preceding the due date listed in RCW 36.70A.130(5).

(E) If a county or city qualifies for the extension on the statutory due date, they remain eligible for the entire extension period, even if they no longer meet the criteria due to population growth.

(c) Taking legislative action.

(i) The periodic update must be accomplished through legislative action. Legislative action means the adoption of a resolution or ordinance following notice and a public hearing including, at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefore.

(ii) Legislative action includes two components. It includes a review of the comprehensive plan and development regulations and it includes the adoption of any amendments necessary to bring the comprehensive plan and development regulations into compliance with the requirements of the act.

(d) What must be reviewed.

(i) Counties and cities that plan under RCW 36.70A.040 must review and, if needed, revise their comprehensive plans and development regulations for compliance with the act. This includes the critical areas ordinance.

(ii) Counties and cities that do not plan under RCW 36.70A.040 must review and, if needed, revise their resource lands designations and their development regulations designating and protecting critical areas.

(iii) Counties participating in the voluntary stewardship program must review and, if needed, revise their development regulations not governed by the voluntary stewardship program, except as provided in RCW 36.70A.130(8).

(e) The required scope of review. The purpose of the review is to determine if revisions are needed to bring the comprehensive plan and development regulation into compliance with the requirements of the act. The update process provides the method for bringing plans into compliance with the requirements of the act that have been added or changed since the last update and for responding to changes in land use and in population growth. This review is necessary so that comprehensive plans are not allowed to fall out of compliance with the act

over time through inaction. This review must include at least the following:

(i) Consideration of the critical areas ordinance, including a best available science review (see chapter 365-195 WAC);

(ii) Analysis of urban growth area review required by RCW 36.70A.130(3) (see WAC 365-196-310);

(iii) Review of mineral resource lands designations and mineral resource lands development regulations adopted pursuant to RCW 36.70A.040 and 36.70A.060; and

(iv) Changes to the act or other applicable laws since the last review that have not been addressed in the comprehensive plan and development regulations.

(2) Recommendations for meeting requirements.

(a) Public participation program.

(i) Counties and cities should establish a public participation program that includes a schedule for the periodic update and identifies when legislative action on the review and update component are proposed to occur. The public participation program should also inform the public of when to comment on proposed changes to the comprehensive plan and clearly identify the scope of the review. Notice of the update process should be broadly disseminated as required by RCW 36.70A.035.

(ii) Counties and cities may adjust the public participation program to best meet the intent of the requirement. RCW 36.70A.140 notes that errors in exact compliance with the established program and procedures shall not render the comprehensive land use plan or development regulations invalid if the spirit of the program and procedures is observed. For example, if an established public participation program included one public hearing on all actions having to do with the periodic update process, the public participation program could be adjusted later to provide additional public hearings to accommodate strong public interest.

(b) Review of relevant statutes and local information and analysis of whether there is a need for revisions.

(i) Amendments to the act. Counties and cities should first review amendments to the act that have occurred since the initial adoption or previous periodic update, and determine if local amendments are needed to maintain compliance with the act. The department will maintain a comprehensive list of legislative amendments and a checklist to assist counties and cities with this review.

(ii) Review and analysis of relevant plans, regulations and information. Although existing comprehensive plans and development regulations are considered compliant, counties and cities should consider reviewing development and other activities that have occurred since adoption to determine if the comprehensive plans and development regulations remain consistent with, and implement, the act. This should include at least the following:

(A) Analysis of the population and housing needs allocated to a county or city during the most recent urban growth area review (see WAC 365-196-310);

(B) Analysis of patterns of development and densities permitted within urban growth areas (see WAC 365-196-310);

(C) Consideration of critical areas and resource lands ordinances. The department recommends evaluating the results of plan, regulation, and permit monitoring to determine if changes are needed to ensure efficient and effective implementation of critical areas ordinances (see WAC 365-195-920);

(D) Review of mineral resource lands designations and development regulations adopted pursuant to RCW 36.70A.040 and 36.70A.060;

(E) Capital facilities plans. Changes in anticipated circumstances and needs should be addressed by updating the 10-year transportation plan and six-year capital facilities elements. This includes a reassessment of the land use element if funding falls short;

(F) Land use element;

(G) Changes to comprehensive plans and development regulations in adjacent jurisdictions, special purpose districts, or state plans that create an inconsistency with the county or city's comprehensive plan or development regulations;

(H) Basic assumptions underlying key calculations and conclusions in the existing comprehensive plan. If recent data demonstrates that key existing assumptions are no longer appropriate for the remainder of the 20-year plan, counties and cities should consider updating them as part of the periodic update (see WAC 365-196-310). Counties and cities required to establish a review and evaluation program under RCW 36.70A.215, should use that information in this review (see WAC 365-196-315). Counties and cities required to submit to the department an implementation progress report under RCW 36.70A.130(9) should use that information in this review; and

(I) Inventories. Counties and cities should review required inventories and to determine if new data or analysis is needed. Table 2 contains summary of the inventories required in the act.

Table WAC 365-196-610.2
Inventories Required by the Act

Requirement	RCW Location	WAC Location
Housing Inventory	36.70A.070(2)	365-196-410
Inventory and analyze existing housing stock and projected housing needs at each income level, identifying the number of housing units needed at each income level to accommodate the local portion of the countywide projection of housing need from the department.		
Capital Facilities	36.70A.070(3)	365-196-415
Inventory existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities, and forecast future needs and proposed locations and capacities of expanded or new facilities.		
Transportation	36.70A.070(6)	365-196-430
An inventory of air, water and ground transportation facilities and services, including transit alignments and general aviation airport facilities, to define existing capital facilities and travel levels and a basis for future planning. This inventory must include state-owned transportation facilities within the county's or city's jurisdictional boundaries.		

(c) Take legislative action.

(i) Any legislative action that completes a portion of the review and update process, either in whole or in part, must state in its findings that it is part of the update process.

(ii) Any public hearings on legislative actions that are, either in whole or in part, legislative actions completing the update must state in the notice of hearing that the actions considered are part of the update process.

(iii) At the end of the review and update process, counties and cities should take legislative action declaring the update process

complete, either as a separate legislative action, or as a part of the final legislative action that occurs as part of the update process. This action should reference all prior legislative actions occurring as part of the update process.

(d) Submit notice of completion to the department. When adopted, counties and cities should transmit the notice of adoption to the department, consistent with RCW 36.70A.106. RCW 36.70A.130 requires compliance with the review and update requirement as a condition of eligibility for state grant and loan programs. The department tracks compliance with this requirement for agencies managing these grant and loan programs. Providing notice of completion to the department will help maintain access to these grant and loan programs.

(3) Relationship to other review and amendment requirements in the act.

(a) Relationship to the comprehensive plan amendment process. Counties and cities may amend the comprehensive plan no more often than once per year, as required in RCW 36.70A.130(2), and referred to as the docket. If a county or city conducts a comprehensive plan docket cycle in the year in which the review of the comprehensive plan is completed, it must be combined with the periodic review process. Counties and cities may not conduct the periodic review and a docket of amendments as separate processes in the same year.

(b) Urban growth area (UGA) review. As part of the periodic review, counties and cities must review the areas and densities contained in the urban growth area and, if needed, revise their comprehensive plan to accommodate the growth projected to occur in the county for the succeeding 20-year period, as required in RCW 36.70A.130(3) (see WAC 365-196-310).

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-610, filed 8/15/25, effective 9/15/25; WSR 23-08-037, § 365-196-610, filed 3/29/23, effective 4/29/23; WSR 17-20-100, § 365-196-610, filed 10/4/17, effective 11/4/17; WSR 15-04-039, § 365-196-610, filed 1/27/15, effective 2/27/15; WSR 10-22-103, § 365-196-610, filed 11/2/10, effective 12/3/10; WSR 10-03-085, § 365-196-610, filed 1/19/10, effective 2/19/10.]

WAC 365-196-620 Integration of State Environmental Policy Act process with creation and adoption of comprehensive plans and development regulations. (1) Adoption of comprehensive plans and development regulations are "actions" as defined under State Environmental Policy Act (SEPA). Counties and cities must comply with SEPA when adopting new or amended comprehensive plans and development regulations.

(2) Integration of SEPA review with other analysis required by the act.

(a) The SEPA process is supplementary to other governmental decision-making processes, including the processes involved in creating and adopting comprehensive plans and development regulations under the act. The thoughtful integration of SEPA compliance with the overall effort to implement the act will provide understanding and insight of significant value to the choices growth management requires.

(b) SEPA analysis and documentation can serve, in significant part, to fulfill the need to compile a record showing the considerations which went into the plan and why one alternative was chosen over another.

(c) When conducting a SEPA analysis, counties and cities should coordinate the development and evaluation of SEPA alternatives with other evaluations required by the act such as:

(i) Evaluation of fiscal impact required by RCW 36.70A.210;

(ii) Review of drainage, flooding and stormwater runoff required by RCW 36.70A.070;

(iii) The forecast of future capital facilities needs required by RCW 36.70A.070(3); and

(iv) The traffic forecast, identification of system needs and analysis of funding capability required in RCW 36.70A.070 (6)(a)(iii)(D), (E) and (F).

(d) Coordination should assure that these evaluations occur against a uniform set of alternatives and provide a complete picture of both the environmental and financial impacts of various alternatives.

(3) Phased environmental review.

(a) The growth management process is designed to proceed in phases, moving, by and large, from general policy-making to more specific implementation measures. Phased review available under SEPA can be integrated with the growth management process through a strategy that identifies the points in that process where the requirements of the two statutes are connected and seeks to accomplish the requirements of both at those points.

(b) In an integrated approach major emphasis should be placed on the quality of SEPA analysis at the front end of the growth management process - the local legislative phases of plan adoption and regulation adoption. The objective should be to create nonproject impact statements, and progressively more narrowly focused supplementary documents, that are sufficiently informative. These impact statements should reduce the need for extensive and time consuming analysis during subsequent environmental analysis at the individual project stage.

(c) The SEPA rules authorize joint documents that incorporate requirements of the act and SEPA (WAC 197-11-210 through 197-11-235). In general, using joint documents can provide time and cost savings related to review and adoption of comprehensive plan amendments.

(d) When evaluating comprehensive plan amendments, these amendments should generally be considered together as one action under SEPA so that the cumulative effect of various proposals can be evaluated together, consistent with RCW 36.70A.130 (2)(b).

(e) In conducting SEPA review and making a threshold determination, the county or city should review existing environmental documents. These documents may already address some or all of the potential adverse environmental impacts posed by the items on the docket. As an example, if an environmental impact statement (EIS) was done on the comprehensive plan, the county or city may only need to update or supplement the information in this existing EIS. The county or city may be able to accomplish this by incorporating a document by reference, adopting a document, or preparing a supplemental EIS or an addendum, as authorized by the SEPA rules (chapter 197-11 WAC).

(f) When creating SEPA documents, counties and cities should consider identifying and incorporating previous environmental analysis statements prepared by other lead agencies in connection with other related plans or projects.

(g) When conducting the SEPA analysis of a comprehensive plan amendment, counties and cities should analyze the impacts of fundamental land use planning choices. Because these choices cannot be revisited during project review, the impacts of these decisions must be

evaluated when adopting comprehensive plan amendments. This analysis can serve as the foundation for project review. RCW 36.70B.030 identifies the following as fundamental land use planning choices:

(i) The types of land use;

(ii) The level of development, such as units per acre or other measures of density;

(iii) Infrastructure, including public facilities and services needed to serve the development; and

(iv) The characteristics of the development, such as development standards.

(h) SEPA compliance for development regulations should concentrate on the difference among alternative means of successfully implementing the goals and policies of the comprehensive plan. This approach can serve the goal that project applications be processed in a timely manner, while not compromising SEPA's basic aim of ensuring consideration of environmental impacts in advance of development.

(4) Interjurisdictional impacts. It is recognized that the growth of each county and city will have ripple effects which will reach across jurisdictional boundaries. Each county or city planning under the act should analyze what effects are likely to occur from the anticipated development. This analysis should be made as a part of the process of complying with SEPA in connection with comprehensive plan adoption. Affected jurisdictions should be given an opportunity to comment on this analysis.

(5) Other guidance found in SEPA rules. The SEPA rules (WAC 197-11-230) contain other guidance for preparing and issuing SEPA documents related to comprehensive plan amendments.

(6) Planned actions. One of the opportunities presented by the application of the act, SEPA, and the Regulatory Reform Act of 1995 (chapter 36.70B RCW and WAC 365-197-030) is the creation of a "planned action." A planned action is a nonproject action whose impacts are analyzed in an EIS associated with a comprehensive plan or subarea plan. The impacts and necessary mitigation are identified in a planned action ordinance. Development projects which are consistent with a planned action ordinance may not require additional environmental review. Planned actions are also addressed in WAC 197-11-168 and 197-11-172.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 10-03-085, § 365-196-620, filed 1/19/10, effective 2/19/10.]

WAC 365-196-630 Submitting notice of intent to adopt to the state. (1) State notification and comment.

(a) The act requires each county or city proposing adoption of an original comprehensive plan or development regulation, or amendment, under the act, to notify the department of its intent at least 60 days prior to final adoption pursuant to RCW 36.70A.106. Counties and cities may request expedited review for amendments to the development regulations pursuant to RCW 36.70A.106 (3)(b).

(b) State agencies, including the department, may provide comments on comprehensive plans, development regulations, and related amendments during the public review process.

(2) Notice to the department may be in digital format through PlanView, a web-based portal, provided by the department. A complete submittal shall include the following:

(a) A cover letter or cover page that includes an explanation of the proposed amendment, notification that the submittal is intended to

begin the 60-day review process, the planned date of adoption, and the sender's contact information; and

(b) A copy of the proposed amendment text. The drafted amendment text should be in a complete form, and it should clearly identify how the existing language will be modified. Amended text shall show strikeouts for deleted text and underlining for new text, clearly identifying the proposed changes. At the discretion of the department, strikeouts and underlined text may not be required provided the new or deleted portions of the proposed amendment are clearly identifiable.

(c) If the proposed amendment changes during the legislative process, following submittal, then a county or city may submit supplemental materials to the department without initiating a new 60-day notice period. Counties and cities must identify any materials submitted to the department if they are supplemental to an earlier proposed amendment under a 60-day review.

(3)(a) The department prefers that notices of proposed amendments, under RCW 36.70A.106, be submitted electronically through PlanView, a web-based portal. The department will provide access and instructions to a county or city for submitting notice through this process. A county or city may contact the department by email at reviewteam@commerce.wa.gov to obtain electronic contact information and procedures for electronic submittals.

(b) Copies submitted by U.S. mail should be sent to:

Department of Commerce,
Growth Management Services
Attn: Review Team
P.O. Box 42525
Olympia, WA 98504-2525

(4) Submitting adopted amendments.

(a) Each county or city planning under the act must transmit to the department, within 10 days after adoption, one complete and accurate copy of its adopted comprehensive plan or development regulation, or adopted amendment to a comprehensive plan or development regulation, pursuant to RCW 36.70A.106.

(b) The submittal of an adopted amendment must include a copy of the final signed and dated ordinance or resolution identifying the legislative action.

(c) Submittal of an adopted amendment should follow the method outlined for submission of the 60-day notice for review in subsection (3) of this section.

(5) The 60-day period for determining when an amendment to a comprehensive plan or development regulation may be adopted begins as follows:

(a) When the notice is automatically date-stamped by the department in the PlanView system, or upon receipt if the submittal is transmitted electronically; or

(b) When the material is stamped upon the date of receipt at the department's planning unit reception desk during regular business hours if the submittal is transmitted by U.S. mail.

(6) Expedited review.

(a) Counties and cities may request expedited review when submitting notice to the department of intent to adopt an amendment to development regulations under RCW 36.70A.106 (3)(b).

(b) Expedited review is intended for amendments to development regulations for which, without expedited review, the 60-day state

agency review process would needlessly delay the jurisdictions adoption schedule.

(c) Counties and cities may not request expedited review for comprehensive plan amendments.

(d) Certain types of development regulations are very likely to require review by state agencies, and are therefore generally not appropriate for expedited review. Proposed changes to critical areas ordinances or regulations, concurrency ordinances, or ordinances regulating essential public facilities are examples of development regulation amendments that should not be submitted for expedited review.

(e) Department responsibilities:

(i) Requests submitted for expedited review should be identified by the department through the PlanView system within two working days of receipt of request for expedited review.

(ii) State agencies have 10 working days to determine if the proposal is of interest and requires more time for review.

(iii) If the department is notified by any state agency within 10 working days that it has an interest in more time for review, the department will not grant expedited review until all agencies have had an opportunity to comment.

(iv) If, after 10 working days, a state agency does not respond to the department, then the department may grant the request for expedited review.

(v) The department may determine that it has an interest in a proposal that requires more time for review, and it may deny a request for expedited review on that basis.

(vi) The estimated time frame for processing an expedited review request is 14 days, to coincide with the State Environmental Policy Act comment period.

(vii) The expedited review request must include the information required to determine if an item is of state interest, similar to the methods outlined for submission of amendments for 60-day review.

(f) State agency responsibilities:

(i) If a state agency intends to comment, the agency must respond to requests for expedited review within 10 working days.

(ii) State agencies should determine how to coordinate an agency response internally to maintain proper notification and information management between its headquarters office and regional offices. The department will work with state agencies if it can be of assistance in this process.

(iii) If a state agency has an interest in a proposed amendment for expedited review, and it has requested the department not grant expedited review, then the state agency requesting denial of the expedited review should contact and provide comment directly to the requesting county or city within the 60-day period specified in RCW 36.70A.106. The state agency should notify the department when it has completed review and provided comments.

(g) County and city responsibilities:

(i) Requests for expedited review should be the exception and not the rule. Expedited review is designed for use with development regulation amendments that are unlikely to require state agency review or comment.

(ii) Expedited review should not be used as a substitute for timely notification. Counties and cities should plan for the full 60-day review period when practicable.

(iii) Counties and cities must request expedited review on a case-by-case basis.

(iv) A request for expedited review should be in the form of an electronic submittal in the PlanView system, following the department's submittal requirements for 60-day review in subsection (3) of this section.

(v) The request must be accompanied with enough information, as defined by the department, in consultation with other state agencies and counties and cities, to determine whether it is of state interest.

(vi) Expedited review should not be requested if the normal 60-day period will not delay adoption.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 23-08-037, § 365-196-630, filed 3/29/23, effective 4/29/23; WSR 10-03-085, § 365-196-630, filed 1/19/10, effective 2/19/10.]

WAC 365-196-640 Comprehensive plan amendment procedures. (1) Each county or city should provide for an ongoing process to ensure:

(a) The comprehensive plan is internally consistent and consistent with the comprehensive plans of adjacent counties and cities. See WAC 365-196-500 and 365-196-510; and

(b) The development regulations are consistent with and implement the comprehensive plan.

(2) Counties and cities should establish procedures governing the amendment of the comprehensive plan. The location of these procedures may be either in the comprehensive plan, or clearly referenced in the plan.

(3) Amendments.

(a) All proposed amendments to the comprehensive plan must be considered by the governing body concurrently and may not be considered more frequently than once every year, so that the cumulative effect of various proposals can be ascertained. If a county or city's final legislative action is taken in a subsequent calendar year, it may still be considered part of the prior year's docket so long as the consideration of the amendments occurred within the prior year's comprehensive plan amendment process.

(b) Amendments may be considered more often under the following circumstances:

(i) The initial adoption of a subarea plan. Subarea plans adopted under this subsection (3)(b)(i) must clarify, supplement, or implement jurisdiction-wide comprehensive plan policies, and may only be adopted if the cumulative impacts of the proposed plan are addressed by appropriate environmental review under chapter 43.21C RCW;

(ii) The development of an initial subarea plan for economic development located outside of the 100-year flood plain in a county that has completed a state-funded pilot project that is based on watershed characterization and local habitat assessment;

(iii) The adoption or amendment of a shoreline master program under the procedures set forth in chapter 90.58 RCW;

(iv) The amendment of the capital facilities element of a comprehensive plan that is part of the adoption or amendment of a county or city budget;

(v) The adoption of comprehensive plan amendments necessary to enact a planned action under RCW 43.21C.031(2), provided that amendments are considered in agreement with the public participation program established by the county or city under RCW 36.70A.140, and all persons who have requested notice of a comprehensive plan update are given notice of the amendments and an opportunity to comment;

(vi) To resolve an appeal of the comprehensive plan filed with the growth management hearings board; or

(vii) In the case of an emergency.

(4) Emergency amendments. Public notice and an opportunity for public comment must precede the adoption of emergency amendments to the comprehensive plan. Provisions in RCW 36.70A.390 apply only to moratoria or interim development regulations. They do not apply to comprehensive plans amendments. If a comprehensive plan amendment is necessary, counties and cities should adopt a moratoria or interim zoning control. The county or city should then consider the comprehensive plan amendment concurrently with the consideration of permanent amendments and only after public notice and an opportunity for public comment.

(5) Evaluating cumulative effects. RCW 36.70A.130 (2)(b) requires that all proposed amendments in any year be considered concurrently so the cumulative effect of the proposals can be ascertained. The amendment process should include an analysis of all proposed amendments evaluating their cumulative effect. This analysis should be prepared in conjunction with analyses required to comply with the State Environmental Policy Act under chapter 43.21C RCW.

(6) Docketing of proposed amendments.

(a) RCW 36.70A.470(2) requires that comprehensive plan amendment procedures allow interested persons, including applicants, citizens, hearing examiners, and staff of other agencies, to suggest amendments of comprehensive plans or development regulations. This process should include a means of docketing deficiencies in the comprehensive plan that arise during local project review. These suggestions must be docketed and considered at least annually.

(b) A consideration of proposed amendments does not require a full analysis of every proposal within 12 months if resources are unavailable.

(c) As part of this process, counties and cities should specify what information must be submitted and the submittal deadlines so that proposals can be evaluated concurrently.

(d) Once a proposed amendment is received, the county or city may determine if a proposal should receive further consideration as part of the comprehensive plan amendment process.

(e) Some types of proposed amendments require a significant investment of time and expense on the part of both applicants and the county or city. A county or city may specify in its policies certain types of amendments that will not be carried forward into the amendment process on an annual basis. This provides potential applicants with advance notice of whether a proposed amendment will be carried forward and can help applicants avoid the expense of preparing an application.

(7) Effective date of certain comprehensive plan amendments. RCW 36.70A.067 requires that the initial effective date of an action that expands an urban growth area designated under RCW 36.70A.110, removes the designation of agricultural, forest, or mineral resource lands designated under RCW 36.70A.170, creates or expands a limited area of more intense rural development designated under RCW 36.70A.070 (5)(d), establishes a new fully contained community under RCW 36.70A.350, or creates or expands a master planned resort designated under RCW 36.70A.360, is after the latest of the following dates:

(a) Sixty days after the date of publication of notice of adoption of the comprehensive plan, development regulation, or amendment

to the plan or regulation, implementing the action, as provided in RCW 36.70A.290(2); or

(b) If a petition for review to the growth management hearings board is timely filed, upon issuance of the board's final order.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-640, filed 8/15/25, effective 9/15/25; WSR 10-22-103, § 365-196-640, filed 11/2/10, effective 12/3/10; WSR 10-03-085, § 365-196-640, filed 1/19/10, effective 2/19/10.]

WAC 365-196-650 Implementation strategy. Each county or city planning under the act should develop a strategy for implementing its comprehensive plan. The strategy should describe the regulatory and nonregulatory measures (including actions for acquiring and spending money) to be used to implement the comprehensive plan. The strategy should identify each of the development regulations needed. Where applicable, the implementation strategy should be coordinated with the implementation progress report.

(1) Selection. In determining the specific regulations to be adopted, counties and cities may select from a wide variety of types of controls. The strategy should include consideration of:

(a) The choice of substantive requirements, such as the delineation of use zones; general development limitations concerning lot size, setbacks, bulk, height, density; provisions for environmental protection; urban design guidelines and design review criteria; specific requirements for affordable housing, landscaping, parking; levels of service, concurrency regulations and other measures relating to public facilities.

(b) The means of applying the substantive requirements, such as methods of prior approval through permits, licenses, franchises, or contracts.

(c) The processes to be used in applying the substantive requirements, such as permit application procedures, hearing procedures, approval deadlines, and appeals.

(d) The methods of enforcement, such as inspections, reporting requirements, bonds, permit revocation, civil penalties, and abatement.

(2) Identification. The strategy should include a list of all regulations identified as development regulations for implementing the comprehensive plan. Some of these regulations may already be in existence and consistent with the plan. Others may be in existence, but require amendment. Others will need to be written. The strategy should include the actions needed to achieve housing availability and affordability identified in the housing element.

(3) Adoption schedule. The strategy should include a schedule for the adoption or amendment of the development regulations identified. Individual regulations or amendments may be adopted at different times. However, all of the regulations identified should be adopted by the applicable final deadline for adoption of development regulations.

(4) The implementation strategy for each jurisdiction should be in writing and available to the public. A copy should be provided to the department. Completion of adoption of all regulations identified in the strategy will be construed by the department as completion of the task of adopting development regulations for the purposes of deadlines under the statute.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-650, filed 8/15/25, effective 9/15/25; WSR 10-03-085, § 365-196-650, filed 1/19/10, effective 2/19/10.]

WAC 365-196-660 Supplementing, amending, and monitoring. (1) New development regulations may be adopted as the need for supplementing the initial implementation strategy becomes apparent.

(2) Counties and cities should institute an annual review of growth management implementation on a systematic basis. To aid in this process, counties and cities planning under the act should consider establishing a growth management monitoring program designed to measure and evaluate the progress being made toward accomplishing the act's goals and the provisions of the comprehensive plan.

(a) This process should also include a review of comprehensive plan or regulatory deficiencies encountered during project review.

(b) The department recommends critical areas regulations be reviewed to ensure they are achieving no net loss of ecosystem functions and values. This review should include an analysis of monitoring plans, regulations and permits to ensure they are efficient and effective at achieving protection goals and implementation benchmarks.

(c) This process should be integrated with provisions for continuous public involvement. See WAC 365-196-600.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 23-08-037, § 365-196-660, filed 3/29/23, effective 4/29/23; WSR 10-03-085, § 365-196-660, filed 1/19/10, effective 2/19/10.]

PART SEVEN
RELATIONSHIP OF GROWTH MANAGEMENT PLANNING TO OTHER LAWS

WAC 365-196-700 Background. (1) For counties and cities subject to its terms, the act mandates the development of comprehensive plans and development regulations that meet statutory goals and requirements. These comprehensive plans and development regulations will take their place among existing laws relating to resource management, environmental protection, regulation of land use, utilities and public facilities. Many of these existing laws were neither repealed nor amended by the act.

(2) The circumstances outlined in subsection (1) of this section place responsibility both on local growth management planners and on administrators of preexisting programs to work toward producing a single harmonious body of law.

(3) The need to consider and recognize other laws should profoundly influence, limit, and shape planning and decision making under the act. At the same time, in recognition of the broad and fundamental changes intended by creation of the growth management scheme, prior programs should be interpreted and directed, to the maximum extent possible, in a manner consistent with the products of the comprehensive growth management system, as described in WAC 365-196-305, 365-196-500, and 365-196-510.

(4) The far-reaching nature of the act and the wide variety of possible outcomes under its authority dictate that identification of all the points of contact between its products and other laws will

have to be elaborated over time. The entire process of determining how the act fits into the overall legal framework will, of necessity, be an incremental one.

(5) A conscious effort to address the requirements of other existing law is an essential step in adopting and amending local plans and regulations. This need poses an unprecedented challenge to all governmental entities - municipalities, counties, regional authorities, special purpose districts and state agencies - to communicate and collaborate. The act is a mandate to government at all levels to engage in coordinated planning and cooperative implementation.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 10-03-085, § 365-196-700, filed 1/19/10, effective 2/19/10.]

WAC 365-196-705 Basic assumptions. (1) Where the legislature has spoken expressly on the relationship of the act to other statutory provisions, the explicit legislative directions shall be carried out. Examples of such express provisions are set forth in WAC 365-196-745.

(2) Absent a clear statement of legislative intent or judicial interpretation to the contrary, it should be presumed that neither the act nor other statutes are intended to be preemptive. Rather they should be read together and, wherever possible, construed as mutually consistent. However, the legislature has identified the act as a fundamental building block of regulatory reform, and it should serve as the integrating framework for all other local land-use regulations.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 10-03-085, § 365-196-705, filed 1/19/10, effective 2/19/10.]

WAC 365-196-710 Identification of other laws. (1) In developing and amending comprehensive plans and implementing regulations, counties and cities planning under the act should identify other statutes and legal authorities affecting subjects addressed in their comprehensive plans and development regulations.

(2) To aid in this identification, state agencies, regional authorities, special districts and utilities should implement programs to inform counties and cities of programs and provisions within their jurisdiction or expertise that are relevant to growth management planning actions.

(3) Agencies that review and comment on draft comprehensive plans, or on related State Environmental Policy Act documents, should take advantage of these opportunities to advise planning jurisdictions of preexisting programs and related legal authorities.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 10-03-085, § 365-196-710, filed 1/19/10, effective 2/19/10.]

WAC 365-196-715 Integrating external considerations. (1) County and city planners should take advantage of data and analyses prepared by other governmental agencies and use it to shape the form and content of comprehensive plans and development regulations under the act where relevant.

(2) Other governmental agencies should also use the data and analyses prepared by counties and cities in the formation of their

comprehensive plans, especially when making assumptions about future land use patterns in areas covered by a local comprehensive plan.

(3) Governmental entities with expertise in subjects affecting or affected by the act and private companies that provide public services should, as practicable, offer technical assistance to counties and cities planning under the act.

(4) When drafting or amending comprehensive plans and development regulations, counties and cities should identify other related laws, evaluate any potential areas of conflict and make efforts to avoid such conflicts. Where the text of outside sources can appropriately serve local needs, consideration should be given to adoption of that text in local comprehensive plans or development regulations.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 10-03-085, § 365-196-715, filed 1/19/10, effective 2/19/10.]

WAC 365-196-720 Sources of law. (1) In seeking to identify other relevant legal authorities, planners should refer to sources at all levels of government, including federal and state constitutions, federal and state statutes, federal and state administrative regulations, and judicial interpretations thereof.

(2) The sources of law set forth in WAC 365-196-725 through 365-196-745 are intended to assist planners by highlighting various kinds of external legal provisions that should be considered during the planning process. Some of the sources of law overlap in WAC 365-196-725 through 365-196-745. The listing is not exhaustive. It is intended to supplement, not substitute for, the informational efforts of state agencies, regional authorities, special districts and utilities.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 10-03-085, § 365-196-720, filed 1/19/10, effective 2/19/10.]

WAC 365-196-725 Constitutional provisions. (1) Comprehensive plans and development regulations adopted under the act are subject to the supremacy principle of Article VI, United States Constitution and of Article XI, Section 11, Washington state Constitution.

(2) Counties and cities planning under the act are required to use a process established by the state attorney general to assure that proposed regulatory or administrative actions do not unconstitutionally infringe upon private property rights. As set forth in RCW 36.70A.370, the state attorney general has developed a publication entitled "*Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property*," which is updated frequently to maintain consistency with changes in case law. Counties and cities should contact the department or state attorney general for the latest edition of this advisory memorandum.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 10-03-085, § 365-196-725, filed 1/19/10, effective 2/19/10.]

WAC 365-196-730 Federal authorities. (1) Counties and cities drafting or amending comprehensive plans and development regulations

under the act should consider the effects of federal authority over land or resource use within the planning area, including:

(a) Treaties with Native Americans;

(b) Jurisdiction on land owned or held in trust by the federal government;

(c) Federal statutes or regulations imposing national standards;

(d) Federal permit programs and plans;

(e) Metropolitan planning organizations, which are also designated as regional transportation planning organizations established in chapter 47.80 RCW; and

(f) The Central Puget Sound economic development district.

(2) Examples of such federal standards, permit programs and plans are:

(a) National ambient air quality standards, adopted under the Federal Clean Air Act;

(b) Drinking water standards, adopted under the Federal Safe Drinking Water Act;

(c) Effluent limitations, adopted under the Federal Clean Water Act;

(d) Dredge and fill permits issued by the Army Corps of Engineers under the Federal Clean Water Act;

(e) Licenses for hydroelectric projects issued by the Federal Energy Regulatory Commission;

(f) Plans created under the Pacific Northwest Electric Power Planning and Conservation Act;

(g) Recovery plans and the prohibition on taking listed species under the Endangered Species Act;

(h) State and local consolidated plans required by the Department of Housing and Urban Development under the Code of Federal Regulations (24 C.F.R. 91 and 24 C.F.R. 570);

(i) Historic preservation requirements and standards of the National Historic Preservation Act;

(j) Regulatory requirements of section 4(f) of the Department of Transportation Act;

(k) Plans adopted by metropolitan planning organizations to meet federal transportation planning responsibilities established by the U.S. Federal Highway Administration (FHWA) and the U.S. Federal Transit Administration (FTA);

(l) Habitat alteration restrictions arising from the Bald and Golden Eagle Protection Act administered by the U.S. Fish and Wildlife Service; and

(m) Habitat alteration restrictions arising from the Migratory Bird Treaty Act administered by the U.S. Fish and Wildlife Service.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 23-08-037, § 365-196-730, filed 3/29/23, effective 4/29/23; WSR 10-03-085, § 365-196-730, filed 1/19/10, effective 2/19/10.]

WAC 365-196-735 State and regional authorities. (1) When developing and amending comprehensive plans and development regulations under the act, counties and cities should consider existing state and regional regulatory and planning provisions affecting land use, resource management, environmental protection, utilities, or public facilities including:

(a) State statutes and regulations imposing statewide standards;

(b) Programs involving state-issued permits or certifications;

(c) State statutes and regulations regarding rates, services, facilities and practices of utilities, and tariffs of utilities in effect pursuant to such statutes and regulations;

(d) State and regional plans;

(e) Regulations and permits issued by regional entities;

(f) Locally developed plans subject to review or approval by state or regional entities.

(2) Examples of statutes and regulations imposing statewide standards are:

(a) Water quality standards and sediment standards, adopted by the department of ecology under the state Water Pollution Control Act;

(b) Drinking water standards adopted by the department of health pursuant to the Federal Safe Drinking Water Act;

(c) Minimum functional standards for solid waste handling, adopted by the department of ecology under the state Solid Waste Management Act;

(d) Minimum cleanup standards under the Model Toxics Control Act adopted by the department of ecology;

(e) Statutory requirements under the Shoreline Management Act and implementing guidelines and regulations adopted by the department of ecology;

(f) Standards for forest practices, adopted by the forest practices board under the state Forest Practices Act;

(g) Minimum requirements for flood plain management, adopted by the department of ecology under the Flood Plain Management Act;

(h) Minimum performance standards for construction pursuant to the state or International Building Code;

(i) Safety codes, such as the electrical construction code, adopted by the department of labor and industries;

(j) Archaeological investigation and reporting standards adopted by the department of archaeology and historic preservation under the Archaeological Sites and Resources Act and the Indian Graves and Records Act;

(k) Statutory requirements and procedures under the Planning Enabling Act;

(l) Statutory requirements and rules associated with operating and maintaining state highways, transportation facilities, and services under the Public Highways and Transportation Act.

(3) Examples of programs involving state issued permits or certifications are:

(a) Permits relating to forest practices, issued by the department of natural resources;

(b) Permits relating to surface mining reclamation, issued by the department of natural resources;

(c) National pollutant discharge elimination permits and waste discharge permits, issued by the department of ecology;

(d) Water rights permits, issued by department of ecology under state surface and groundwater codes;

(e) Hydraulic project approvals, issued by departments of fisheries and wildlife under the state fisheries code;

(f) Water quality certifications, issued by the department of ecology;

(g) Operating permits for public water supply systems, issued by the state health department;

(h) Site certifications developed by the energy facility site evaluation council;

(i) Permits relating to the generation, transportation, storage or disposal of dangerous wastes, issued by the department of ecology;

(j) Permits for disturbing or impacting archaeological sites and for the discovery of human remains, issued by the department of archaeology and historic preservation;

(k) Sponsored fish habitat enhancement projects permitted under RCW 77.55.181.

(4) Examples of state and regional plans are:

(a) State implementation plan for ambient air quality standards under the Federal Clean Air Act;

(b) Statewide multimodal transportation plan and the Washington transportation plan adopted under chapter 47.01 RCW;

(c) Instream resource protection regulations for water resource inventory areas adopted under the Water Resources Act of 1971;

(d) Groundwater management area programs, adopted pursuant to the groundwater code;

(e) Plan or action agendas adopted by the Puget Sound partnership;

(f) State outdoor recreation and open space plan;

(g) State trails plan;

(h) Regional transportation planning organization plans and plans that meet the requirements for multicounty planning policies under RCW 36.70A.210(7).

(5) Examples of regulations and permits issued by regional entities are:

(a) Solid waste disposal facility permits issued by health departments under the Solid Waste Management Act;

(b) Regulations adopted by regional air pollution control authorities;

(c) Operating permits for air contaminant sources issued by regional air pollution control authorities.

(6) Examples of locally developed plans subject to review or approval by state or regional agencies are:

(a) Shoreline master programs, approved by the department of ecology;

(b) The consistency requirement for lands adjacent to shorelines of the state set forth in RCW 90.58.340;

(c) Coordinated water system plans for critical water supply service areas, approved by the department of health;

(d) Plans for individual public water systems, approved by the department of health;

(e) Comprehensive sewage drainage basin plans, approved by the department of ecology;

(f) Local moderate risk waste plans, approved by the department of ecology;

(g) Integrated resource plans required to be filed with the utilities and transportation commission in accordance with WAC 480-100-238;

(h) Reclaimed water plans, approved by the department of ecology and/or department of health.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-735, filed 8/15/25, effective 9/15/25; WSR 10-03-085, § 365-196-735, filed 1/19/10, effective 2/19/10.]

WAC 365-196-740 Regional perspective. Some of the authorities in WAC 365-196-730 and 365-196-735 require planning for particular purposes for areas related by physical features, such as watersheds, rather than by political boundaries. Moreover, the environmental and ecological systems addressed in resource management, service by utilities, fish and wildlife management and pollution control are generally not circumscribed by county and city lines. Planning entities should attempt to identify these geographic areas which require a regional planning approach and, if needed, work toward creating collaborative processes involving all agencies with jurisdiction in the relevant geographical area. This approach should assist in achieving interjurisdictional consistency, consistency with the countywide planning policies and, where applicable, multicounty planning policies. See WAC 365-196-305 regarding countywide planning policies.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 23-08-037, § 365-196-740, filed 3/29/23, effective 4/29/23; WSR 10-03-085, § 365-196-740, filed 1/19/10, effective 2/19/10.]

WAC 365-196-745 Explicit statutory directions. (1) The legislature expressly amended numerous statutes outside of chapter 36.70A RCW that relate to the act. These amendments define the relationship of such existing statutes to comprehensive plans and development regulations under the act. Examples include:

(a) RCW 19.27.097 (state building code - evidence of adequate supply of potable water);

(b) RCW 35.13.005 (annexation of unincorporated areas - prohibited beyond urban growth areas);

(c) RCW 35.58.2795 (municipal corporations - six-year transit plan consistent with comprehensive plans);

(d) RCW 35.77.010 (city streets - six-year comprehensive street program consistent with comprehensive plans);

(e) RCW 35A.14.005 (annexation by code cities - prohibited beyond urban growth areas);

(f) Section 201, chapter 7, Laws of 2010 (community facilities districts may only include land within urban growth areas);

(g) RCW 36.81.121 (county roads - six-year comprehensive road program consistent with act comprehensive plans);

(h) RCW 36.94.040 (sewerage, water, drainage systems - incorporation of relevant comprehensive plan provisions into sewer or water general plan);

(i) RCW 43.20.260 (water system plans consistent with comprehensive plans and development regulations);

(j) RCW 43.21C.240 (project review under the act);

(k) RCW 57.16.010 (water districts - district comprehensive water plan consistent with urban growth area restrictions);

(l) RCW 58.17.060 (short plats - written findings about appropriate provisions for infrastructure);

(m) RCW 58.17.110 (subdivisions - written findings about appropriate provisions for infrastructure);

(n) RCW 59.18.440 (land development - authority of entities planning under the act to require relocation assistance);

(o) RCW 70.118B.040(3) (requirements for large on-site sewage systems to be consistent with the requirements of any comprehensive plans or development regulations adopted under the act);

(p) RCW 86.12.200 (comprehensive flood control management plans - may be incorporated into comprehensive plans under the act); and

(q) RCW 90.46.120 (use of water from wastewater treatment facility - consideration in regional water supply plan or potable water supply service planning).

(2) As enacted, the act included the creation of a new chapter (chapter 47.80 RCW) authorizing and assigning duties to regional transportation planning organizations. These organizations were expressly given responsibilities for ensuring the consistency of transportation planning throughout a region containing multiple local governmental jurisdictions.

(3) As enacted, the act included the addition of new sections (RCW 82.02.050 through 82.02.090) concerning impact fees on development in counties or cities that plan under the act. These sections explicitly authorize and condition the use of such fees as part of the financing of public facility system improvements needed to serve new development.

[Statutory Authority: RCW 36.70A.050, 36.70A.190. WSR 10-22-103, § 365-196-745, filed 11/2/10, effective 12/3/10; WSR 10-03-085, § 365-196-745, filed 1/19/10, effective 2/19/10.]

PART EIGHT
DEVELOPMENT REGULATIONS

WAC 365-196-800 Relationship between development regulations and comprehensive plans. (1) Development regulations under the act are specific controls placed on development or land use activities by a county or city. Development regulations must be consistent with and implement comprehensive plans adopted pursuant to the act.

"Implement" in this context has a more affirmative meaning than merely "consistent." See WAC 365-196-210. "Implement" connotes not only a lack of conflict but also a sufficient scope to fully carry out the goals, policies, standards and directions contained in the comprehensive plan.

(2) When a county first becomes subject to the full planning requirements of RCW 36.70A.040, it must adopt development regulations designating interim urban growth areas as outlined under RCW 36.70A.110(5). The legislature specifically provided that the designation of interim urban growth areas shall be in the form of development regulations. Such interim designations shall generally precede the adoption of comprehensive plans.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 10-03-085, § 365-196-800, filed 1/19/10, effective 2/19/10.]

WAC 365-196-805 Timing of initial adoption. (1) Except for interim regulations, required development regulations must be enacted either by the deadline for adoption of the comprehensive plan or within six months thereafter, if an extension is obtained. The possibility of a time gap between the adoption of a comprehensive plan and the adoption of development regulations pertains to the time frame after the initial adoption of the comprehensive plan. Subsequent amendments to the plan should not face any delay before being implemented by reg-

ulations. After adoption of the initial plan and development regulations, such regulations should at all times be consistent with the comprehensive plan. Whenever amendments to comprehensive plans are adopted, consistent implementing regulations or amendments to existing regulations should be enacted and put into effect concurrently. See WAC 365-196-660.

(2) To obtain an extension of the deadline for the initial adoption of development regulations, a county or city must notify the department of its need by letter prior to the initial deadline. Six-month extensions will be obtained whenever such letters are timely received, but no extensions will result from requests received after the initial deadline.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 10-03-085, § 365-196-805, filed 1/19/10, effective 2/19/10.]

WAC 365-196-810 Review for consistency when adopting development regulations. (1) When adopting any development regulation intended to carry out a comprehensive plan, the proposing county or city should review its terms to ensure it is consistent with and implements the comprehensive plan and make a finding in the adopting ordinance to that effect.

(2) If a county or city develops an implementation strategy, it should ensure the strategies are consistent with the comprehensive plans of adjacent counties or cities. See WAC 365-196-650 for implementation strategy recommendations.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 10-03-085, § 365-196-810, filed 1/19/10, effective 2/19/10.]

WAC 365-196-815 Conservation of natural resource lands. (1) Requirements.

(a) Counties and cities planning under RCW 36.70A.040 must adopt development regulations that assure the conservation of designated agricultural, forest, and mineral lands of long-term commercial significance. If counties and cities designate agricultural or forest resource lands within any urban growth area, they must also establish a program for the purchase or transfer of development rights.

(b) "Conservation" means measures designed to assure that the natural resource lands will remain available to be used for commercial production of the natural resources designated. Counties and cities should address two components to conservation:

(i) Development regulations must prevent conversion to a use that removes land from resource production. Development regulations must not allow a primary use of agricultural resource lands that would convert those lands to nonresource purposes. Accessory uses may be allowed, consistent with subsection (3)(b) of this section.

(ii) Development regulations must assure that the use of lands adjacent to designated natural resource lands does not interfere with the continued use, in the accustomed manner and in accordance with the best management practices, of these designated lands for the production of food, agricultural products, or timber, or for the extraction of minerals.

(c) Classification, designation and designation amendment. The department adopted minimum guidelines in chapter 365-190 WAC, detail-

ing the process involved in establishing a natural resource lands conservation program. Included are criteria to be considered before any designation change should be approved.

(d) Prior uses. Regulations for the conservation of natural resource lands may not prohibit uses legally existing on any parcel prior to their adoption.

(e) Plats and permits. Counties and cities shall require that all plats, short plats, development permits, and building permits issued for development activities on, or within five hundred feet, of designated natural resource lands contain a notice that the subject property is within or near designated agricultural lands, forest lands, or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration.

(2) Relationship to other programs. In designing development regulations and nonregulatory programs to conserve designated natural resource lands, counties and cities should endeavor to make development regulations and programs fit together with regional, state and federal resource management programs applicable to the same lands. Comprehensive plans and policies may in some respects be adequately implemented by adopting the provisions of such other programs as part of the local regulations.

(3) Innovative zoning techniques.

(a) When adopting development regulations to assure the conservation of agricultural lands, counties should consider use of innovative zoning techniques. These techniques should be designed to conserve agricultural lands and encourage the agricultural economy. Any nonagricultural uses allowed should be limited to lands with poor soils or lands otherwise not suitable for agricultural purposes.

(b) Examples of innovative zoning techniques include:

(i) Agricultural zoning, which limits the density of development and restricts or prohibits nonfarm uses of agricultural land and may allow accessory uses, including nonagricultural accessory uses and activities, that support, promote, or sustain agricultural operations and production, as provided in this subsection;

(ii) Cluster zoning, which allows new development on one portion of the land, leaving the remainder in agricultural or open space uses;

(iii) Large lot zoning, which establishes as a minimum lot size the amount of land necessary to achieve a successful farming practice;

(iv) Quarter/quarter zoning, which permits one residential dwelling on a one-acre minimum lot for each one-sixteenth of a section of land;

(v) Sliding scale zoning, which allows the number of lots for single-family residential purposes, with a minimum lot size of one acre, to increase inversely as the size of the total acreage increases; and

(vi) The transfer or purchase of development rights from agricultural lands, which can be used through cooperative agreements with cities, or counties with nonmunicipal urban growth areas, as receiving areas for the use of these development rights.

(c) Accessory uses on agricultural lands of long-term commercial significance:

(i) Counties may allow certain accessory uses on agricultural lands of long-term commercial significance. Accessory uses can promote the continued use of agricultural lands by allowing accessory uses that add value to agricultural products. Accessory uses can also promote the continued use of agricultural lands by allowing farming oper-

ations to generate supplemental income through unrelated uses, provided they are compatible with the continued use of agricultural land of resource production;

(ii) Development regulations must require accessory uses to be located, designed, and operated so as to not interfere with, and to support the continuation of, the overall agricultural use of the property and neighboring properties, and must comply with the requirements of the act;

(iii) Accessory uses may include:

(A) Agricultural accessory uses and activities, including but not limited to the storage, distribution, and marketing of regional agricultural products from one or more producers, agriculturally related experiences, or the production, marketing, and distribution of value-added agricultural products, including support services that facilitate these activities; and

(B) Nonagricultural accessory uses and activities as long as they are consistent with the size, scale, and intensity of the existing agricultural use of the property and the existing buildings on the site. Nonagricultural accessory uses and activities, including new buildings, parking, or supportive uses, shall not be located outside the general area already developed for buildings and residential uses and shall not otherwise convert more than one acre of agricultural land to nonagricultural uses; and

(C) Counties and cities have the authority to limit or exclude accessory uses otherwise authorized in this subsection in areas designated as agricultural lands of long-term commercial significance.

(iv) Any innovative zoning techniques must not limit agricultural production on designated agricultural resource lands.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 10-03-085, § 365-196-815, filed 1/19/10, effective 2/19/10.]

WAC 365-196-820 Subdivisions. (1) Regulations for subdivision approvals and dedications, must require that the county or city make written findings that "appropriate provisions" have been made for the public health, safety, and general welfare, including open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and all other relevant factors, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school; and that the public use and interest will be served by the platting of such subdivision and dedication.

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

(3) Regulations for short plat and short subdivision approvals may require written findings for "appropriate provisions" that are different requirements than those governing the approval of preliminary and final plats of subdivisions. However, counties and cities must include in their short plat regulations and procedures provisions for considering sidewalks and other planning features that assure safe walking conditions for students who walk to and from school.

(4) Regulations for subdivision approvals may require that the county or city make additional findings related to the public health, safety and general welfare to the specific listing above, such as protection of critical areas, conservation of natural resource lands, and affordable housing for all economic segments of the population.

(5) In drafting development regulations, "appropriate provisions" should be defined in a manner consistent with the requirements of other applicable laws and with any level of service standards or planning objectives established by the county or city for the facilities involved. The definition of "appropriate provisions" could also cover the timing within which the facilities involved should be available for use, requiring, for example, that such timing be consistent with the definition of "concurrency" in this chapter. See WAC 365-196-210.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-820, filed 8/15/25, effective 9/15/25; WSR 10-03-085, § 365-196-820, filed 1/19/10, effective 2/19/10.]

WAC 365-196-825 Potable water. (1) Each applicant for a building permit of a building needing potable water shall provide evidence of an adequate water supply for the intended use of the building. Local regulations should be designed to produce enough data to make such a determination, addressing both water quality and water quantity issues. RCW 19.27.097 provides that such evidence may be in the form of a water right permit from the department of ecology, a letter from an approved water purveyor stating the ability to provide water, or another form sufficient to verify the existence of an adequate water supply.

(2) Requirements under RCW 90.94.020 and 90.94.030 apply to counties and cities reviewing water adequacy for development.

(3) Counties and cities should give consideration to guidelines promulgated by the departments of ecology and health on what constitutes an adequate water supply.

The department of health regulates the maximum number of equivalent residential units (including each domestic unit within a multifamily development) that can be legally and physically served by each public water system. Each water system tracks the current number of available equivalent residential units.

(4) If the department of ecology has adopted rules on this subject, or any part of it, local regulations must be consistent with those rules. Such rules may include instream flow rules, which may limit the availability of additional ground or surface water within a specific geographic area.

(5) Counties and cities may impose conditions on building permits requiring connection to an existing public water system where the existing system is willing and able to provide safe and reliable potable water to the applicant with reasonable economy and efficiency.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 23-08-037, § 365-196-825, filed 3/29/23, effective 4/29/23; WSR 10-03-085, § 365-196-825, filed 1/19/10, effective 2/19/10.]

WAC 365-196-830 Protection of critical areas. (1) The act requires the designation of critical areas and the adoption of regulations for the protection of such areas by all counties and cities, in-

cluding those that do not plan under RCW 36.70A.040. The department has adopted minimum guidelines in chapter 365-190 WAC detailing the process involved in establishing a program to protect critical areas.

(2) Critical areas that must be protected include the following areas and ecosystems:

(a) Wetlands;

(b) Areas of critical recharging effect on aquifers used for potable water;

(c) Fish and wildlife habitat conservation areas;

(d) Frequently flooded areas; and

(e) Geologically hazardous areas.

(3) "Protection" in this context means preservation of the functions and values of the natural environment, or to safeguard the public from hazards to health and safety.

(4) Although counties and cities may protect critical areas in different ways or may allow some localized impacts to critical areas, or even the potential loss of some critical areas, development regulations must preserve the existing functions and values of critical areas. Avoidance is the most effective way to protect critical areas. If development regulations allow harm to critical areas, they must require compensatory mitigation of the harm. Development regulations may not allow a net loss of the functions and values of the ecosystem that includes the impacted or lost critical areas.

(5) Counties and cities must include the best available science in developing policies and development regulations to protect functions and values of critical areas. See chapter 365-195 WAC.

(6) Functions and values must be evaluated at a scale appropriate to the function being evaluated. Ecosystem functions and values operate on varying geographic scales ranging from site-specific to watershed and even regional scales. Some critical areas, such as wetlands and fish and wildlife habitat conservation areas, may constitute ecosystems or parts of ecosystems that transcend the boundaries of individual parcels and jurisdictions, so that protection of their function, and values should be considered on a larger scale.

(7) Protecting some critical areas may require using both regulatory and nonregulatory measures. When impacts to critical areas are from development beyond jurisdictional control, counties and cities are encouraged to use regional approaches to protect functions and values. It is especially important to use a regional approach when giving special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries. Conservation and protection measures may address land uses on any lands within a jurisdiction, and not only lands with designated critical areas.

(8) Local government may develop and implement alternative means of protecting critical areas from some activities using best management practices or a combination of regulatory and nonregulatory programs.

(a) When developing alternative means of protection, counties and cities must assure no net loss of functions and values and must include the best available science.

(b) Local governments must review and, if needed, revise their development regulations to assure the protection of critical areas where agricultural activities take place.

(c) Local governments shall not broadly exempt agricultural activities from their critical areas regulations.

(d) Counties participating in the voluntary stewardship program must review and, if needed, revise their development regulations not

governed by the voluntary stewardship program, except as provided in RCW 36.70A.130(8).

(9) In designing development regulations and nonregulatory programs to protect designated critical areas, counties and cities should endeavor to make such regulations and programs fit together with regional, state and federal programs directed to the same environmental, health, safety and welfare ends. Local plans and policies may in some respects be adequately implemented by adopting the provisions of such other programs as part of the local regulations.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 23-08-037, § 365-196-830, filed 3/29/23, effective 4/29/23; WSR 17-20-100, § 365-196-830, filed 10/4/17, effective 11/4/17; WSR 10-03-085, § 365-196-830, filed 1/19/10, effective 2/19/10.]

WAC 365-196-832 Protection of critical areas and voluntary stewardship program. (1) Upon approval of a watershed work plan, counties participating in the voluntary stewardship program pursuant to RCW 36.70A.710 are encouraged to reference and describe their participation in the program within their critical areas development regulations. Counties should ensure their development regulations are consistent with the approved watershed work plan.

(2) Prior to the approval of a work plan by the state conservation commission director, agricultural activities located in participating watersheds as defined in RCW 36.70A.703(5) are subject to existing development regulations that protect critical areas.

(3) After watershed work plan approval, protection of functions and values of critical areas from agricultural activities located in participating watersheds as defined in RCW 36.70A.703(5) is provided by the watershed work plan and any applicable development regulations. Agricultural activities located in nonparticipating watersheds are subject to applicable development regulations that protect critical areas.

(4) **County responsibilities when withdrawing from the voluntary stewardship program.** Counties that elect to protect critical areas through the voluntary stewardship program under RCW 36.70A.710 (1)(a) may withdraw a participating watershed from the program by adopting an ordinance or resolution withdrawing the watershed from the program. A county may withdraw a watershed from the program at the end of three years, five years or eight years after receipt of funding, or any time after ten years of funding. Watersheds withdrawn from the program are subject to RCW 36.70A.710 (7)(b).

Within eighteen months after withdrawing a participating watershed from the program, counties must review and, if needed, revise their development regulations that protect critical areas in that watershed as they specifically apply to agricultural activities. The development regulations must protect the critical area functions and values as they existed on July 22, 2011. During this interim period, counties must continue to protect critical areas in watersheds withdrawn from the program. The adopted ordinance or resolution used to withdraw participating watersheds must state how counties will continue to protect critical areas in watersheds withdrawn from the program. Counties have two options during the interim period:

(a) Adopt interim development regulations or revert to development regulations that were in place at the time of the watershed work plan approval; or

(b) Continue to implement the watershed work plan.

(5) **County responsibilities when exiting the voluntary stewardship program.** Watershed work plans that are not approved, fail, or are not funded are subject to RCW 36.70A.735(1).

Within eighteen months, counties must adopt one of the four options pursuant to RCW 36.70A.735(1). During this interim period, counties must continue to protect critical areas in areas used for agricultural activities. The four options include:

(a) Pursuant to RCW 36.70A.735 (1)(a) develop, adopt, and implement a watershed work plan approved by the state department of commerce that protects critical areas in areas used for agricultural activities while maintaining the viability of agriculture in the watershed.

(b) Pursuant to RCW 36.70A.735 (1)(b) adopt development regulations previously adopted by another local government to protect critical areas in areas used for agricultural activities. Counties may adopt another county's critical area development regulations, provided such regulations are from a region with similar agricultural activities, geography, and geology, and are from Clallam, Clark, King, or Whatcom counties at the time the voluntary stewardship program legislation was enacted, and have not been invalidated, or are from any county (including Clallam, Clark, King, or Whatcom) and have been upheld as adequately protective of critical areas functions and values in areas used for agricultural activities by the growth management hearings board or court after July 1, 2011.

(c) Pursuant to RCW 36.70A.735 (1)(c) adopt development regulations certified by the state department of commerce as protective of critical areas in areas used for agricultural activities.

(d) Pursuant to RCW 36.70A.735 (1)(d) review and, if needed, revise development regulations adopted to protect critical areas as they relate to agricultural activities.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 17-20-100, § 365-196-832, filed 10/4/17, effective 11/4/17.]

WAC 365-196-835 Relocation assistance for low-income tenants. (1) Any county or city required to plan under the act is authorized to require, after reasonable notice to the public and a public hearing, property owners to provide their portion of reasonable relocation assistance to low-income tenants displaced by certain changes to residential property. The changes include demolition, substantial rehabilitation (whether due to code enforcement or any other reason), change of use and removal of use restrictions in an assisted-housing development.

(2) As used in this section, "assisted housing development" means a multifamily rental housing development that either receives government assistance and is defined as federally assisted housing in RCW 59.28.020, or that receives other federal, state, or local government assistance and is subject to use restrictions.

(3) The regulations implementing the relocation assistance program shall be governed by the provisions of RCW 59.18.440.

(4) "Low-income tenants" means tenants whose combined total income per dwelling unit is at or below fifty percent of the median income, adjusted for family size, in the county where the tenants reside.

(5) For purposes of determining eligibility, the department must annually inform counties and cities of the appropriate dollar limits to use for median income, adjusted for family size, in different areas within the state. In deciding on these limits, the department will refer to the county-by-county family income figures published annually by the federal department of Housing and Urban Development. As soon as the federal figures become available each year, the department will review them and advise counties and cities promptly of the appropriate dollar limits and their effective dates.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 10-03-085, § 365-196-835, filed 1/19/10, effective 2/19/10.]

WAC 365-196-840 Concurrency. (1) Purpose.

(a) The purpose of concurrency is to assure that those public facilities and services necessary to support development are adequate to serve that development at the time it is available for occupancy and use, without decreasing service levels below locally established minimum standards.

(b) Concurrency describes the situation in which adequate facilities are available when the impacts of development occur, or within a specified time thereafter. Concurrency ensures consistency in land use approval and the development of adequate public facilities as plans are implemented, and it prevents development that is inconsistent with the public facilities necessary to support the development.

(c) With respect to facilities other than transportation facilities counties and cities may fashion their own regulatory responses and are not limited to imposing moratoria on development during periods when concurrency is not maintained.

(2) Determining the public facilities subject to concurrency. Concurrency is required for locally owned transportation facilities and for transportation facilities of statewide significance that serve counties consisting of islands whose only connection to the mainland are state highways or ferry routes. Counties and cities may adopt a concurrency mechanism for other facilities that are deemed necessary for development. See WAC 365-196-415(6).

(3) Establishing an appropriate level of service.

(a) The concept of concurrency is based on the maintenance of specified levels of service with respect to each of the public facilities to which concurrency applies. For all such facilities, counties and cities should designate appropriate levels of service.

(b) Level of service is typically set in the capital facilities element or the transportation element of the comprehensive plan. The level of service is used as a basis for developing the transportation and capital facilities plans.

(c) Counties and cities should set level of service to reflect realistic expectations consistent with the achievement of growth aims. Setting levels of service too high could, under some regulatory strategies, result in no growth. As a deliberate policy, this would be contrary to the act.

(d) Counties and cities should coordinate with and reach agreements with other affected purveyors or service providers when establishing level of service standards for facilities or services provided by others.

(e) The level of service standards adopted by the county or city should vary based on the urban or rural character of the surrounding

area and should be consistent with the land use plan and policies. The county or city should also balance the desired community character, funding capacity, and traveler expectations when adopting levels of service for transportation facilities. For example a plan that calls for a safe pedestrian environment that promotes walking or one that promotes development of a bike system so that biking trips can be substituted for auto trips may suggest using a level of service that includes measures of the pedestrian environment.

(f) For transportation facilities, level of service standards for locally owned arterials and transit routes should be regionally coordinated. In some cases, this may mean less emphasis on peak-hour automobile capacity, for example, and more emphasis on other transportation priorities. Levels of service for highways of statewide significance are set by the Washington state department of transportation. For other state highways, levels of service are set in the regional transportation plan developed under RCW 47.80.030. Local levels of service for state highways should conform to the state and regionally adopted standards found in the statewide multimodal transportation plan and regional transportation plans. Other transportation facilities, however, may reflect local priorities.

(4) Measurement methodologies.

(a) Depending on how a county or city balances these factors and the characteristics of travel in their community, a county or city may select different ways to measure travel performance. For example, counties and cities may measure performance at different times of day, week, or month (peak versus off-peak, weekday versus weekend, summer versus winter). A city or county may choose to focus on the total multimodal supply of infrastructure available for use during a peak or off-peak period. Counties and cities may also measure performance at different geographic scales (intersections, road or route segments, travel corridors, or travel zones or measure multimodal mobility within a district).

(b) In urban areas, the department recommends counties and cities adopt methodologies that analyze the transportation system from a comprehensive, multimodal perspective, as authorized by RCW 36.70A.108. Multimodal level of service methodologies and standards should consider the needs of travelers using the four major modes of travel (auto, public transportation, bicycle, and pedestrian), their impacts on each other as they share the street or intersection, and their mode specific requirements for street and intersection design and operation.

(c) Although level of service standards and measurement methodologies are interrelated, changes in methodology, even if they have an incidental effect on the resulting level of service for a particular facility, are not necessarily a change in the level of service standard.

(5) Concurrency regulations.

(a) Each planning jurisdiction should produce a regulation or series of regulations which govern the operation of that jurisdiction's concurrency management system. This regulatory scheme will set forth the procedures and processes to be used to determine whether relevant public facilities have adequate capacity to accommodate a proposed development. In addition, the scheme should identify the responses to be taken when it is determined that capacity is not adequate to accommodate a proposal. Relevant public facilities for these purposes are those to which concurrency applies under the comprehensive plan. Adequate capacity refers to the maintenance of concurrency.

(b) Compliance with applicable environmental requirements, such as ambient air quality standards or water quality standards, should have been built into the determination of the facility capacities needed to accommodate anticipated growth.

(c) The variations possible in designing a concurrency management system are many. However, such a system could include the following features:

(i) Capacity monitoring - a process for collecting and maintaining real world data on use for comparison with evolving public facility capacities in order to show at any moment how much of the capacity of public facilities is being used;

(ii) Capacity allocation procedures - a process for determining whether proposed new development can be accommodated within the existing or programmed capacity of public facilities. This can include preassigning amounts of capacity to specific zones, corridors or areas on the basis of planned growth. For any individual development this may involve:

(A) A determination of anticipated total capacity at the time the impacts of development occur.

(B) Calculation of how much of the total capacity will be used by existing developments and other planned developments at the time the impacts of development occur. If a local government does not require a concurrency certification or exempts small projects from the normal concurrency process, it should still calculate the capacity used and subtract that from the capacity available.

(C) Calculation of the amount of capacity available for the proposed development.

(D) Calculation of the impact on capacity of the proposed development, minus the effects of any mitigation provided by the applicant. (Standardized smaller developments can be analyzed based on predetermined capacity impact values.)

(E) Comparison of available capacity with project impact. For any project that places demands on public facilities, counties and cities must determine if levels of service will fall below locally established minimum standards.

(iii) Provisions for reserving capacity - A process of prioritizing the allocation of capacity to proposed developments. This process might include one of the following alternatives:

(A) Setting aside a block or blocks of available or anticipated capacity for specified types of development fulfilling an identified public interest;

(B) Adopting a first-come, first-served system of allocation, dedicating capacity to applications in the order received; or

(C) Adopting a preference system giving certain categories or specified types of development preference over others in the allocation of available capacity.

(6) Regulatory response to the absence of concurrency. The comprehensive plan should provide a strategy for responding when approval of any particular development would cause levels of service for concurrency to fall below the locally adopted standards. To the extent that any jurisdiction uses denial of development as its regulatory response to the absence of concurrency, consideration should be given to defining this as an emergency for the purposes of the ability to amend or revise the comprehensive plan.

(a) In the case of transportation, an ordinance must prohibit development approval if the development causes the level of service on a locally owned transportation facility to decline below the standards

adopted in the transportation element of the comprehensive plan unless improvements or strategies to accommodate the impacts of development are made concurrent with the development.

(i) These strategies may include increased public transportation service, ride sharing programs, demand management, and other transportation systems management strategies.

(ii) "Concurrent with development" means that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.

(b) If the proposed development is consistent with the land use element, relevant levels of service should be reevaluated.

(c) Other responses could include:

(i) Development of a system of deferrals, approving proposed developments in advance but deferring authority to construct until adequate public facilities become available at the location in question. Such a system should conform to and help to implement the growth phasing schedule contemplated in the land use and capital facilities elements of the plan.

(ii) Conditional approval through which the developer agrees to mitigate the impacts.

(iii) Denial of the development, subject to resubmission when adequate public facilities are made available.

(iv) Redesign of the project or implementation of demand management strategies to reduce trip generation to a level that is within the available capacity of the system.

(v) Transportation system management measures to increase the capacity of the transportation system.

(7) Form, timing and duration of concurrency approvals. The system should include provisions for how to show that a project has met the concurrency requirement, whether as part of another approval document (e.g., permit, platting decisions, planned unit development) or as a separate certificate of concurrency, possibly a transferable document. This choice, of necessity, involves determining when in the approval process the concurrency issue is evaluated and decided. Approvals, however made, should specify the length of time that a concurrency determination will remain effective, including requirements for development progress necessary to maintain approval.

(8) Provisions for interjurisdictional coordination - SEPA consistency. Counties and cities should consider integrating SEPA compliance on the project-specific level with the case-by-case process for concurrency management.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-840, filed 8/15/25, effective 9/15/25; WSR 10-03-085, § 365-196-840, filed 1/19/10, effective 2/19/10.]

WAC 365-196-845 Local project review and development agreements. (1) Counties and cities planning under the act are required to adopt procedures for fair and timely review of project permits under RCW 36.70B.020(4), such as subdivisions, binding site plans, planned unit developments, conditional uses, site-specific rezones which do not require a comprehensive plan amendment and other permits or other land use actions. The project permitting procedures implement goal seven of the act. Under RCW 36.70A.020(7), applications for both state and lo-

cal government permits should be processed in a timely and fair manner.

(2) Consolidated permit review process.

(a) Counties and cities must adopt a permit review process that provides for consolidated review of all permits necessary for a proposed project action. The permit review process must provide for the following:

(i) A consolidated project coordinator for a consolidated project permit application;

(ii) A consolidated determination of completeness;

(iii) A consolidated notice of application;

(iv) A consolidated set of hearings; and

(v) A consolidated notice of final decision that includes all project permits reviewed through the consolidated permit review process.

(b) The many different types of permits administered by counties and cities can generally be grouped into project permit categories, for example:

(i) Permits that do not require environmental review or public notice, and may be administratively approved;

(ii) Permits that require environmental review, but do not require a public hearing; and

(iii) Permits that require environmental review and/or a public hearing, and may provide for a closed record appeal.

(c) Local project review procedures should address, at a minimum, the following for each category of permit:

(i) Requirements for a complete application;

(ii) How the county or city will provide notice of application;

(iii) Who makes the final decision;

(iv) How long local project review is likely to take;

(v) What fees and charges will apply, and when an applicant must pay fees and charges;

(vi) How to appeal the decision;

(vii) Whether a preapplication conference is required;

(viii) A determination of consistency; and

(ix) Requirements for provision of notice of decision.

(d) A project permit applicant may apply for individual permits separately.

(3) Counties and cities may, by ordinance or resolution, exclude some permit types from these procedures. Excluded permit types may include:

(a) Actions relating to the use of public areas or facilities such as landmark designations or street vacations;

(b) Actions categorically exempt from environmental review, or for which environmental review has already been completed, such as lot line or boundary adjustments, and building and other construction permits, or similar administrative approvals; or

(c) Other project permits that the local government has determined present special circumstances.

(4) Project permits may, by ordinance or resolution, exclude some permit types from time periods for approval.

(5) Interior alteration is defined as construction activities that do not modify the existing site layout or its current use and involve no exterior work adding to the building footprint.

(a) Counties and cities must exclude project permits for interior alterations from site plan review if the criteria in RCW 36.70B.140(3) are met.

(b) Interior alterations must still comply with applicable building, mechanical, plumbing, or electrical codes.

(6) RCW 36.70A.470 prohibits project review conducted under chapter 36.70B RCW from being used as a comprehensive planning process. Except when considering an application for a major industrial development under RCW 36.70A.365, counties and cities may not consolidate project permit review with review of proposals to amend the comprehensive plan, even if the comprehensive plan amendment is site-specific. Counties and cities may not combine a project permit application with an area-wide rezone or a text amendment to the development regulations, even if proposed along with a project permit application.

(7) Consolidated project coordinator.

(a) Counties and cities should appoint a single project coordinator for each consolidated project permit application.

(b) Counties and cities should require the applicant for a project permit to designate a single person or entity to receive determinations and notices about a project permit application as authorized by RCW 36.70A.100.

(8) Determination of complete application.

(a) A project permit application is complete for the purposes of this section when it meets the county or city procedural submission requirements and is sufficient for continued processing, even if additional information is required, or if the project is subsequently modified.

(b) The development regulations must specify, for each type of permit application, what information a permit application must contain to be considered complete. This may vary based on the type of permit.

(c) For more complex projects, counties and cities are encouraged to use preapplication meetings to clarify the project action and local government permitting requirements and review procedures. Counties and cities may require a preapplication conference.

(d) Within 28 days of receiving a project permit application, counties and cities must provide to the applicant a written determination that must state either:

(i) The application is complete; or

(ii) The application is incomplete and that the procedural submission requirements of the local government have not been met. The determination shall outline what is necessary to make the application procedurally complete.

(iii) The number of days shall be calculated by counting every calendar day.

(e) A project permit application is complete when it meets the procedural submission requirements of the local government as outlined in the project permit application. Additional information or studies may be required or project modifications may be undertaken subsequent to the procedural review of the application by the local government.

(f) The determination of completeness shall not preclude the local government from requesting additional information or studies either at the time of the notice of completeness or subsequently if new information is required or substantial changes in the proposed action occur. However, if the procedural submission requirements, as outlined on the project permit application have been provided, the need for additional information or studies may not preclude a completeness determination.

(g) The application is deemed procedurally complete on the 29th day after receiving a project permit application if the county or city does not provide the applicant with a written determination that the

application is procedurally incomplete. The local government may still seek additional information or studies when a written determination is not provided.

(h) The determination of completeness may include or be combined with a preliminary determination of consistency, a preliminary determination of development regulations that will be used for project mitigation, the notice of application pursuant to RCW 36.70B.110 or other information the local government chooses to include.

(i) A determination of completeness or a request for more information necessary for a complete application is required within 14 days of the applicant providing additional requested information.

(j) A notice of application shall be provided within 14 days after the determination of completeness. If the project permit requires an open record predecision hearing, the county or city must provide the notice of application at least 15 days before the open record hearing.

(9) Notice of application. The notice of application shall be provided to the public and the departments and agencies with jurisdiction over the project permit application.

(a) The notice of application must include:

(i) The date of application, the date of the notice of completion, and the date of the notice of application;

(ii) A description of the proposed project action, a list of the project permits included in the application and a list of any required studies;

(iii) The identification of other permits not included in the application that the proposed project may require, to the extent known by the county or city;

(iv) The identification of existing environmental documents that evaluate the proposed project;

(v) The location where the application and any studies can be reviewed;

(vi) A preliminary determination, if one has been made at the time of notice, of which development regulations will be used for project mitigation and of project consistency as provided in RCW 36.70B.040 and chapter 365-197 WAC;

(vii) Any other information determined appropriate by the local government;

(viii) A statement of the public comment period, which shall not be less than 14 days or more than 30 days, following the date of the notice of application. The statement must explain the following:

(A) A statement of the right of any person to comment on the application;

(B) How to comment on the application;

(C) How to receive notice of and participate in any hearings on the application;

(D) How to request and obtain a copy of the decision once made; and

(E) Any rights to appeal the decision.

(ix) If the project requires a hearing or hearings, and they have been scheduled by the date of the notice of application, then the notice must specify the date, time, place, and type of any hearings required for the project.

(10) How to provide notice of application.

(a) A county or city may provide notice using reasonable methods for different types of project actions or categories of project permits.

(b) Project review procedures should specify, as minimum requirements, how to provide notice for each type of permit. Counties and cities may use a variety of methods for providing notice. However, if the local government does not specify how it will provide public notice, it shall use the methods specified in RCW 36.70B.110 (4)(a) and (b). Examples of reasonable methods of providing notice are:

(i) Posting notice at the property for site-specific proposals;

(ii) Publishing notice in written media such as in the newspaper of general circulation in the general area where the proposal is located, in appropriate regional or neighborhood newspapers, trade journals, agency newsletters or sending notice to agency mailing lists, either general lists or lists for specific proposals or subject areas, or in a local land use newsletter published by the local government;

(iii) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;

(iv) Notifying the news media;

(v) Mailing to neighboring property owners;

(vi) Posting the application and other documentation using electronic media such as an email and a website.

(11) The notice of application comment period.

(a) Must be at least 14 days and no more than 30 days from the date of notice of application.

(b) A county or city may accept public comments:

(i) Any time before the record closes for an open record predecision hearing; and

(ii) Any time before the decision on the project permit if no open record predecision hearing is provided.

(12) Project review timelines.

(a) Counties and cities must establish and implement a permit process time frame for review of each type of project permit application, and for consolidated permit applications, and must provide timely and predictable procedures for review. The time periods for county or city review of each type of complete application should not exceed those specified in this section.

(b) County and city development regulations must, for each type of project permit application, specify contents for a complete application necessary to determine compliance with time periods and procedures.

(c) Counties and cities may exclude certain project permit types and timelines for processing permit applications as provided for in RCW 36.70B.140.

(d) Time periods for local government action to issue a final decision for each type of complete project permit application or project type should not exceed the following timelines:

(i) For project permits which do not require a notice of application (under RCW 36.70B.110): 65 days from determination of completeness;

(ii) For project permits which require public notice (under RCW 36.70B.110): 100 days from the determination of completeness;

(iii) For project permits which require public notice (under RCW 36.70B.110) and a public hearing: 170 days from the determination of completeness.

(e) Counties and cities may add permit types not identified, change permit names or type in each category, address how consolidated review times may be different than permits submitted individually and provide for how projects of a certain size or type may be differentiated, including differentiating between residential and nonresidential

permits. For projects subject to consolidated review the final decision shall be subject to the longest applicable permit time period identified in (d)(i),(ii), and (iii) of this subsection, or to a longer time period if the time periods have been amended by the local government.

(f) If a local government does not adopt an ordinance or resolution modifying the timelines for final decisions, then the time periods in (d)(i),(ii), and (iii) of this subsection apply.

(g) The number of days an application is in review with the county or city shall be calculated from the day completeness is determined to the date a final decision is issued on the project permit application. The number of days shall be calculated by counting every calendar day and excluding the following time periods:

(i) Any period between the day that the county or city has notified the applicant, in writing, that additional information is required to further process the application and the day when responsive information is resubmitted by the applicant;

(ii) Any period after an applicant informs the local government, in writing, that they would like to temporarily suspend review of the project permit application until the time that the applicant notifies the local government, in writing, that they would like to resume the application. A local government may set conditions for the temporary suspension of a permit application; and

(iii) Any period after an administrative appeal is filed until the administrative appeal is resolved and any additional time period provided by the administrative appeal has expired.

(h) The time periods for a local government to process a permit shall start over if an applicant proposes a change in use that adds or removes commercial or residential elements from the original application that would make the application fail to meet the determination of procedural completeness for the new use.

(i) If, at any time, an applicant informs the local government, in writing, that the applicant would like to temporarily suspend the review of the project for more than 60 days, or if an applicant is not responsive for more than 60 consecutive days after the county or city has notified the applicant, in writing, that additional information is required to further process the application, an additional 30 days may be added to the time periods for local government action to issue a final decision for each type of project permit subject to this section.

(j) Any written notice from the local government to the applicant that additional information is required to further process the application must include a notice that nonresponsiveness for 60 consecutive days may result in 30 days being added to the time for review.

(k) For the purposes of this subsection, "nonresponsiveness" means that an applicant is not making demonstrable progress on providing additional requested information to the local government, or that there is no ongoing communication from the applicant to the local government on the applicant's ability or willingness to provide the additional information.

(l) Annual amendments to the comprehensive plan are not subject to the requirements of this section.

(m) A county or city adoption of a resolution or ordinance to implement this subsection shall not be subject to appeal under chapter 36.70A RCW unless the resolution or ordinance modifies the time periods by providing for a review period of more than 170 days for any project permit.

(n) When permit time periods, as may be amended or extended, are not met, a portion of the permit fee must be refunded to the applicant as provided in this subsection.

(i) A local government may provide for the collection of only 80 percent of a permit fee initially, and for the collection of the remaining balance if the permitting time periods are met.

(ii) The portion of the fee refunded for missing time periods shall be:

(A) Ten percent if the final decision of the project permit application was made after the applicable deadline but the period from the passage of the deadline to the time of issuance of the final decision did not exceed 20 percent of the original time period; or

(B) Twenty percent if the period from the passage of the deadline to the time of the issuance of the final decision exceeded 20 percent of the original time period.

(iii) Except as provided in RCW 36.70B.160, the provisions in (n) of this subsection are not applicable to counties and cities which have implemented at least three of the options in RCW 36.70B.160 (1)(a) through (j) (section 8, chapter 338, Law of 2023) at the time an application is deemed procedurally complete.

(13) Hearings. Where multiple permits are required for a single project, counties and cities must allow for consolidated permit review as provided in RCW 36.70B.120(1). Counties and cities must determine which project permits require hearings. If hearings are required for certain permit categories, then the review process must provide for no more than one consolidated open record hearing and one closed record appeal. An open record appeal hearing is only allowed for permits in which no open record hearing is provided prior to the decision. Counties and cities may combine an open record hearing on one or more permits with an open record appeal hearing on other permits. Hearings may be combined with hearings required for state, federal, or other permits hearings provided that the hearing is held within the geographic boundary of the local government and the state or federal agency is not expressly prohibited by statute from doing so.

(14) Project permit decisions. A county or city may provide for the same or a different decision maker, hearing body, or officer for different categories of project permits. The consolidated permit review process must specify which decision maker must make the decision or recommendation, conduct any required hearings or decide an appeal to ensure that consolidated permit review occurs as provided in this section.

(15) Notice of decision.

(a) The notice of decision must include the following:

(i) A statement of any SEPA threshold determination;

(ii) An explanation of how to file an administrative appeal (if provided) of the decision; and

(iii) A statement that the affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.

(b) The notice of decision should also include:

(i) Any findings on which the final decision was based;

(ii) Any conditions of permit approval conditions or required mitigation; and

(iii) The permit expiration date, where applicable.

(c) Notice of decision may be in the form of a copy of the report or decision on the project permit application, provided it meets the minimum requirements for a notice of decision.

(d) How to provide notice of decision. A local government may provide notice in different ways for different types of project permits depending on the size and scope of the project and the types of permit approval included in the project permit. Project review procedures should specify as minimum requirements, how to provide notice for each type of permit. Examples of reasonable methods of providing notice of decision are:

(i) Posting the property for site-specific proposals;

(ii) Publishing notice in written media such as in the newspaper of general circulation in the general area where the proposal is located, in appropriate regional or neighborhood newspapers, trade journals, agency newsletters or sending notice to agency mailing lists, either general lists or lists for specific proposals or subject areas, or in a local land use newsletter published by the county or city;

(iii) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;

(iv) Notifying the news media;

(v) Mailing to neighboring property owners;

(vi) Providing notice and posting the application, decision, and other documentation using electronic media such as email and a website;

(vii) Placing notices in appropriate regional or neighborhood newspapers or trade journals; or

(viii) Publishing notices in agency newsletters or sending notice to agency mailing lists, either general lists or lists for specific proposals or subject areas.

(e) Counties and cities must provide a notice of decision to the following:

(i) The project applicant;

(ii) Any person who requested notice of decision;

(iii) Any person who submitted substantive comments on the application; and

(iv) The county assessor's office of the county or counties in which the property is situated.

(16) Appeals. A county or city is not required to provide for administrative appeals for project permit decisions. However, where appeals are provided, procedures should allow for no more than one consolidated open record hearing, if not already held, and one closed-record appeal. Provisions should ensure that appeals are to be filed within 14 days after the notice of final decision and may be extended to 21 days to allow for appeals filed under chapter 43.21C RCW.

(17) Monitoring permit decisions. Each county and city shall adopt procedures to monitor and enforce permit decisions and conditions such as periodic review of permit provisions, inspections, and bonding provisions.

(18) A county or city is not prohibited from extending a deadline for issuing a decision for a specific project permit application for any reasonable period of time mutually agreed upon by the applicant and the county or city.

(19) Counties and cities are encouraged to adopt further project review and code provisions to provide prompt, coordinated review and ensure accountability to applicants and the public with actions that:

(a) Expedite review for project permit applications for projects that are consistent with adopted development regulations;

(b) Impose reasonable fees, consistent with RCW 82.02.020, on applicants for permits or other governmental approvals to cover the cost to the city, town, county, or other municipal corporation of process-

ing applications, inspecting and reviewing plans, or preparing detailed statements required by chapter 43.21C RCW. The fees imposed may not include a fee for the cost of processing administrative appeals. Nothing in this subsection limits the ability of a county or city to impose a fee for the processing of administrative appeals as otherwise authorized by law;

(c) Enter into interlocal agreements with other counties or cities to share permitting staff and resources;

(d) Maintain and budget for on-call permitting assistance for when permit volumes or staffing levels change rapidly;

(e) Budget new positions contingent on increased permit revenue;

(f) Adopt development regulations which only require public hearings for permit applications that are required to have a public hearing by statute;

(g) Adopt development regulations which make preapplication meetings optional rather than a requirement of permit application submittal;

(h) Adopt development regulations which make housing types an outright permitted use in all zones where the housing type is permitted;

(i) Adopt a program to allow for outside professionals with appropriate professional licenses to certify components of applications consistent with their license; or

(j) Meet with the applicant to attempt to resolve outstanding issues during the review process. The meeting must be scheduled within 14 days of a second request for corrections during permit review. If the meeting cannot resolve the issues and a local government proceeds with a third request for additional information or corrections, the local government must approve or deny the application upon receiving the additional information or corrections.

(20) Adoption of additional measures.

(a) After January 1, 2026, a county or city must adopt additional measures under subsection (19) of this section at the time of its next comprehensive plan update under RCW 36.70A.130 if it meets the following conditions:

(i) The county or city has adopted at least three project review and code provisions under subsection (19) of this section more than five years prior; and

(ii) The county or city is not meeting the permitting deadlines established in RCW 36.70B.080 at least half of the time over the period since its most recent comprehensive plan update under RCW 36.70A.130.

(b) A county or city that is required to adopt new measures under (a) of this subsection but fails to do so becomes subject to the provisions of RCW 36.70B.080 (1)(l), notwithstanding RCW 36.70B.080 (1)(l)(ii).

(21) Code interpretation. Project permitting procedures must include adopted procedures for administrative interpretation of development regulations.

(22) Development agreements. Counties and cities are authorized by RCW 36.70B.170(1) to enter into voluntary contractual agreements to govern the development of land and the issuance of project permits. These are referred to as development agreements.

(a) Purpose. The purpose of development agreements is to allow a county or city and a property owner/developer to enter into an agreement regarding the applicable regulations, standards, and mitigation

that apply to a specific development project after the development agreement is executed.

(i) If the development regulations allow some discretion in how those regulations apply or what mitigation is necessary, the development agreement specifies how the county or city will use that discretion. Development agreements allow counties and cities to combine an agreement on the exercise of their police power with the exercise of their powers to enter contracts.

(ii) Development agreements must be consistent with applicable development regulations adopted by a county or city. Development agreements do not provide means of waiving or amending development regulations that would otherwise apply to a project.

(iii) Counties and cities may not use development agreements to impose impact fees, inspection fees, or dedications, or require any other financial contribution or mitigation measures except as otherwise expressly authorized, and consistent with the applicable development regulations.

(b) Parties to the development agreement. The development agreement must include, as a party to the agreement, the person who owns or controls the land subject to the agreement. Development agreements may also include others, including other agencies with permitting authority or service providers. Counties and cities may enter into development agreements outside of their boundaries if the agreement is part of a proposed annexation or service agreement.

(c) Content of a development agreement. The development agreement must set forth the development standards and other provisions that apply to, govern, and vest the development, use, and mitigation of the development of the real property for the duration of the agreement. These may include, but are not limited to:

(i) Project elements such as permitted uses, residential densities, and intensity of commercial or industrial land uses and building sizes;

(ii) The amount and payment of fees imposed or agreed to in accordance with any applicable laws or rules in effect at the time, any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications;

(iii) Mitigation measures, development conditions, and other requirements under chapter 43.21C RCW;

(iv) Design standards such as maximum heights, setbacks, drainage and water quality requirements, landscaping, and other development features;

(v) Affordable housing;

(vi) Parks and open space preservation;

(vii) Phasing;

(viii) Review procedures and standards of implementing decisions;

(ix) A build-out or vesting period for applicable standards; and

(x) Any other appropriate development requirement or procedure.

(d) The effect of development agreements. Development agreements may exercise a county or city authority to issue permits or its contracting authority. Once executed, development agreements are binding between the parties and their successors, including a city that assumes jurisdiction through incorporation or annexation of the area covering the property covered by the development agreement. The agreement grants vesting rights to the proposed development consistent with the development regulations in existence at the time of execution of the agreement. A permit approval issued by the county or city after the execution of the development agreement must be consistent with the

development agreement. A development agreement may obligate a party to fund or provide services, infrastructure, or other facilities. A development agreement may not obligate a county or city to adopt subsequent amendments to their comprehensive plans or development regulations, or otherwise delegate legislative powers. Any such amendments must still be adopted by the legislative body following all applicable procedural requirements.

(e) A development agreement must reserve authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

(f) Procedures.

(i) These procedural requirements are in addition to and supplemental to the procedural requirements necessary for any actions, such as rezones, street vacations or annexations, called for in a development agreement. Development agreements may not be used to bypass any procedural requirements that would otherwise apply. Counties and cities may combine hearings, analyses, or reports provided the process meets all applicable procedural requirements;

(ii) Only the county or city legislative authority may approve a development agreement;

(iii) A county or city must hold a public hearing prior to executing a development agreement. The public hearing may be conducted by the county or city legislative body, planning commission or hearing examiner, or other body designated by the legislative body to conduct the public hearing; and

(iv) A development agreement must be recorded in the county where the property is located.

(23) Nothing in RCW 36.70B.080 prohibits a county or city from extending a deadline for issuing a decision for a specific project permit application for any reasonable period of time mutually agreed upon by the applicant and the local government.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-845, filed 8/15/25, effective 9/15/25; WSR 10-03-085, § 365-196-845, filed 1/19/10, effective 2/19/10.]

WAC 365-196-846 Additional project review encouraged. (1) Counties and cities are encouraged to adopt further project review provisions to provide prompt, coordinated, and objective review and ensure accountability to applicants and the public, including expedited review for project permit applications for projects that are consistent with adopted development regulations or that include dwelling units that are affordable to low-income or moderate-income households and within the capacity of systemwide infrastructure improvements.

(2) Nothing in chapter 36.70B RCW is intended or shall be construed to prevent counties and cities from requiring a preapplication conference or a public meeting by rule, ordinance, or resolution, where otherwise required by applicable state law.

(3) Each county and city shall adopt procedures to monitor and enforce permit decisions and conditions.

(a) Permit decision monitoring procedures referenced in RCW 36.70B.160 should include, but not be limited to:

(i) Use of a permit software system, if possible, to provide reminders to notify staff and the applicant of:

(A) Status of permit processing timelines;

(B) Pending permit expiration dates;

(C) Permit conditions that require compliance or implementation by a certain time frame;

(D) Time frames for financial guarantees and release of financial guarantees.

(b) The enforcement procedures referenced in RCW 36.70B.160 for each permit should include, but not be limited to:

(i) Timelines for compliance upon issuance of a formal compliance order;

(ii) Penalties for lack of compliance;

(iii) Timelines for filing an appeal, including the applicable appeal body;

(iv) Identification of which county or city official has authority to issue enforcement notices for specific permit types.

(4) Nothing in chapter 36.70B RCW modifies any independent statutory authority for a government agency to appeal a project permit issued by a local government.

(5) For the purposes of this section:

(a) A dwelling unit is affordable if it requires payment of monthly housing costs, including utilities other than telephone, of no more than 30 percent of the family's income.

(b) The definitions of "dwelling unit," "low-income household" and "moderate-income household" as used in this section shall be as provided for in RCW 36.70B.160.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-846, filed 8/15/25, effective 9/15/25.]

WAC 365-196-847 Additional project review encouraged—Additional measures for certain jurisdictions. (1) Counties and cities are encouraged to adopt further project review and code provisions to provide prompt, coordinated review and ensure accountability to applicants and the public by:

(a) Expediting review for project permit applications for projects that are consistent with adopted development regulations;

(b) Imposing reasonable fees, consistent with RCW 82.02.020, on applicants for permits or other governmental approvals to cover the cost to the city, town, county, or other municipal corporation of processing applications, inspecting and reviewing plans, or preparing detailed statements required by chapter 43.21C RCW.

(i) The fees imposed may not include a fee for the cost of processing administrative appeals.

(ii) Nothing in this subsection limits the ability of a county or city to impose a fee for the processing of administrative appeals as otherwise authorized by law.

(c) Entering into an interlocal agreement with another county or city to share permitting staff and resources;

(d) Maintaining and budgeting for on-call permitting assistance for when permit volumes or staffing levels change rapidly;

(e) Having new positions budgeted that are contingent on increased permit revenue;

(f) Adopting development regulations which only require public hearings for permit applications that are required to have a public hearing by statute;

(g) Adopting development regulations which make preapplication meetings optional rather than a requirement of permit application submittal;

(h) Adopting development regulations which make housing types an outright permitted use in all zones where the housing type is permitted;

(i) Adopting a program to allow for outside professionals with appropriate professional licenses to certify components of applications consistent with their license; or

(j) Meeting with the applicant to attempt to resolve outstanding issues during the review process.

(i) The meeting must be scheduled within 14 days of a second request for corrections during permit review.

(ii) If the meeting cannot resolve the issues and a county or city proceeds with a third request for additional information or corrections, then the county or city must approve or deny the application upon receiving the additional information or corrections.

(2)(a) After January 1, 2026, a county or city must adopt additional measures under subsection (1) of this section at the time of its next comprehensive plan update under RCW 36.70A.130 if it meets the following conditions:

(i) The county or city has adopted at least three project review and code provisions under subsection (1) of this section more than five years prior; and

(ii) The county or city is not meeting the permitting deadlines established in RCW 36.70B.080 at least half of the time over the period since its most recent comprehensive plan update required under RCW 36.70A.130.

(b) A county or city that is required to adopt new measures under (a) of this subsection but fails to do so becomes subject to the provisions of RCW 36.70B.080 (1)(l), notwithstanding RCW 36.70B.080 (1)(l)(ii).

(3) Nothing in chapter 36.70B RCW is intended or shall be construed to prevent a county or city from requiring a preapplication conference or a public meeting by rule, ordinance, or resolution.

(4) Each county or city shall adopt procedures to monitor and enforce permit decisions and conditions.

(a) Permit decision monitoring procedures should include, but not be limited to:

(i) Use of a permit software system, if possible, to provide reminders to notify staff and the applicant of:

(A) Status of permit timelines;

(B) Pending permit expiration dates;

(C) Permit conditions that require compliance or implementation by certain time frame;

(D) Time frames for financial guarantees and release of financial guarantees.

(b) The enforcement procedures for each permit should include, but not be limited to:

(i) Timelines for compliance upon issuance of a formal compliance order;

(ii) Penalties for lack of compliance;

(iii) Timelines for filing an appeal, including the applicable appeal body;

(iv) Identification of which county or city official has authority to issue enforcement notices for specific permit types.

(5) Nothing in chapter 36.70B RCW modifies any independent statutory authority for a government agency to appeal a project permit issued by a local government.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-847, filed 8/15/25, effective 9/15/25.]

WAC 365-196-848 Reporting requirements. (1)(a) Counties subject to the requirements of RCW 36.70A.215 and the cities within those counties that have populations of at least 20,000 must, for each type of permit application:

(i) Identify the total number of project permit applications for which decisions are issued according to the provisions of chapter 36.70B RCW;

(ii) For identified project permit applications, establish and implement a deadline for issuing a notice of final decision as required by RCW 36.70B.080(1) and minimum requirements for applications to be deemed complete under RCW 36.70B.070 as required by RCW 36.70B.080(1).

(b) Counties and cities subject to the requirements in RCW 36.70B.080(2) must also prepare an annual performance report that includes information outlining time periods for certain permit types associated with housing. The report must provide:

(i) Permit time periods for certain permit processes in the county or city in relation to those established under RCW 36.70B.080, including whether the county or city has established shorter time periods than those identified in RCW 36.70B.080;

(ii) The total number of decisions issued during the year for the following permit types:

(A) Preliminary subdivisions;

(B) Final subdivisions;

(C) Binding site plans;

(D) Permit processes associated with the approval of multifamily housing; and

(E) Construction plan review for each of the permit types in subsection (1)(b)(ii)(A) through (D) of this section when submitted separately;

(iii) The total number of decisions for each permit type which included consolidated project permit review, such as concurrent review of a rezone or construction plans;

(iv) The average number of days from a submittal to a decision being issued for the project permit types listed in RCW 36.70B.080 (2)(b)(ii). This shall be calculated from the day completeness is determined under RCW 36.70B.070 to the date a decision is issued on the application. The number of days shall be calculated by counting every calendar day;

(v) The total number of days each project permit application of a type listed in RCW 36.70B.080 (2)(b)(ii) was in review with the county or city. This shall be calculated from the day completeness is determined under RCW 36.70B.070 to the date a final decision is issued on the application. The number of days shall be calculated by counting every calendar day. The days the application is in review with the county or city does not include the time periods in RCW 36.70B.080 (1)(g)(i), (ii), and (iii);

(vi) The total number of days that were excluded from the time period calculation under RCW 36.70B.080 (1)(g)(i), (ii), and (iii) for

each project permit application of a type listed in RCW 36.70B.080 (2)(b)(ii).

(2) Counties and cities subject to the requirements of this subsection must:

(a) Post the annual performance report on the county or city website;

(b) Submit the annual performance report to the department by March 1st each year; and

(c) Submit the initial annual report required under this subsection to the department by March 1, 2025, and must include information from permitting in 2024.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-848, filed 8/15/25, effective 9/15/25.]

WAC 365-196-849 Streamlined design review. (1) Design review is a local government process adopted by ordinance by which projects are reviewed for compliance with design standards for the type of use.

(2) Design review process:

(a) Must be conducted concurrently, or otherwise logically integrated, with the consolidated review and decision process for project permits set forth in RCW 36.70B.120(3);

(b) May include no more than one public meeting. Continuation of a public meeting for the purposes of design review should be discouraged.

(3) Clear and objective development regulations.

(a) Counties and cities may apply in any design review process only clear and objective development regulations governing the exterior design of new development. For the design review process, a clear and objective development regulation:

(i) Must include one or more ascertainable guideline, standard, or criterion by which an applicant can determine whether a given building design is permissible under that development regulation; and

(ii) May not result in a reduction in density, height, bulk, or scale below the generally applicable development regulations for a development proposal in the applicable zone.

(b) Exterior design:

(i) Exterior design of new development may include the exterior of the building(s) including, but not limited to, façade, roof, and any other building features visible from the outside of the building.

(ii) Exterior design may also include site features not part of the building such as, but not limited to, lighting, landscaping, art, pedestrian paths, open space, and parking location.

(4) New development.

(a) New development should include development of vacant property. This includes the demolition of existing buildings on a property which is subsequently developed with a new building.

(b) Cities and towns may adopt thresholds for what constitutes new development in situations where there are additions to, or new buildings developed on, property with preexisting development.

(c) Interior remodels or alterations that do not expand the exterior building footprint and which do not modify the exterior of the building or exterior site design features, including routine and minor repair and maintenance, should not constitute new development for design review purposes; nor should the cost of interior improvements be counted towards the determination of what constitutes new development.

(d) Nothing in this section is intended to exempt exterior repair and maintenance or interior remodels and alterations from applicable building, plumbing, mechanical, or electrical codes and related permits.

(5) The provisions of WAC 365-196-847(1) do not apply to development regulations that apply only to designated landmarks or historic districts established under a local preservation ordinance.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-849, filed 8/15/25, effective 9/15/25.]

WAC 365-196-850 Impact fees. (1) Counties and cities planning under the act are authorized to impose impact fees on development activities as part of public facilities financing. However, the financing for system improvements to serve new development must provide a balance between impact fees and other sources of public funds and cannot rely solely on impact fees.

(2) The decision to use impact fees should be specifically implemented through development regulations. The regulations should call for a specific finding on all three of the following limitations whenever an impact fee is imposed. The impact fees:

(a) Must only be imposed for system improvements that are reasonably related to the new development. "System improvements" (in contrast to "project improvements") are public facilities included in the capital facilities plan that are designed to provide service to service areas within the community at large;

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

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

(3) Impact fees may be collected and spent only for the following capital facilities owned or operated by government entities:

(a) Public streets and roads;

(b) Publicly owned parks;

(c) Open space and recreation facilities;

(d) School facilities; and

(e) Fire protection facilities.

(4) Capital facilities for which impact fees will be imposed must have been addressed in a capital facilities plan element which identifies:

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

(b) Additional demands placed on existing public facilities by new development; and

(c) Additional public facility improvements required to serve new development.

(5) The local ordinance by which impact fees are imposed must conform to the provisions of RCW 82.02.060. The department recommends that jurisdictions include the authorized exemption for low-income housing.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 17-20-100, § 365-196-850, filed 10/4/17, effective 11/4/17; WSR 10-03-085, § 365-196-850, filed 1/19/10, effective 2/19/10.]

WAC 365-196-855 Protection of private property. In the drafting of development regulations, counties and cities must use the attorney general's process of evaluation issued pursuant to RCW 36.70A.370, to assure that governmental actions do not result in an unconstitutional taking of private property. Procedures for avoiding takings, such as variances or exemptions, should be built into the overall regulatory process.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 10-03-085, § 365-196-855, filed 1/19/10, effective 2/19/10.]

WAC 365-196-860 Treatment of residential structures occupied by persons with handicaps. (1) Counties and cities planning under the act may not enact or maintain an ordinance, development regulation, zoning regulation or official control, policy, or administrative practice which treats a residential structure occupied by persons with handicaps differently than a similar residential structure occupied by a family or other unrelated individuals.

(2) The term "handicap" is defined by the federal Fair Housing Amendments Act of 1988 (42 U.S.C. Sec. 3602). It pertains to a person who:

(a) Has a physical or mental impairment that substantially limits one or more of their major life activities;

(b) Has a record of having such impairment; or

(c) Is regarded as having such impairment.

It does not include current, illegal use of or addiction to a controlled substance (as defined in 21 U.S.C. Sec. 802).

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 10-03-085, § 365-196-860, filed 1/19/10, effective 2/19/10.]

WAC 365-196-865 Family day-care providers. (1) Counties and cities may not prohibit the use of a residential dwelling as a family day-care provider's home facility that is located in an area zoned for residential or commercial land uses. However, counties and cities may regulate such use as a conditional use. Counties and cities may prohibit such use if it would create an incompatible use adjacent to resource lands of long-term commercial significance. Counties and cities may prohibit such use in the primary crash zone of an airport or aviation facility.

(2) See WAC 365-196-210 for the definition of "family day-care providers" used in this section.

(3) A county or city may require the family day-care provider to comply with building and land use regulations. They can require the provider to be certified by the department of early learning and to comply with the sign code; as well as any building, fire, safety, health code, and business licensing requirements. They can also limit the hours of operation to keep the day-care from disrupting other neighborhood uses, while also providing appropriate opportunity for persons who use family day-care and who work a nonstandard work shift.

(4) The county or city might also require the family day-care provider to show that they notified adjoining property owners of their intent to locate and maintain a family day-care near them.

(5) If disputes arise between neighbors and the family day-care provider over licensing requirements, the licensor may provide a forum

to resolve the dispute. A forum, in this case, refers to a meeting of the affected parties to discuss and resolve the dispute.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 10-03-085, § 365-196-865, filed 1/19/10, effective 2/19/10.]

WAC 365-196-867 Treatment of residential housing for low-income households. (1) Summary of requirements: Counties, cities, and local government entities or agencies may not adopt, impose, or enforce requirements on an affordable housing development that are different than the requirements imposed on housing developments generally, consistent with RCW 36.130.020. However, they may extend preferential treatment to affordable housing developments, or impose and enforce requirements on affordable housing developments as conditions of financial support or as conditions to eligibility for any affordable housing incentive program or other development regulation waiver.

(2) Recommendations for meeting requirements:

(a) Permanent supportive housing and transitional housing, and indoor emergency housing that is administered through a lease, are determined to be affordable housing developments under RCW 36.130.020 if at least 25 percent of the dwelling units within the development are set aside for or are occupied by low, very low, or extremely low-income households.

(b) If a county, city, or local government imposes or enforces requirements on affordable housing developments as conditions of benefits, funding or incentives, then these requirements must be imposed or enforced on any affordable housing development that receives the same benefit.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-867, filed 8/15/25, effective 9/15/25.]

WAC 365-196-870 Affordable housing incentives. (1) Background.

(a) The act calls on counties and cities to plan for and accommodate housing affordable to all economic segments of the population. Addressing the need for affordable housing will require a broad variety of tools to address local needs. This section describes certain affordable housing incentive programs (incentive programs) that counties and cities may implement.

(b) Counties and cities may use incentive programs to implement other policies in their comprehensive plan in addition to affordable housing; for instance, encouraging higher densities that reduce the need for land and increase the efficiency of providing public services.

(c) Incentive programs may apply to residential, commercial, industrial and/or mixed-use developments.

(d) Incentive programs may be implemented through fee waivers and exemptions, development regulations, conditions on rezoning or permit decisions, any combination of these, or other tools.

(e) Incentive programs may apply to part or all of a county or city. A county or city may apply different standards to different areas within their jurisdiction, or to different development types.

(f) Incentive programs may be modified to meet local needs.

(g) Incentive programs may include provisions not expressly provided in RCW 36.70A.540, 82.02.020 or chapter 84.14 RCW.

(h) Incentive programs may include preferential treatment for affordable housing development.

(2) Counties and cities may establish an incentive program that is either required or optional.

(a) Counties and cities may establish an optional incentive program. If a developer chooses not to participate in an optional incentive program, a county or city may not condition, deny or delay the issuance of a permit or development approval that is consistent with zoning and development standards on the subject property absent the optional incentive provisions of this program.

(b) Counties and cities may establish a mandatory incentive program that requires a minimum amount of affordable housing that must be provided by all residential developments built under the revised regulations. The minimum amount of affordable housing may be a percentage of the units or floor area in a development or of the development capacity of the site under the revised regulations. These programs may be established as follows:

(i) The county or city identifies certain land use designations within a geographic area where increased residential development will help achieve local growth management and housing policies.

(ii) The county or city adopts revised regulations to increase development capacity through zoning changes, bonus densities, height and bulk increases, parking reductions, or other regulatory changes or other incentives.

(iii) The county or city determines that the increased residential development capacity resulting from the revised regulations can be achieved in the designated area, taking into consideration other applicable development regulations.

(3) Steps in establishing an incentive program.

(a) When developing incentive programs, counties and cities should start with the local housing needs of each economic segment, as identified in the housing element and develop incentive programs as a strategy to make adequate provisions for existing and projected housing needs of all economic segments of the county or city as required by RCW 36.70A.070 (2)(d). Incentive programs could include the following for housing affordable to low, very low, or extremely low-income households, or permanent supportive housing, transitional housing, emergency housing or emergency shelter projects:

(i) Reduced or waived development requirements such as parking and height limitations;

(ii) Reduced or waived fees, such as infrastructure connection fees and/or impact fees;

(iii) Expedited permitting and density bonuses for projects that set aside a percentage of units or all units as affordable;

(iv) Incentive programs that specifically encourage permanent supportive housing, transitional housing, indoor emergency shelter, and indoor emergency housing.

(b) Counties and cities should identify incentives that can be provided to residential, commercial, industrial or mixed-use developments providing affordable housing, including tiny house communities as defined in RCW 35.21.686. Incentives could include density bonuses within the urban growth area, height and bulk bonuses, fee waivers or exemptions, parking reductions, expedited permitting, or other benefits to a development. Counties and cities should provide a variety of incentives to accommodate housing needs of all economic segments and may tailor the type of incentive to the circumstances of a particular development project.

(c) Counties and cities may choose to offer incentives through development regulations, fees, processes, or through conditions on rezones or permit decisions.

(4) Criteria for developing a program under RCW 36.70A.540. When developing an affordable housing incentive program, counties and cities must establish standards for low-income renter or owner occupancy housing consistent with RCW 36.70A.540 (2)(b). The housing must be affordable to and occupied by low-income households.

(a) Low-income renter households are defined as households with incomes of 50 percent or less of the county median family income, adjusted for family size.

(b) Low-income owner households are defined as households with incomes of 80 percent or less of the county median family income, adjusted for family size.

(c) Adjustments to income levels: Counties and cities may, after holding a public hearing, establish lower or higher income levels based on findings that such higher income and corresponding affordability limits are needed to address local housing market. The higher income level may not exceed 80 percent of county median family income for rental housing or 100 percent of median county family income for owner-occupied housing.

(d) Affordable units developed under RCW 36.70A.540 should be committed to affordability for 50 years; however, a local government may accept payments in lieu of continuing affordability.

(e) The powers granted in RCW 36.70A.540 are supplemental and additional to the powers otherwise held by local governments, and nothing in RCW 36.70A.540 shall be construed as a limit on such powers.

(5) Maximum rent or sales prices: Counties and cities must establish the maximum rent level or sales prices for each low-income housing unit developed under the terms of their affordable housing programs. Counties and cities may adjust these levels based on the average size of the household expected to occupy the unit. These levels may be adjusted over time with changes in median income and factors affecting the affordability of sales prices to low-income households.

(a) For renter-occupied housing units, the total housing costs, including basic utilities, excluding telephone, as determined by the jurisdiction, may not exceed 30 percent of the income limit for the low-income housing unit.

(b) For owner-occupied housing units, affordable home prices should be based on conventional or Federal Housing Administration lending standards applicable to low-income first-time homebuyers.

(6) Types of units provided when a developer is using incentives to develop both market rate housing and affordable housing.

(a) Market-rate housing projects participating in the affordable housing incentive program should provide low-income units in a range of sizes comparable to those units that are available for other residents. To the extent practicable, the number of bedrooms in low-income units should be in the same proportion as the number of bedrooms in units within the entire development.

(b) The provision of units within the developments for which a bonus or incentive is provided is encouraged. However, programs may allow units to be provided in a building located in the general area of the development for which a bonus or incentive is provided.

(c) The low-income units should have substantially the same functionality as the other units in the development.

(7) Enforcement of conditions: Conditions may be enforced using covenants, options, or other agreements executed and recorded by own-

ers and developers of the affordable housing units. Affordable units developed under an incentive program should be committed to affordability for 50 years; however, a local government may accept payments in lieu of continuing affordability.

(8) Payment in lieu of providing units allowed. Counties and cities may also allow a payment of money or property in lieu of low-income housing units if the jurisdiction determines that the payment achieves a result equal to or better than providing the affordable housing on-site. The payment must not exceed the approximate costs of developing the same number and quality of housing units that would otherwise be developed. The funds or property must be used to support the development of low-income housing, including support provided through loans or grants to public or private owners or developers of housing.

(9) Jurisdictions with affordable housing incentive programs should consider customized zoning and development regulations for development on real property owned or controlled by a religious organization, but must allow increased density consistent with RCW 36.70A.545, 35A.63.300 and 35.63.280.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-870, filed 8/15/25, effective 9/15/25; WSR 10-22-103, § 365-196-870, filed 11/2/10, effective 12/3/10.]

WAC 365-196-872 Housing on property owned or controlled by a religious organization. (1) Religious organizations may host unsheltered people on property the organizations own or control, whether within buildings located on the property, or outside of buildings on the property consistent with RCW 35A.21.360, 36.01.290, and 35.21.915.

(a) Counties and cities may not impose conditions other than those necessary to protect public health and safety and that do not substantially burden the ability of the religious organization to provide housing for unsheltered people.

(b) Counties and cities have discretion to reduce or waive permit fees for a religious organization that hosts unsheltered people.

(c) Any religious organization hosting an outdoor encampment, vehicle resident safe parking area, temporary small houses, or indoor overnight shelter, with a publicly funded managing agency, must work with the county or city to use Washington's homeless client management information system, as provided for in RCW 43.185C.180.

(2) County and city incentive programs must include increased density bonuses, consistent with local needs, for new or rehabilitated affordable housing development on property owned or controlled by a religious organization, consistent with RCW 36.70A.545, 35A.63.300, and 35.63.280. This density bonus should be administratively approved. There are no requirements for how much additional density must be allowed, but counties and cities:

(a) May develop policies to guide the development of an increased density bonus for affordable housing development on property owned or controlled by a religious organization, such as the level of bonus densities needed to allow an affordable housing project to develop or the scale of bonus densities based on the surrounding context of the property;

(b) Must limit the bonus density to sites within the urban growth area;

(c) Should adopt requirements for recording a notice to title that ensures the development is exclusively used for housing affordable to low-income households, and will meet the established affordability criteria for a time period not less than 50 years;

(d) Should require the developer to work with transit service providers, if applicable, to provide appropriate transit services;

(e) Must require that the development not discriminate against any low-income household on the basis of race, creed, color, national origin, sex, veteran or military status, sexual orientation, or mental or physical disability; or otherwise act in violation of the federal Fair Housing Amendments Act of 1988 (42 U.S.C. Sec. 3601 et seq.);

(f) Should also refer to RCW 36.01.290 and the Religious Land Use and Institutionalized Persons Act (RLUIPA) to understand the limits of their authority to regulate uses on property owned or controlled by a religious organization as well as the limits of what the religious organization may offer.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-872, filed 8/15/25, effective 9/15/25.]

WAC 365-196-875 Minimum residential parking requirements. (1) For counties and cities planning under RCW 36.70A.040, the minimum residential parking requirements of RCW 36.70A.620 and 36.70A.622 shall apply.

(a) For the purposes of this subsection, the following definitions should apply:

(i) "Seniors" means individuals 65 years or older.

(ii) "Transit stop" applies to stops where passengers embark or debark on public transit systems meeting the applicable transit service levels in RCW 36.70A.620, to include stops for conventional bus service, bus rapid transit, commuter rail, light rail, and rail or fixed guideway systems, including transitways.

(iii) A "credentialed transportation or land use planning expert" will have a license, such as a Professional Engineer (PE), or other credential issued by a nationally recognized planning organization, such as the American Planning Association (APA). The person or company preparing the parking study should have at least five years of experience in transportation planning, engineering, or land use with a minimum of two years of experience working on parking issues and related parking studies.

(b) Lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible for the "unit" may be determined by the designated local government decision maker.

(c) Walking distances to transit stops may typically be measured as the distance traveled by road, paths, and sidewalks, or by the direct distance between two points. When measuring distances between two points, conditions that can constrain walkability and reduce the actual area that is in reasonable walking distance of the major transit stop, such as terrain, water bodies, missing pedestrian routes, or infrastructure barriers should be accounted for and documented to more accurately measure walking distance.

(d) When two parking requirement limits are provided, such as "one parking space per bedroom or 0.75 space per unit," the county or city may use either limit.

(e) For the purposes of RCW 36.70A.620(3), market rate multi-family units does not include market rate middle housing units for cities subject to RCW 36.70A.635.

(2) When permitting accessory dwelling units as defined by RCW 36.70A.696(1) counties and cities subject to the requirements of RCW 36.70A.681 may not, for accessory dwelling units:

(a) Require any off-street parking within one-half mile walking distance of a major transit stop;

(b) Require more than one off-street parking space per unit on lots smaller than 6,000 square feet before any zero lot line subdivisions or lot splits; and

(c) Require more than two off-street parking spaces per unit on lots greater than 6,000 square feet before any zero lot line subdivisions or lot splits.

(3) When permitting middle housing as defined by RCW 36.70A.030(26), cities subject to the requirements of RCW 36.70A.635 shall not:

(a) Require any off-street parking within one-half mile walking distance of a major transit stop.

(b) Require more than one off-street parking space per unit on lots no greater than 6,000 square feet before any zero lot line subdivisions or lot splits; and

(c) Require more than two off-street parking spaces per unit on lots greater than 6,000 square feet before any zero lot line subdivisions or lot splits.

(4) The provisions of subsections (2) and (3) of this section do not apply:

(a) To those areas where the department has certified a local government empirical study, prepared by a certified credentialed transportation or land use expert, meeting the requirements of RCW 36.70A.681 (2)(b)(i) or 36.70A.635 (7)(a);or

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

(5) In cases where the number of off-street parking spaces required by RCW 36.70A.620 conflict with RCW 36.70A.635 or 36.70A.681, the least restrictive off-street parking requirement should apply.

(6) The off-street parking requirements of RCW 36.70A.635 and 36.70A.681 should be considered maximums and may be reduced. In considering reducing maximum off-street parking requirements, counties and cities should give consideration to:

(a) Proximity to transit facilities;

(b) Availability of on-street parking in the area;

(c) Predominant lot sizes, and whether off-street parking may restrict development of middle housing types; and

(d) Demand for off-street parking for affordable housing units.

(7) Counties and cities shall enforce land use regulations for residential development as follows:

(a) Garages and carports may not be required to meet minimum parking requirements for residential development;

(b) Parking spaces that count towards minimum parking requirements may be enclosed or unenclosed;

(c) Parking spaces in tandem must count towards meeting minimum parking requirements at a rate of one space for every 20 linear feet with any necessary provisions for turning radius;

(d) For purposes of this subsection, "tandem" is defined as having two or more vehicles, one in front of or behind the others with a single means of ingress and egress;

(e) Existence of legally nonconforming gravel surfacing in existing designated parking areas may not be a reason for prohibiting utilization of existing space in the parking area to meet local parking standards, up to a maximum of six parking spaces;

(f) Parking spaces may not be required to exceed eight feet by 20 feet, except for required parking for people with disabilities. Angled parking spaces should be sized to be comparable to an eight foot by 20 foot 90 degree stalls. Backing areas and driveway aisles should be sized to be the minimum needed for one way or two way traffic as applicable, which generally should be no greater than 24 feet for 90 degree stalls;

(g) Any county planning under this chapter, and any cities within those counties with a population greater than 6,000, may not require off-street parking as a condition of permitting a residential project if compliance with tree retention would otherwise make a proposed residential development or redevelopment infeasible. By infeasible, consideration should be given to the need to retain significant trees, and retain trees located where off-street parking and driveways for residential development or redevelopment might be located; and

(h) Parking spaces that consist of grass block pavers may count toward minimum parking requirements.

(8) Existing parking spaces that do not conform to the requirements of subsection (7) of this section as of June 6, 2024, are not required to be modified or resized, except for compliance with the Americans with Disabilities Act (ADA). Existing paved parking lots are not required to change the size of existing parking spaces during resurfacing if doing so will be more costly or require significant reconfiguration of the parking space locations.

(9) The provisions in subsection (7) of this section do not apply to portions of cities within a one-mile radius of a commercial airport in Washington with at least 9,000,000 annual enplanements.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-875, filed 8/15/25, effective 9/15/25.]

WAC 365-196-880 Accessory dwelling units. (1) For the purposes of this section, the definitions established in RCW 36.70A.696 apply.

(2) Requirements: Within urban growth areas, counties and cities:

(a) Must allow at least two accessory dwelling units on all lots that allow for single-family homes in the following configurations:

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

(ii) Two attached accessory dwelling units;

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

(iv) Must allow accessory dwelling units to be converted from existing structures including, but not limited to, detached garages, even if they violate current code requirements for setbacks or lot coverage;

(b) Must allow accessory dwelling units on any lot that meets the minimum lot size required for the principal unit;

(c) May not establish a maximum gross floor area requirement for accessory dwelling units that is less than 1,000 square feet;

(d) May not assess impact fees on the construction of accessory dwelling units that are greater than 50 percent of the impact fees that would be imposed on a principal unit;

(e) May not require the owner of a lot on which there is an accessory dwelling unit to reside in or occupy the accessory dwelling unit or another housing unit on the same lot;

(f) May not establish roof height limits on an accessory dwelling unit of less than 24 feet, unless the height limitation that applies to the principal unit is less than 24 feet, in which case a county or city may not impose roof height limitation on accessory dwelling units that is less than the height limitation that applies to the principal unit;

(g) May not impose setback requirements, yard coverage limits, tree retention mandates, restrictions on entry door locations, aesthetic requirements, or requirements for design review for accessory dwelling units that are more restrictive than those for the principal unit;

(h) Must allow detached accessory dwelling units to be sited at a lot line if the lot line abuts a public alley, unless the county or city routinely plows snow on the public alley;

(i) May not prohibit the sale or other conveyance of a condominium unit independently of a principal unit solely on the grounds that the condominium unit was originally built as an accessory dwelling unit;

(j) May not require public street improvements as a condition of permitting accessory dwelling units;

(k) Must align parking with the requirements of WAC 365-196-875.

(3) Restrictions on ADUs.

(a) Counties and cities are not required or authorized to allow the construction of an accessory dwelling unit in a location where development is restricted under other laws, rules, such as home ownership association rules, or ordinances. They may apply appropriate development regulations to the construction of an accessory unit;

(b) Counties and cities may apply public health, safety, building code, and environmental permitting requirements to an accessory dwelling unit that would be applicable to the principal unit;

(c) Counties and cities may apply regulations to protect ground and surface waters from on-site wastewater; as such, the construction of accessory dwelling units may be prohibited on lots that are not connected to or served by public sewers;

(d) Counties and cities may prohibit or restrict the construction of accessory dwelling units on land designated as critical areas or their buffers as designated in RCW 36.70A.060, or in designated shoreline buffers, though conversions of internal space in legally permitted structures may be allowed;

(e) Counties and cities may prohibit or restrict the construction of accessory dwelling units in residential zones with a density of one dwelling unit per acre or less that are within areas designated as wetlands, fish and wildlife habitats, flood plains, or geologically hazardous areas;

(f) Counties and cities may prohibit or restrict the construction of accessory dwelling units in a watershed serving a reservoir for potable water if that watershed is or was listed, as of July 1, 2023, as impaired or threatened under section 303(d) of the federal Clean Water Act (33 U.S.C. Sec. 1313(d));

(g) Counties and cities may prohibit or restrict the construction of accessory dwelling units in portions of cities within a one-mile

radius of a commercial airport in Washington with at least 9,000,000 annual enplanements;

(h) Counties and cities may prohibit or restrict the construction of accessory dwelling units in areas with other unsuitable physical characteristics of a property; and

(i) Counties and cities may restrict the use of accessory dwelling units for short term rentals.

(4) The requirements of RCW 36.70A.681 shall supersede, preempt, and invalidate local development regulations in any county or city that has not passed ordinances, regulations, or other official controls within the time frames provided under RCW 36.70A.680.

(5) ADU regulations not subject to appeal. Any action taken by a county or city that is consistent with these requirements is not subject to legal challenge under chapter 36.70A or 43.21C RCW, unless the action has a probable significant adverse impact on fish habitat.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-880, filed 8/15/25, effective 9/15/25.]

WAC 365-196-885 Co-living housing. (1) Counties and cities must allow co-living housing as a permitted use on any lot located within an urban growth area that allows at least six multifamily residential units, including on a lot zoned for mixed-use development.

(2) Counties and cities may not require co-living housing to:

(a) Contain room dimensional standards larger than that required by the state building code, including dwelling unit size, sleeping unit size, room area, and habitable space;

(b) Provide a mix of unit sizes or number of bedrooms; or

(c) Include other uses.

(3)(a) Counties and cities also may not require co-living housing to:

(i) Provide off-street parking within one-half mile walking distance of a major transit stop; or

(ii) Provide more than one-quarter off-street parking spaces per sleeping unit.

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

(i) If a county or city submits to the department an empirical study prepared by a credentialed transportation or land use planning expert that clearly demonstrates, and the department finds and certifies, that the application of the parking limitations of (a) of this subsection will be significantly less safe for vehicle drivers or passengers, pedestrians, or bicyclists than if the jurisdiction's parking requirements were applied to the same location.

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

(4) Counties and cities may not require through development regulations any standards for co-living housing that are more restrictive than those that are required for other types of multifamily residential uses in the same zone.

(5) Counties and cities may only require a review, notice, or public meeting for co-living housing that is required for other types of residential uses in the same location, unless otherwise required by state law including, but not limited to, shoreline regulations under chapter 90.58 RCW.

(6) Counties and cities may not exclude co-living housing from participating in affordable housing incentive programs under RCW 36.70A.540.

(7) Counties and cities may not treat a sleeping unit in co-living housing as more than one-quarter of a dwelling unit for purposes of calculating dwelling unit density.

(8) Counties and cities may not treat a sleeping unit in co-living housing as more than one-half of a dwelling unit for purposes of calculating fees for sewer connections, unless the city or county makes a finding, based on facts, that the connection fees should exceed the one-half threshold.

(9) For the purposes of this section, the following definitions apply:

(a) "Co-living housing" means a residential development with sleeping units that are independently rented and lockable and provide living and sleeping space, and residents share kitchen facilities with other sleeping units in the building. Local governments may use other names to refer to co-living housing including, but not limited to, congregate living facilities, single room occupancy, rooming house, boarding house, lodging house, and residential suites.

(b) "Major transit stop" means:

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

(ii) Commuter rail stops;

(iii) Stops on rail or fixed guideway systems, including transitways;

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

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

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-885, filed 8/15/25, effective 9/15/25.]

WAC 365-196-890 Minimum residential density. (1) Except as provided in RCW 36.70A.635(4) and 36.70A.636(3), any city that is required or chooses to plan under RCW 36.70A.040 must authorize by ordinance and incorporate into its development regulations, zoning regulations, and other official controls, the following:

(a) Cities with a population of at least 75,000, based on office of financial management population estimates must, on all lots zoned predominantly for residential use, permit the development of:

(i) At least four units per lot, unless zoning permitting higher densities or intensities applies;

(ii) At least six units per lot if located within a quarter-mile walking distance of a major transit stop, unless zoning permitting higher densities or intensities applies; and

(iii) At least six units per lot, if at least two of the units are affordable housing, unless zoning permitting higher densities or intensities applies.

(b) Cities with a population less than 75,000 but at least 25,000 based on office of financial management population estimates must, on all lots zoned predominantly for residential use, permit the development of:

(i) At least two units per lot, unless zoning permitting higher densities or intensities applies;

(ii) At least four units per lot if located within a quarter-mile walking distance of a major transit stop unless zoning permitting higher densities or intensities applies; and

(iii) At least four units per lot, if at least one of the units is affordable housing unless zoning permitting higher densities or intensities applies.

(2) Cities with populations under 25,000 based on office of financial management population estimates and within a contiguous urban growth area with the largest city in a county with a population of more than 275,000 must permit the development of at least two units on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies.

(3) Cities are not required to achieve the per unit density on lots after subdivision below 1,000 square feet unless the city chooses to enact smaller allowable lot sizes.

(4)(a) To qualify for the additional affordable housing units allowed under subsection (1) of this section, the applicant must:

(i) Commit to renting or selling the required number of units as affordable housing and maintain the units as affordable for a term of at least 50 years; and

(ii) Have the property satisfy that commitment and all required affordability and income eligibility conditions adopted by the local government under chapter 36.70A RCW.

(b) A city must require the applicant to record a covenant or deed restriction that:

(i) Ensures the continuing rental of units subject to these affordability requirements consistent with the conditions in chapter 84.14 RCW for a period of no less than 50 years; and

(ii) Addresses criteria and policies to maintain public benefit if the property is converted to a use other than which continues to provide for permanently affordable housing.

(c) The units dedicated as affordable must:

(i) Be provided in a range of sizes comparable to other units in the development;

(ii) To the extent practicable, have the number of bedrooms in the same proportion as the number of bedrooms in units within the entire development;

(iii) Generally be distributed throughout the development and have substantially the same functionality as the other units in the development.

(d) For cities that have enacted a program under RCW 36.70A.540, the terms of that program govern to the extent they vary from the requirements of this subsection.

(5) A city that had enacted a program under RCW 36.70A.540 may require any development, including development described in subsection (1) of this section, to provide affordable housing, either on-site or through an in-lieu payment. The city may expand such a program or modify its requirements.

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

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

(i) Any areas within the city for which the department has certified an extension of the implementation timelines under RCW 36.70A.637 due to the risk of displacement;

(ii) Any areas within the city for which the department has certified an extension of the implementation timelines under RCW 36.70A.638 due to a lack of infrastructure capacity;

(iii) Any lots, parcels, and tracts designated with critical areas or their buffers that are exempt from the density requirements as provided in RCW 36.70A.635 (8)(a). In making this exclusion, only lots which cannot reasonably be developed for middle housing due to the presence of critical areas or their buffers should be included;

(iv) Any portion of a city within a one-mile radius of a commercial airport with at least 9,000,000 annual enplanements that is exempt from the parking requirements under RCW 36.70A.635 (7)(b); and

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

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

(i) For which the exclusion would further racially disparate impacts or result in zoning with a discriminatory effect;

(ii) Within one-half mile walking distance of a major transit stop; or

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

(d) Cities may make an application to the department to include more than 25 percent of lots for which the requirements of subsection (1) of this section do not apply, subject to the certification process provided for in chapter 365-199 WAC.

(7) Cities subject to the requirements of subsection (1)(a) or (b) of this section must allow at least six of the nine types of middle housing to achieve the unit density required in subsection (1) of this section. Cities subject to the requirements of subsection (2) of this section should allow at least as many middle housing types that can be developed as two unit per lot projects.

(a) Cities may allow accessory dwelling units to achieve the unit density required in subsection (1) of this section.

(b) Cities are not required to allow accessory dwelling units or middle housing types beyond the density requirements in subsection (1) of this section.

(c) Cities must allow zero lot line short subdivisions where the number of lots created is equal to the unit density required in subsection (1) of this section.

(d) Single family detached dwellings are not a middle housing type and may not count toward the unit density requirements of RCW 36.70A.635(1).

(8)(a) Cities shall not require through development regulations any standards for middle housing that are more restrictive than those required for detached single-family residences.

(b) Cities may apply any objective development regulations that are required for detached single-family residences including, but not

limited to, setback, lot coverage, stormwater, clearing, and tree canopy and retention requirements.

(c) Cities may apply design review for middle housing provided:

(i) Only administrative design review shall be applied; and

(ii) Only those objective design standards necessary to address middle housing compatibility with the scale, form, and character with single-family houses are applied.

(9) Cities shall apply to middle housing the same development permit and environmental review processes that apply to detached single-family residences, unless otherwise required by state law including, but not limited to, shoreline regulations under chapter 90.58 RCW, building codes under chapter 19.27 RCW, energy codes under chapter 19.27A RCW, or electrical codes under chapter 19.28 RCW.

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

(a) Portions of a lot, parcel, or tract with designated critical areas under RCW 36.70A.170 or their buffers as required by RCW 36.70A.170, except for critical aquifer recharge areas where a single-family detached house is an allowed use provided that any requirements to maintain aquifer recharge areas are met;

(b) Areas designated as sole-source aquifers by the United States Environmental Protection Agency on islands in the Puget Sound;

(c) A watershed serving a reservoir for potable water if that watershed is or was listed, as of July 23, 2023, as impaired or threatened under section 303(d) of the federal Clean Water Act (33 U.S.C. Sec. 1313(d));

(d) Lots designated urban separators by countywide planning policies as of July 23, 2023; or

(e) A lot that was created through the splitting of a single residential lot.

(11) RCW 36.70A.635 does not:

(a) Prohibit a city from permitting detached single-family residences;

(b) Require a city to issue a building permit if other federal, state, and local requirements for a building permit are not met.

(12) A city must comply with the requirements of this section on the latter of:

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

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

(13) A city complying with this section and not granted a timeline extension under RCW 36.70A.638 does not have to update its capital facilities plan element required by RCW 36.70A.070(3) to accommodate the increased housing required in RCW 36.70A.635 or 36.70A.636 until the first periodic comprehensive plan update required for the city under RCW 36.70A.130(5) that occurs on or after June 30, 2034.

(14) Until June 30, 2026, for cities subject to a growth allocation adopted under RCW 36.70A.210 that limits the maximum residential capacity of the jurisdiction, any additional residential capacity created by this section for lots, parcels, and tracts outside of critical areas or their buffers may not be considered an inconsistency with the countywide planning policies, multicounty planning policies, or growth allocations adopted under RCW 36.70A.210.

(15) Recommendations for meeting requirements.

(a) Cities should define "all lots zoned predominantly for residential use" with consideration given to:

(i) Including zoning districts where residential dwellings are the primary use;

(ii) Nonresidential zones, such as commercial, industrial, and public zoning districts, should not be considered lots "zoned predominantly for residential use" even though they may permit single-family dwellings;

(iii) Mixed use zones that allow for a complementary mix of commercial development with residential development, and which allow residential development at higher densities than middle housing, should not be considered lots predominantly zoned for residential use.

(b) Cities may define duplex, triplex, fourplex, fiveplex, and sixplex provided that the definitions are consistent with the definition of middle housing in RCW 36.70A.030(26), including that middle housing buildings are compatible in scale, form, and character with single-family houses and contain two or more attached, stacked, or clustered homes.

(16) Development regulations for middle housing:

(a) Shall not require any standards that are more restrictive than those required for detached single-family residences, except as provided for in RCW 36.70A.635 (6)(a) through administrative design review;

(b) May apply any objective development regulations that are required for detached single-family residences including, but not limited to, set-back, lot coverage, stormwater, clearing, and tree canopy and retention requirements;

(c) May adopt objective development regulations for middle housing that are less restrictive than existing standards required for detached single-family residences; and

(d) May use administrative design review to adopt design and development standards that reflect differences between detached single-family residences and "middle housing" types, provided that:

(i) The design and development standard is objective; and

(ii) The design and development standard makes middle housing compatible with the form, character, and scale of existing single-family houses.

(e) Cities establishing unit per lot requirements above the minimums identified in RCW 36.70A.635 (1)(a)(i) through (iii), (b)(i) through (iii) and (c), should consider:

(i) The variety of lot sizes that may exist in the city;

(ii) Proximity to major transit facilities, if any;

(iii) The type of major transit facilities, if any;

(iv) Neighborhood facilities, such as shopping services, if any;

(v) Existing public facilities such as sidewalks;

(vi) How objective middle housing development and design standards can serve to make middle housing compatible with the form, scale, and character of single family homes.

(f) Cities must apply the same critical area requirements for middle housing development that would apply to single family homes on the same lot unless an analysis, including best available science, shows that more restrictive standards are necessary to protect critical area functions and values.

(17) A city complying with the requirements of RCW 36.70A.635 and not granted a timeline extension under RCW 36.70A.638 should update its capital facilities element to accommodate the increased housing

required by RCW 36.70A.635 and 36.70A.636 prior to the first periodic update that occurs on or after June 30, 2034.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-890, filed 8/15/25, effective 9/15/25.]

WAC 365-196-900 Department technical assistance—Approval of alternative action. (1) The model middle housing ordinances published by the department in accordance with RCW 36.70A.636(2) shall:

(a) Supersede, preempt, and invalidate local development regulations in any city subject to RCW 36.70A.635 that has not passed ordinances, regulations, or other official controls within the time frames provided under RCW 36.70A.635(11).

(b) Remain in effect until the city takes all actions necessary to implement RCW 36.70A.635.

(2) Subject to a process provided for in WAC 365-199-060, cities implementing the requirements of RCW 36.70A.635 may seek approval of alternative local actions identified in RCW 36.70A.637 (3)(b) and (c), subject to the approval process in WAC 365-199-060.

(a) The department may approve actions for cities that have, by January 1, 2023, adopted a comprehensive plan that is substantially similar to the requirements of RCW 36.70A.635 and have adopted, or within one year of July 23, 2023, adopts permanent development regulations substantially similar to the requirements of RCW 36.70A.635. In determining whether a city's adopted comprehensive plan and permanent development regulations are substantially similar, the department must find as substantially similar plans and regulations that:

(i) Result in an overall increase in housing units allowed in single-family zones that is at least 75 percent of the increase in housing units allowed in single-family zones if the specific provisions of RCW 36.70A.635 were implemented;

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

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

(b) The department may approve actions for cities that have, by January 1, 2023, adopted a comprehensive plan or development regulations that have significantly reduced or eliminated residentially zoned areas that are predominantly single family. The department must find that a city's actions are substantially similar to the requirements of RCW 36.70A.635 if they have adopted, or within one year of July 23, 2023, adopt permanent development regulations that:

(i) Result in an overall increase in housing units allowed in single-family zones that is at least 75 percent of the increase in housing units allowed in single-family zones if the specific provisions of RCW 36.70A.635 were implemented;

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

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

(3)(a) The department may determine that a comprehensive plan and development regulations that do not meet the criteria in RCW 36.70A.636 (3)(b) or (c) are otherwise substantially similar to the requirements of RCW 36.70A.635 if the city can clearly demonstrate that the regulations adopted will allow for a greater increase in mid-

dle housing production within single family zones than would be allowed through implementation of RCW 36.70A.635.

(b) In making this determination, the city must provide supporting documentation and calculations that compare middle housing units allowed within single-family zones under the alternative action to housing units allowed were the city to adopt applicable provisions of RCW 36.70A.635.

(c) In preparing the documentation and calculations, consideration should be given to housing element technical guidance documents prepared by the department for conducting housing element land capacity analysis.

(4) Any local actions approved by the department pursuant to RCW 36.70A.636 (b) and (c) to implement the requirements under RCW 36.70A.635 are exempt from appeals under this chapter and chapter 43.21C RCW.

(5) The department's final decision to approve or reject actions by cities implementing RCW 36.70A.635 may be appealed to the growth management hearings board by filing a petition as provided in RCW 36.70A.290.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 25-17-058, s 365-196-900, filed 8/15/25, effective 9/15/25.]