Chapter 35.63 RCW
PLANNING COMMISSIONS

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RCW 35.63.010 Definitions. As used in this chapter the following terms shall have the meaning herein given them:

"Appointive members" means all members of a commission other than ex officio members;

"Board" means the board of county commissioners;

"City" includes every incorporated city and town;

"Commission" means a city or county planning commission;

"Council" means the chief legislative body of a city;

"Ex officio members" means the members of a commission chosen from among city or county officials;

"Highways" include streets, roads, boulevards, lanes, alleys, viaducts and other traveled ways;

"Mayor" means the chief executive of a city;

"Municipality" includes every county and city. [1965 c 7 s 35.63.010. Prior: 1935 c 44 s 1; RRS s 9322-1.]

RCW 35.63.015 "Solar energy system" defined. As used in this chapter, "solar energy system" means any device or combination of devices or elements which rely upon direct sunlight as an energy source, including but not limited to any substance or device which collects sunlight for use in:

(1) The heating or cooling of a structure or building;

(2) The heating or pumping of water;

(3) Industrial, commercial, or agricultural processes; or

(4) The generation of electricity.

A solar energy system may be used for purposes in addition to the collection of solar energy. These uses include, but are not limited to, serving as a structural member or part of a roof of a building or structure and serving as a window or wall. [1979 ex.s. c 170 s 2.]

Severability—1979 ex.s. c 170: See note following RCW 64.04.140.

Local governments authorized to encourage and protect solar energy systems: RCW 64.04.140.

RCW 35.63.020 Commissioners—Manner of appointment. If any council or board desires to avail itself of the powers conferred by this chapter it shall create a city or county planning commission consisting of from three to twelve members to be appointed by the mayor or chair of the municipality and confirmed by the council or board: PROVIDED, That in cities of the first class having a commission form of government consisting of three or more members, the commissioner of public works shall appoint the planning commission, which appointment shall be confirmed by a majority of the city commissioners. Cities of the first class operating under self-government charters may extend the membership and the duties and powers of its commission beyond those prescribed in this chapter. [2009 c 549 s 2113; 1965 c 7 s 35.63.020. Prior: (i) 1935 c 44 s 2, part; RRS s 9322-2, part. (ii) 1935 c 44 s 12; RRS s 9322-12.]

RCW 35.63.030 Commissioners—Number—Tenure—Compensation. The ordinance, resolution, or act creating the commission shall set forth the number of members to be appointed, not more than one-third of which number may be ex officio members by virtue of office held in any municipality. The term of office for ex officio members shall correspond to their respective tenures. The term of office for the first appointive members appointed to such commission shall be designated from one to six years in such manner as to provide that the fewest possible terms will expire in any one year. Thereafter the term of office for each appointive member shall be either four or six years, as determined by legislative action of the council.

Vacancies occurring otherwise than through the expiration of terms shall be filled for the unexpired term. Members may be removed, after public hearing, by the appointing official, with the approval of

his or her council or board, for inefficiency, neglect of duty, or malfeasance in office.

The members shall be selected without respect to political affiliations and they shall serve without compensation. [2011 c 59 s 1; 2009 c 549 s 2114; 1965 c 7 s 35.63.030. Prior: 1935 c 44 s 2, part; RRS s 9322-2, part.]

RCW 35.63.040 Commissions—Organization—Meeting—Rules. The commission shall elect its own chair and create and fill such other offices as it may determine it requires. The commission shall hold at least one regular meeting in each month for not less than nine months in each year. It shall adopt rules for transaction of business and shall keep a written record of its meetings, resolutions, transactions, findings and determinations which record shall be a public record. [2009 c 549 s 2115; 1965 c 7 s 35.63.040. Prior: 1935 c 44 s 3; RRS s 9322-3.]

RCW 35.63.050 Expenditures. The expenditures of any commission or regional commission authorized and established under this chapter, exclusive of gifts, shall be within the amounts appropriated for the purpose by the council or board. Within such limits, any commission may employ such employees and expert consultants as are deemed necessary for its work. [1965 c 7 s 35.63.050. Prior: 1935 c 44 s 4; RRS s 9322-4.]

RCW 35.63.060 Powers of commissions. The commission may act as the research and fact-finding agency of the municipality. To that end it may make such surveys, analyses, researches and reports as are generally authorized or requested by its council or board, or by the state with the approval of its council or board. The commission, upon such request or authority may also:

(1) Make inquiries, investigations, and surveys concerning the resources of the county, including but not limited to the potential for solar energy development and alternative means to encourage and protect access to direct sunlight for solar energy systems;

(2) Assemble and analyze the data thus obtained and formulate plans for the conservation of such resources and the systematic utilization and development thereof;

(3) Make recommendations from time to time as to the best methods of such conservation, utilization, and development;

(4) Cooperate with other commissions and with other public agencies of the municipality, state and United States in such planning, conservation, and development; and

(5) In particular cooperate with and aid the state within its territorial limits in the preparation of the state master plan provided for in RCW 43.21A.350 and in advance planning of public works programs.

In carrying out its powers and duties, the commission should demonstrate how land use planning is integrated with transportation planning. [2002 c 189 s 1; 1988 c 127 s 1; 1979 ex.s. c 170 s 3; 1965 c 7 s 35.63.060. Prior: 1935 c 44 s 10; RRS s 9322-10.]

Severability—1979 ex.s. c 170: See note following RCW 64.04.140.

RCW 35.63.065 Public notice—Identification of affected property. Any notice made under chapter 35.63 RCW that identifies affected property may identify this affected property without using a legal description of the property including, but not limited to, identification by an address, written description, vicinity sketch, or other reasonable means. [1988 c 168 s 9.]

RCW 35.63.070 Regional commissions—Appointment—Powers. The commissions of two or more adjoining counties, of two or more adjacent cities and towns, of one or more cities and towns and/or one or more counties, together with the boards of such counties and the councils of such cities and towns may cooperate to form, organize and administer a regional planning commission for the making of a regional plan for the region defined as may be agreed upon by the commissions, boards and councils. The regional commission when requested by the commissions of its region, may further perform any of the other duties for its region that are specified in RCW 35.63.060 for city and county commissions. The number of members of a regional commission, their method of appointment and the proportion of the cost of regional planning, surveys and studies to be borne respectively by the various counties and cities in the region, shall be such as may be agreed upon by commissions, boards and councils.

Any regional planning commission, or the councils or boards respectively of any city, town, or county, are authorized to receive grants-in-aid from the government of the United States or of any of its agencies, and are authorized to enter into any reasonable agreement with any department or agency of the government of the United States to arrange for the receipt of federal funds for planning in the interest of furthering the planning program. [1965 c 7 s 35.63.070. Prior: 1957 c 130 s 1; 1935 c 44 s 11; RRS s 9322-11.]

Commission as employer for retirement system purposes: RCW 41.40.010.

RCW 35.63.080 Restrictions on buildings—Use of land. (1) The council or board may provide for the preparation by its commission and the adoption and enforcement of coordinated plans for the physical development of the municipality. For this purpose the council or board, in such measure as is deemed reasonably necessary or requisite in the interest of health, safety, morals, and the general welfare, upon recommendation by its commission, by general ordinances of the city or general resolution of the board, may:

(a) Regulate and restrict:

(i) The location and the use of buildings, structures, and land for residence, trade, industrial, and other purposes;

(ii) The height, number of stories, size, construction, and design of buildings and other structures;

(iii) The size of yards, courts, and other open spaces on the lot or tract;

(iv) The density of population;

(v) The setback of buildings along highways, parks, or public water frontages; and

(vi) The subdivision and development of land;

(b) Eliminate the minimum gross floor area requirements for single-family detached dwellings or reduce the requirements below the

minimum performance standards and objectives contained in the state building code; and

(c) Encourage and protect access to direct sunlight for solar energy systems.

(2) The council of a city where ordinances adopted in accordance with this section are in effect may, on the recommendation of its commission, provide for the appointment of a board of adjustment to make, in appropriate cases and subject to appropriate conditions and safeguards established by ordinance, special exceptions in harmony with the general purposes and intent and in accordance with general or specific rules therein contained. [2018 c 302 s 3; 1979 ex.s. c 170 s 4; 1965 c 7 s 35.63.080. Prior: 1935 c 44 s 5; RRS s 9322-5.]

Severability—1979 ex.s. c 170: See note following RCW 64.04.140.

RCW 35.63.090 Restrictions—Purposes of. All regulations shall be worked out as parts of a comprehensive plan which each commission shall prepare for the physical and other generally advantageous development of the municipality and shall be designed, among other things, to encourage the most appropriate use of land throughout the municipality; to lessen traffic congestion and accidents; to secure safety from fire; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to promote a coordinated development of the unbuilt areas; to encourage the formation of neighborhood or community units; to secure an appropriate allotment of land area in new developments for all the requirements of community life; to conserve and restore natural beauty and other natural resources; to encourage and protect access to direct sunlight for solar energy systems; and to facilitate the adequate provision of transportation, water, sewerage and other public uses and requirements, including protection of the quality and quantity of groundwater used for public water supplies. Each plan shall include a review of drainage, flooding, and stormwater runoff in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute Puget Sound or waters entering Puget Sound. [1985 c 126 s 1; 1984 c 253 s 1; 1979 ex.s. c 170 s 5; 1965 c 7 s 35.63.090. Prior: 1935 c 44 s 7; RRS s 9322-7.]

Severability—1979 ex.s. c 170: See note following RCW 64.04.140.

RCW 35.63.100 Restrictions—Recommendations of commission—Hearings—Adoption of comprehensive plan—Certifying—Filing or recording. The commission may recommend to its council or board the plan prepared by it as a whole, or may recommend parts of the plan by successive recommendations; the parts corresponding with geographic or political sections, division or subdivisions of the municipality, or with functional subdivisions of the subject matter of the plan, or in the case of counties, with suburban settlement or arterial highway area. It may also prepare and recommend any amendment or extension thereof or addition thereto.

Before the recommendation of the initial plan to the municipality the commission shall hold at least one public hearing thereon, giving notice of the time and place by one publication in a newspaper of

general circulation in the municipality and in the official gazette, if any, of the municipality.

The council may adopt by resolution or ordinance and the board may adopt by resolution the plan recommended to it by the commission, or any part of the plan, as the comprehensive plan.

A true copy of the resolution of the board adopting or embodying such plan or any part thereof or any amendment thereto shall be certified by the clerk of the board and filed with the county auditor. A like certified copy of any map or plat referred to or adopted by the county resolution shall likewise be filed with the county auditor. The auditor shall record the resolution and keep on file the map or plat.

The original resolution or ordinance of the council adopting or embodying such plan or any part thereof or any amendment thereto shall be certified by the clerk of the city and filed by him or her. The original of any map or plat referred to or adopted by the resolution or ordinance of the council shall likewise be certified by the clerk of the city and filed by him or her. The clerk shall keep on file the resolution or ordinance and map or plat. [2009 c 549 s 2116; 1967 ex.s. c 144 s 8; 1965 c 7 s 35.63.100. Prior: 1935 c 44 s 8; RRS s 9322-8.]

Effective date—1967 ex.s. c 144: The effective date of 1967 ex.s. c 144 is July 30, 1967.

Severability—1967 ex.s. c 144: See note following RCW 36.900.030.

Validation—1967 ex.s. c 144: "Any city comprehensive plan and all amendments thereto which have been filed or recorded with the county auditor prior to the effective date of this 1967 amendatory act shall be valid and need not be refiled with the clerk of the city to remain valid and in full force and effect." [1967 ex.s. c 144 s 10.]

RCW 35.63.105 Amendments to comprehensive plan to be adopted, certified, and recorded or filed in accordance with RCW 35.63.100. All amendments to a comprehensive plan shall be adopted, certified, and recorded or filed in the same manner as authorized in RCW 35.63.100 for an initial comprehensive plan. [1967 ex.s. c 144 s 9.]

Severability—1967 ex.s. c 144: See note following RCW 36.900.030.

Validation—1967 ex.s. c 144: See note following RCW 35.63.100.

RCW 35.63.110 Restrictive zones. For any or all of such purposes the council or board, on recommendation of its commission, may divide the municipality or any portion thereof into districts of such size, shape and area, or may establish such official maps, or development plans for the whole or any portion of the municipality as may be deemed best suited to carry out the purposes of this chapter and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land. [1965 c 7 s 35.63.110. Prior: 1935 c 44 s 6; RRS s 9322-6.]

RCW 35.63.120 Supplemental restrictions—Hearing—Affirmance, disaffirmance, modification of commission's decision. Any ordinance or resolution adopting any such plan or regulations, or any part thereof, may be amended, supplemented or modified by subsequent ordinance or resolution.

Proposed amendments, supplementations, or modifications shall first be heard by the commission and the decision shall be made and reported by the commission within ninety days of the time that the proposed amendments, supplementations, or modifications were made.

The council or board, pursuant to public hearing called by them upon application therefor by any interested party or upon their own order, may affirm, modify or disaffirm any decision of the commission. [1965 c 7 s 35.63.120. Prior: 1957 c 194 s 1; 1935 c 44 s 9; RRS s 9322-9.]

RCW 35.63.125 Development regulations—Consistency with comprehensive plan. Beginning July 1, 1992, the development regulations of each city and county that does not plan under RCW 36.70A.040 shall not be inconsistent with the city's or county's comprehensive plan. For the purposes of this section, "development regulations" has the same meaning as set forth in RCW 36.70A.030. [1990 1st ex.s. c 17 s 22.]

Severability—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

RCW 35.63.126 Development regulations—Jurisdictions specified—Electric vehicle infrastructure—City retrofitting incentive programs. (1) By July 1, 2010, the development regulations of any jurisdiction:

(a) Adjacent to Interstate 5, Interstate 90, Interstate 405, or state route number 520, with a population over twenty thousand, and located in a county with a population over one million five hundred thousand; or

(b) Adjacent to Interstate 5 and located in a county with a population greater than six hundred thousand; or

(c) Adjacent to Interstate 5 and located in a county with a state capitol within its borders;

planning under this chapter must allow electric vehicle infrastructure as a use in all areas except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(2) By July 1, 2011, or six months after the distribution required under RCW 43.31.970 occurs, whichever is later, the development regulations of any jurisdiction adjacent to Interstate 5, Interstate 90, Interstate 405, or state route number 520 planning under this chapter must allow electric vehicle infrastructure as a use in all areas except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(3) By July 1, 2011, or six months after the distribution required under RCW 43.31.970 occurs, whichever is later, the

development regulations of any jurisdiction planning under this chapter must allow battery charging stations as a use in all areas except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(4) Cities are authorized to adopt incentive programs to encourage the retrofitting of existing structures with the electrical outlets capable of charging electric vehicles. Incentives may include bonus height, site coverage, floor area ratio, and transferable development rights for use in urban growth areas.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(6) If federal funding for public investment in electric vehicles, electric vehicle infrastructure, or alternative fuel distribution infrastructure is not provided by February 1, 2010, subsection (1) of this section is null and void. [2009 c 459 s 9.]

Finding—Purpose—2009 c 459: See note following RCW 47.80.090.

Regional transportation planning organizations—Electric vehicle infrastructure: RCW 47.80.090.

RCW 35.63.127 Development regulations—Jurisdictions specified—Electric vehicle infrastructure—County retrofitting incentive programs. (1) By July 1, 2010, the development regulations of any jurisdiction with a population over six hundred thousand or with a state capitol within its borders planning under this chapter must allow electric vehicle infrastructure as a use in all areas within one mile of Interstate 5, Interstate 90, Interstate 405, or state route number 520, except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(2) By July 1, 2011, or six months after the distribution required under RCW 43.31.970 occurs, whichever is later, the development regulations of any jurisdiction adjacent to Interstate 5, Interstate 90, Interstate 405, or state route number 520 planning under this chapter must allow electric vehicle infrastructure as a use in all areas except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(3) By July 1, 2011, or six months after the distribution required under RCW 43.31.970 occurs, whichever is later, the development regulations of any jurisdiction planning under this chapter must allow battery charging stations as a use in all areas except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(4) Counties are authorized to adopt incentive programs to encourage the retrofitting of existing structures with the electrical outlets capable of charging electric vehicles. Incentives may include bonus height, site coverage, floor area ratio, and transferable development rights for use in urban growth areas.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(6) If federal funding for public investment in electric vehicles, electric vehicle infrastructure, or alternative fuel distribution infrastructure is not provided by February 1, 2010, subsection (1) of this section is null and void. [2009 c 459 s 13.]

Finding—Purpose—2009 c 459: See note following RCW 47.80.090.

Regional transportation planning organizations—Electric vehicle infrastructure: RCW 47.80.090.

RCW 35.63.130 Hearing examiner system—Adoption authorized—Alternative—Functions—Procedures. (1) As an alternative to those provisions of this chapter relating to powers or duties of the planning commission to hear and report on any proposal to amend a zoning ordinance, the legislative body of a city or county may adopt a hearing examiner system under which a hearing examiner or hearing examiners may hear and decide applications for amending the zoning ordinance when the amendment which is applied for is not of general applicability. In addition, the legislative body may vest in a hearing examiner the power to hear and decide those issues it believes should be reviewed and decided by a hearing examiner, including but not limited to:

(a) Applications for conditional uses, variances, subdivisions, shoreline permits, or any other class of applications for or pertaining to development of land or land use;

(b) Appeals of administrative decisions or determinations; and

(c) Appeals of administrative decisions or determinations pursuant to chapter 43.21C RCW.

The legislative body shall prescribe procedures to be followed by the hearing examiner.

(2) Each city or county legislative body electing to use a hearing examiner pursuant to this section shall by ordinance specify the legal effect of the decisions made by the examiner. The legal effect of such decisions may vary for the different classes of applications decided by the examiner but shall include one of the following:

(a) The decision may be given the effect of a recommendation to the legislative body;

(b) The decision may be given the effect of an administrative decision appealable within a specified time limit to the legislative body; or

(c) Except in the case of a rezone, the decision may be given the effect of a final decision of the legislative body.

(3) Each final decision of a hearing examiner shall be in writing and shall include findings and conclusions, based on the record, to support the decision. Such findings and conclusions shall also set forth the manner in which the decision would carry out and conform to the city's or county's comprehensive plan and the city's or county's development regulations. Each final decision of a hearing examiner, unless a longer period is mutually agreed to in writing by the applicant and the hearing examiner, shall be rendered within ten working days following conclusion of all testimony and hearings. [1995 c 347 s 423; 1994 c 257 s 8; 1977 ex.s. c 213 s 1.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

Severability—1994 c 257: See note following RCW 36.70A.270.

Severability—1977 ex.s. c 213: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 213 s 5.]

RCW 35.63.140 Residential care facilities—Review of need and demand—Adoption of ordinances. Each municipality that does not provide for the siting of residential care facilities in zones or areas that are designated for single-family or other residential uses, shall conduct a review of the need and demand for the facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 31, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the *department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the *department of community development as to why such implementing ordinances were not adopted. [1989 c 427 s 36.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994. The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

RCW 35.63.150 Conformance with chapter 43.97 RCW required. With respect to the National Scenic Area, as defined in the Columbia River Gorge National Scenic Area Act, P.L. 99-663, the exercise of any power or authority by a county or city pursuant to this chapter shall be subject to and in conformity with the requirements of chapter 43.97 RCW, including the Interstate Compact adopted by RCW 43.97.015, and with the management plan regulations and ordinances adopted by the Columbia River Gorge commission pursuant to the Compact. [1987 c 499 s 6.]

RCW 35.63.160 Regulation of manufactured homes—Definitions. (1) A "designated manufactured home" is a manufactured home constructed after June 15, 1976, in accordance with state and federal requirements for manufactured homes, which:

(a) Is comprised of at least two fully enclosed parallel sections each of not less than twelve feet wide by thirty-six feet long;

(b) Was originally constructed with and now has a composition or wood shake or shingle, coated metal, or similar roof of nominal 3:12 pitch; and

(c) Has exterior siding similar in appearance to siding materials commonly used on conventional site-built uniform building code single-family residences.

(2) "New manufactured home" means any manufactured home required to be titled under Title 46 RCW, which has not been previously titled to a retail purchaser, and is not a "used mobile home" as defined in RCW 82.45.032(2).

(3) Nothing in this section precludes cities from allowing any manufactured home from being sited on individual lots through local standards which differ from the designated manufactured home or new manufactured home as described in this section, except that the term "designated manufactured home" and "new manufactured home" shall not

be used except as defined in subsections (1) and (2) of this section. [2004 c 256 s 5; 1988 c 239 s 1.]

Findings—Intent—Effective date—2004 c 256: See notes following RCW 35.21.684.

RCW 35.63.161 Manufactured housing communities—Prohibitions of city due to community status as a nonconforming use. (1) After June 10, 2004, a city may designate a new manufactured housing community as a nonconforming use, but may not order the removal or phased elimination of an existing manufactured housing community because of its status as a nonconforming use.

(2) A city may not prohibit the entry or require the removal of a manufactured/mobile home, park model, or recreational vehicle authorized in a manufactured housing community under chapter 59.20 RCW on the basis of the community's status as a nonconforming use. [2011 c 158 s 9; 2004 c 210 s 1.]

Transfer of residual funds to manufactured home installation training account—2011 c 158: See note following RCW 43.22A.100.

RCW 35.63.170 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 35.22.660, 35.63.180, 35A.63.210, 36.32.520, and 36.70.675:

(1) "Family day care home" means a person regularly providing care during part of the twenty-four-hour day to six or fewer children in the family abode of the person or persons under whose direct care the children are placed.

(2) "Mini-day care center" means a person or agency providing care during part of the twenty-four-hour day to twelve or fewer children in a facility other than the family abode of the person or persons under whose direct care the children are placed, or for the care of seven through twelve children in the family abode of such person or persons.

(3) "Day care center" means a person or agency that provides care for thirteen or more children during part of the twenty-four-hour day.

(4) "Child care facility" means a family day care home, mini-day care center, and day care center. [1989 c 335 s 3.]

Findings—1989 c 335: "The legislature finds that:

(1) A majority of women with preschool and school-age children in Washington state are working outside of the home and are in need of child care services for their children;

(2) The supply of licensed child care facilities in Washington state is insufficient to meet the growing demand for child care services;

(3) The most convenient location of child care facilities for many working families is near the family's home or workplace." [1989 c 335 s 1.]

Purpose—1989 c 335: "The purpose of this act is to encourage the dispersion of child care facilities throughout cities and counties in Washington state so that child care services are available at convenient locations to working parents." [1989 c 335 s 2.]

Severability—1989 c 335: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 335 s 10.]

RCW 35.63.180 Child care facilities—Review of need and demand—Adoption of ordinances. Each municipality that does not provide for the siting of family day care homes in zones or areas that are designated for single-family or other residential uses, and for the siting of mini-day care centers and day care centers in zones or areas that are designated for any residential or commercial uses, shall conduct a review of the need and demand for child care facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 31, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the *department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the *department of community development as to why such implementing ordinances were not adopted. [1989 c 335 s 4.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994. The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Findings—Purpose—Severability—1989 c 335: See notes following RCW 35.63.170.

Definitions for RCW 35.63.180: See RCW 35.63.170.

RCW 35.63.185 Family day-care provider's home facility—City may not prohibit in residential or commercial area—Conditions. (1) Except as provided in subsections (2) and (3) of this section, no city may enact, enforce, or maintain an ordinance, development regulation, zoning regulation, or official control, policy, or administrative practice that prohibits the use of a residential dwelling, located in an area zoned for residential or commercial use, as a family day-care provider's home facility.

(2) A city may require that the facility: (a) Comply with all building, fire, safety, health code, and business licensing requirements; (b) conform to lot size, building size, setbacks, and lot coverage standards applicable to the zoning district except if the structure is a legal nonconforming structure; (c) is certified by the department of children, youth, and families licensor as providing a safe passenger loading area; (d) include signage, if any, that conforms to applicable regulations; and (e) limit hours of operations to facilitate neighborhood compatibility, while also providing appropriate opportunity for persons who use family day-care and who work a nonstandard work shift.

(3) A city may also require that the family day-care provider, before state licensing, require proof of written notification by the provider that the immediately adjoining property owners have been informed of the intent to locate and maintain such a facility. If a dispute arises between neighbors and the family day-care provider over licensing requirements, the licensor may provide a forum to resolve the dispute.

(4) Nothing in this section shall be construed to prohibit a city from imposing zoning conditions on the establishment and maintenance of a family day-care provider's home in an area zoned for residential or commercial use, so long as such conditions are no more restrictive than conditions imposed on other residential dwellings in the same zone and the establishment of such facilities is not precluded. As used in this section, "family day-care provider" is as defined in RCW 43.216.010. [2018 c 58 s 25; 2007 c 17 s 10; 2003 c 286 s 3; 1995 c 49 s 1; 1994 c 273 s 14.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

RCW 35.63.200 Moratoria, interim zoning controls—Public hearing—Limitation on length. A council or board that adopts a moratorium or interim zoning control, without holding a public hearing on the proposed moratorium or interim zoning control, shall hold a public hearing on the adopted moratorium or interim zoning control within at least sixty days of its adoption, whether or not the council or board received a recommendation on the matter from the commission. If the council or board does not adopt findings of fact justifying its action before this hearing, then the council or board shall do so immediately after this public hearing. A moratorium or interim zoning control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium or interim zoning control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal. [1992 c 207 s 1.]

RCW 35.63.220 Treatment of residential structures occupied by persons with handicaps. No city may 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. As used in this section, "handicaps" are as defined in the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3602). [1993 c 478 s 20.]

RCW 35.63.230 Watershed restoration projects—Permit processing—Fish habitat enhancement project. A permit required under this chapter for a watershed restoration project as defined in RCW 89.08.460 shall be processed in compliance with RCW 89.08.450 through 89.08.510. A fish habitat enhancement project meeting the criteria of RCW 77.55.181 shall be reviewed and approved according to the

provisions of RCW 77.55.181. [2014 c 120 s 10; 2003 c 39 s 15; 1998 c 249 s 5; 1995 c 378 s 8.]

Findings—Purpose—Report—Effective date—1998 c 249: See notes following RCW 77.55.181.

RCW 35.63.240 Planning regulations—Copies provided to county assessor. By July 31, 1997, a city planning under RCW 36.70A.040 shall provide to the county assessor a copy of the city's comprehensive plan and development regulations in effect on July 1st of that year and shall thereafter provide any amendments to the plan and regulations that were adopted before July 31st of each following year. [1996 c 254 s 3.]

RCW 35.63.250 General aviation airports. Adoption and amendment of comprehensive plan provisions and development regulations under this chapter affecting a general aviation airport are subject to RCW 36.70.547. [1996 c 239 s 3.]

RCW 35.63.260 Conditional and special use permit applications by parties licensed or certified by the department of social and health services or the department of corrections—Mediation prior to appeal required. (1) Prior to filing an appeal of a final decision by a hearing examiner involving a conditional or special use permit application requested by a party that is licensed or certified by the department of social and health services or the department of corrections, the aggrieved party must, within five days after the final decision, initiate formal mediation procedures in an attempt to resolve the parties' differences. If, after initial evaluation of the dispute, the parties agree to proceed with a mediation, the mediation shall be conducted by a trained mediator selected by agreement of the parties. The agreement to mediate shall be in writing and subject to chapter 7.07 RCW. If the parties are unable to agree on a mediator, each party shall nominate a mediator and the mediator shall be selected by lot from among the nominees. The mediator must be selected within five days after formal mediation procedures are initiated. The mediation process must be completed within fourteen days from the time the mediator is selected except that the mediation process may extend beyond fourteen days by agreement of the parties. The mediator shall, within the fourteen-day period or within the extension if an extension is agreed to, provide the parties with a written summary of the issues and any agreements reached. If the parties agree, the mediation report shall be made available to the governing jurisdiction. The cost of the mediation shall be shared by the parties.

(2) Any time limits for filing of appeals are tolled during the pendency of the mediation process.

(3) As used in this section, "party" does not include county, city, or town. [2005 c 172 s 18; 1998 c 119 s 1.]

Short title—Effective date—2005 c 172: See RCW 7.07.900 and 7.07.904.

RCW 35.63.270 Application for a permit to site an energy plant or alternative energy resource—Written notice to United States department of defense. (1) 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 one hundred fifteen thousand volts, the city or town shall notify in writing the United States department of defense. The notification shall include, but not be limited to, the following:

(a) A description of the proposed energy plant or alternative energy resource;

(b) The location of the site;

(c) The placement of the energy plant or alternative energy resource on the site;

(d) The date and time by which comments must be received by the city or town; and

(e) Contact information of the city or town permitting authority and the applicant.

(2) The purpose of the written notification is to provide an opportunity for the United States department of defense to comment upon the application, and to identify potential issues relating to the placement and operations of the energy plant or alternative energy resource, before a permit application is approved. The time period set forth by the city or town for receipt of such comments shall not extend the time period for the city's processing of the application.

(3) For the purpose of this section, "alternative energy resource," "energy plant," and "electrical transmission facility" shall each have the meaning set forth in RCW 80.50.020. [2011 c 261 s 3.]

RCW 35.63.280 Increased density bonus for affordable housing located on property owned by a religious organization. (1) A city planning under this chapter must allow an increased density bonus consistent with local needs for any affordable housing development of any single-family or multifamily residence located on real property owned or controlled by a religious organization provided that:

(a)(i) At least 50 percent of the affordable housing development is set aside for or occupied exclusively by low-income households; or

(ii) At least 20 percent of the affordable housing development is set aside for or occupied exclusively by very low-income households;

(b) The affordable housing development is part of a lease or other binding obligation that requires the affordability requirements and other conditions in this subsection (1) to be maintained for at least 50 years, even if the religious organization no longer owns the property; and

(c) The affordable housing development does not discriminate against any person who qualifies as a member of a low-income household based on 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.).

(2) A city must develop policies to implement this section if it receives a request from a religious organization for an increased density bonus for an affordable housing development. A city may establish policies to require an affordable housing development to set aside more residential dwelling units for low-income or very low-

income households than is required under subsection (1) of this section to qualify for the increased density bonus.

(3) The religious organization or an entity leasing the property for the purpose of developing the affordable housing development must pay all fees, mitigation costs, and other charges required through the development of the affordable housing development.

(4) If applicable, the religious organization developing the affordable housing development should work with the local transit agency to ensure appropriate transit services are provided to the affordable housing development.

(5) This section applies to any religious organization rehabilitating an existing affordable housing development.

(6) For purposes of this section:

(a) "Affordable housing development" means a proposed or existing structure in which 50 percent of all single-family or multifamily residential dwelling units within the development are set aside for or are occupied by low-income households or 20 percent of all single-family or multifamily residential dwelling units within the development are set aside for or occupied by very low-income households, whose monthly housing costs, including utilities other than telephone, do not exceed 30 percent of the household's monthly income;

(b) "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 family income, adjusted for household size, for the county where the affordable housing development is located, as reported by the United States department of housing and urban development;

(c) "Religious organization" has the same meaning as in RCW 35.21.915; and

(d) "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 family income, adjusted for household size, for the county where the affordable housing development is located, as reported by the United States department of housing and urban development. [2026 c 2 s 1; 2019 c 218 s 1.]

RCW 35.63.290 Development regulations to implement comprehensive plans—Siting of organic materials management facilities. For cities not planning under RCW 36.70A.040, development regulations to implement comprehensive plans under RCW 35.63.100 that are newly developed, updated, or amended after January 1, 2025, must allow for the siting of organic materials management facilities in the areas identified by the county in which the city is located under RCW 70A.205.040(3)(a)(i) to the extent necessary to provide for the establishment of the organic materials management volumetric capacity identified under RCW 70A.205.040(3)(a)(ii). [2022 c 180 s 603.]

Findings—Intent—Scope of authority of chapter 180, Laws of 2022—2022 c 180: See notes following RCW 70A.205.007.

RCW 35.63.300 Pollinator habitats—Beehives—Definitions. (1) A city may encourage an applicant of a project permit or commercial

building permit to include pollinator friendly plants in any landscaped area to the extent practicable by:

(a) Providing the list of native forage plants as developed by the department of agriculture in compliance with RCW 39.04.410 to applicants for project permits;

(b) Providing information regarding the benefits of pollinators and pollinator habitat; and

(c) Offering incentives, including expedited processing or reduced application fees, for permit applicants that include pollinator habitat as part of the permit application.

(2) A city may set restrictions related to beehives, but may not adopt an ordinance banning beehives.

(3) For the purposes of this section:

(a) "Commercial building permit" has the same meaning as defined in RCW 19.27.015.

(b) "Pollinator habitat" means an area of land that is or may be developed as habitat beneficial for the feeding, nesting, and reproduction of all pollinators. "Pollinator habitat" does not include beehives, except for mason bee houses.

(c) "Project permit" has the same meaning as defined in RCW 36.70B.020. [2024 c 337 s 1.]