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CLARK COUNTY  
WASHINGTON

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**STAFF REPORT**

TO: Clark County Planning Commission  
FROM: Oliver Orjiako, Director of Community Planning  
PREPARED BY: Jose Alvarez, Planner III  
DATE: October 27, 2017  
SUBJECT: Freight Rail Dependent Uses

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**Background**

The 2017 Legislature enacted 3ESB 5517 (Exhibit 3), and Gov. Jay Inslee signed the bill into law, effective Oct. 19. The bill amends the Growth Management Act to allow “freight rail dependent uses” and gives Clark and Okanogan counties authority to allow such uses adjacent to short line railroads as authorized by RCW 36.70A.060 and RCW36.70A.108.

Per the bill, freight rail dependent uses are considered both urban and rural development, and the bill authorizes Clark County to permit freight rail dependent uses on urban, resource and rural lands.

The county is proposing to implement the law in phases. The first phase would amend the land use, rural and resource, and transportation sections of the Comprehensive Plan to create policies to allow for freight rail dependent uses. The county also proposes a Phase I overlay map of properties within 500 feet of the rail line between NE 119th Street and NE 149<sup>th</sup> Street, excluding land zoned R-5 or land within the Brush Prairie Rural Center. Properties cited in the overlay map would be eligible for development after the second phase, below, is completed.

The second phase would consider development regulations and a list of allowed uses. The council has tasked a subcommittee of the Railroad Advisory Board with providing input on implementing the law.

The proposed Phase I overlay would apply to 23 properties totaling 306 acres. With the exception of two properties currently zoned light industrial, the properties are all zoned AG-20. The largest property is 156 acres zoned light industrial that is part of the Rural Industrial Land Bank. This area has also been included in several previous environmental documents including the 2007 EIS and the supplemental EIS for the Rural Industrial Land Bank.

The proposed amendments are proceeding on an expedited time frame to coincide with the effective date of the law. On October 23, 2017 staff met with a sub-committee of the Railroad Advisory Board to review the proposed language and overlay map. The

proposal below incorporated input from the sub-committee. An open house and public meeting (with the County Council) is scheduled for November 8. Staff will provide input gathered from that evening's meeting to the Planning Commission, for its consideration.

### **Proposed Actions**

- Adopt a freight rail dependent uses overlay map (Exhibit 1)
- Add freight rail dependent use policy language to the land use, rural and resource, and transportation element (Exhibit 2)

## **APPLICABLE CRITERIA, EVALUATION AND FINDINGS**

### **CRITERIA FOR ALL MAP CHANGES**

- 1. The proponent shall demonstrate that the proposed amendment is consistent with the Growth Management Act (GMA) and requirements, the countywide planning policies, the Community Framework Plan, Clark County 20-Year Comprehensive Plan, and other related plans.***

### **Growth Management Act (GMA) Goals**

The GMA goals set the general direction for the county in adopting its framework plan and comprehensive plan policies. The GMA goals that apply to creating freight rail dependent map overlay are Goal 5 and Goal 3.

- (5) Economic Development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and disadvantaged persons and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services and public facilities.*
- (3) Transportation. Encourage efficient, multi-modal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.*

**Finding:** The proposed text amendments and map are consistent with the applicable State GMA Goals. The subject parcels are part of a phase I overlay of freight rail dependent uses. The legislature amended the Growth Management Act (GMA) to allow for these uses. "The legislature affirms that it is in the public interest to allow economic development infrastructure to occur near rail lines as a means to alleviate strains on government infrastructure elsewhere."

Policies applicable to this proposal include the following:

Community Framework Plan Policies

- 5.1.9 *Establish major inter-modal transportation corridors that preserve mobility for interstate commerce and freight movement (Promote inter-modal connections to port, rail, truck, bus and air transportation facilities. Preserve and improve linkages between the Port of Vancouver and other regional transportation systems)*

County-wide Planning Policy

- 9.1.9 *The county and cities will encourage the recruitment of new business employers to absorb the increasing labor force and to supply long-term employment opportunities for county's residents who are currently employed outside of the State.*

**Finding:** The proposed overlay designation would provide opportunities for employment using the existing short line railroad, which is linked to other transportation infrastructure.

**Clark County 20 Year Comprehensive Plan**

The Clark County Comprehensive Plan contains many policies that guide urban development and efficient land use patterns. The most relevant goals and policies applicable to this application are as follows:

*Goal: Encourage infrastructure development and services necessary to serve new industrial development.*

- 9.6.2 *Develop compatible land uses that promote the long-term economic viability of the county railroad.*

**Finding:** The proposed overlay will create the opportunity for future development along the short line railroad in Clark County by expanding the quantity of property and types of uses that can be served by the rail line.

**Conclusion:** Criterion 1 has been met.

**2. The proponent shall demonstrate that the designation is in conformance with the appropriate locational criteria identified in the plan.**

**Finding:** There are no locational criteria in the plan. The only locational criterion in the legislation is to be "adjacent to the short line railroad". The term adjacent is defined in county code as "near or close". The proposed phase I overlay includes properties within 500 ft. of the short line railroad with the exception of four parcels all of the properties are abutting the railroad.

**Conclusion:** Criterion is not applicable.

**3. The map amendment or site is suitable for the proposed designation and there is a lack of appropriately designated alternative sites within the vicinity.**

**Finding:** The proposed overlay area is the first proposed to implement the new legislation. The area proposed is between the Vancouver and Battle Ground UGA (between NE 119<sup>th</sup> St and NE 149<sup>th</sup> St). The area is approximately 306 acres and the largest parcel is 156 acres that are part of the rural industrial land bank, the rest of the area is zoned AG-20.

Conclusion: Criterion 3 has been met.

- 4. The plan map amendment either: (a) responds to a substantial change in conditions applicable to the area within which the subject property lies; (b) better implements applicable comprehensive plan policies than the current map designation; or (c) corrects an obvious mapping error**

Finding: The proposed overlay map and policies are a response to the new legislation (ESB 5517) amending the GMA. It is applicable to Clark County and the short line railroad. The county is proposing to implement the legislation as outlined above.

Conclusion: Criterion 4 has been met.

- 5. Where applicable, the proponent shall demonstrate that the full range of urban public facilities and services can be adequately provided in an efficient and timely manner to serve the proposed designation. Such services may include water, sewage, storm drainage, transportation, fire protection and schools. Adequacy of services applies only to the specific change site.**

Finding: This is not applicable because the proposed overlay is not within the urban area.

Conclusion: Criterion 5 is not applicable.

**RECOMMENDATION AND CONCLUSIONS**

Based upon the information and the findings presented in this report and in the supporting documents, staff recommends that the Planning Commission forward a recommendation of **APPROVAL** to the Board of County Commissioners.

<b>COMPLIANCE WITH APPLICABLE CRITERIA</b>		
	<b>Criteria Met?</b>	
	<b>Staff Report</b>	<b>Planning Commission Findings</b>
<b>Criteria for All Map Changes</b>		
<b>A.</b> Consistency with GMA & Countywide Policies	Yes	
<b>B.</b> Conformance with Location Criteria	NA	
<b>C.</b> Site Suitability and Lack of Appropriately Designated Alternative Sites	Yes	
<b>D.</b> Amendment Responds to Substantial Change in Conditions, Better Implements Policy, or Corrects Mapping Error	Yes	
<b>E.</b> Adequacy/Timeliness of Public Facilities and Services	NA	
<b>Recommendation:</b>	<b>Yes</b>	



1 **Proposed comprehensive plan policy amendments to Implement ESB 5517**

2 Land Use Element (p.39)

3 **Freight Rail Dependent Uses Overlay**

4 This designation is implemented with an overlay zone that identifies parcels where freight rail  
5 dependent uses adjacent to the short line railroad are permitted.

6 Rural and Natural Resource Element (p.97)

7 **Freight Rail Dependent Uses**

8 Goal: Support freight rail dependent uses where the use is dependent on and makes use of the short  
9 line railroad, as defined by the Surface Transportation Board.

10 **3.9 Policies**

11 3.9.1: Support freight rail dependent uses in rural lands, as well as agriculture, forest and mineral  
12 resource lands, and makes use of the short line railroad within the county.

13 3.9.2: Freight rail dependent uses will be allowed on parcels with a freight rail dependent use overlay  
14 and where such uses minimize impacts on adjacent rural and resource uses.

15 3.9.3: County may modify development regulations to include development of freight rail dependent  
16 uses that do not require urban governmental services in rural lands.

17 Transportation Element (p.155)

18 **Goal: Ensure mobility throughout the transportation system.**

19  
20 **5.4 System Mobility Policies**

21 5.4.1 The county arterial system shall be planned in general conformance with nationally-accepted  
22 arterial spacing standards.

23 5.4.2 Congestion performance standards shall be maintained by the appropriate jurisdictions on  
24 major freight mobility corridors and in the vicinity of major intermodal facilities to ensure the  
25 economic vitality of the region.

26 5.4.3 Transportation System Management strategies should be analyzed and employed before  
27 adding a general purpose lane to any regional roadway.

28 5.4.4 County roadways and intersections shall be designed when practical to achieve safety and  
29 accessibility for all modes. Arterial streets shall provide facilities for automobile, bike and pedestrian  
30 mobility as defined in the Arterial Atlas and shall include landscaping

31 5.4.5 Improve mobility and access for the movement of goods and services on the short line railroad  
32 to enhance and promote economic opportunity throughout the county.

1 **Implementation Strategies**

- 2 • Complete regional corridors and address corridor bottlenecks.
- 3 • Allocate or reserve corridor capacity for land uses likely to produce family wage jobs.
- 4 • Reduce corridor speed and intersection delay standards where transit is available at 15
- 5 minute headways during peak hours.
- 6 • Provide for reduced trip rate calculations for transit supportive development.
- 7 • Emphasize transit and ridesharing in the design and construction of all transportation
- 8 facilities through the implementation of transportation system management techniques
- 9 (signal timing, signal prioritization) and transit-only and high occupancy vehicle lanes.
- 10 • Continually test for changes in concurrency due to major development projects.
- 11 • Incorporate a “no-build” analysis into the design process for all transportation projects that
- 12 would add general purpose lanes.
- 13 • Ensure that freight corridors are designed, maintained, and operated to provide efficient
- 14 movement of truck and rail traffic.
- 15 • Use intelligent transportation system technology to alert motorists, bicyclists, and
- 16 pedestrians to the presence and anticipated length of closures due to train crossings.
- 17 • Evaluate the feasibility of grade separation in locations where train crossings result in
- 18 significant delays and safety issues for other traffic, and improve the safety and operational
- 19 conditions at rail crossings of streets.
- 20 • Work with freight stakeholders and the Port of Vancouver to maintain and improve
- 21 intermodal freight connections involving Port terminals, rail yards, industrial areas,
- 22 interchange tracks and regional highways.
- 23 • Support efficient and safe movement of goods by rail where appropriate, and promote
- 24 efficient operation of freight rail lines.
- 25 • Identify and minimize impacts that freight movements have on residential neighborhoods.
- 26
- 27 • Work with local jurisdictions and railroads to coordinate land use plans and policies to
- 28 preserve and protect rail corridors, and take into account community needs in relation to the
- 29 rail system.

EXHIBIT 3

CERTIFICATION OF ENROLLMENT  
THIRD ENGROSSED SENATE BILL 5517

65th Legislature  
2017 3rd Special Session

Passed by the Senate June 27, 2017  
Yeas 35 Nays 11

\_\_\_\_\_  
President of the Senate

Passed by the House June 29, 2017  
Yeas 82 Nays 12

\_\_\_\_\_  
Speaker of the House of Representatives

Approved

\_\_\_\_\_  
Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **THIRD ENGROSSED SENATE BILL 5517** as passed by Senate and the House of Representatives on the dates hereon set forth.

\_\_\_\_\_  
Secretary

FILED

Secretary of State  
State of Washington



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THIRD ENGROSSED SENATE BILL 5517

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Passed Legislature - 2017 3rd Special Session

State of Washington

65th Legislature

2017 Regular Session

By Senators Wilson, Rivers, Cleveland, Hobbs, King, Sheldon, Miloscia, Brown, Angel, Warnick, Keiser, and Schoesler

Read first time 01/26/17. Referred to Committee on Local Government.

1 AN ACT Relating to rail dependent uses for purposes of the growth  
2 management act and related development regulations; amending RCW  
3 36.70A.030, 36.70A.060, 36.70A.070, and 36.70A.108; and creating a  
4 new section.

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

6 NEW SECTION. **Sec. 1.** The legislature recognizes that it enacted  
7 the rail preservation program because railroads provide benefits to  
8 state and local jurisdictions that are valuable to economic  
9 development, highway safety, and the environment. The Washington  
10 state freight mobility plan includes the goal of supporting rural  
11 economies farm-to-market, manufacturing, and resource industry  
12 sectors. The plan makes clear that ensuring the availability of rail  
13 capacity is vital to meeting the future needs of the Puget Sound  
14 region. Rail-served industrial sites are a necessary part of a  
15 thriving freight mobility system, and are a key means of assuring  
16 that food and goods from rural areas are able to make it to people  
17 living in urban areas and international markets. Planned and  
18 effective access to railroad services is a pivotal aspect of  
19 transportation planning. The legislature affirms that it is in the  
20 public interest to allow economic development infrastructure to occur  
21 near rail lines as a means to alleviate strains on government

1 infrastructure elsewhere. Therefore, the legislature finds that there  
2 is a need for counties and cities to improve their planning under the  
3 growth management act to provide much needed infrastructure for  
4 freight rail dependent uses adjacent to railroad lines.

5 **Sec. 2.** RCW 36.70A.030 and 2012 c 21 s 1 are each amended to  
6 read as follows:

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

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

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

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

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

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

33 (6) "Department" means the department of commerce.

34 (7) "Development regulations" or "regulation" means the controls  
35 placed on development or land use activities by a county or city,  
36 including, but not limited to, zoning ordinances, critical areas  
37 ordinances, shoreline master programs, official controls, planned  
38 unit development ordinances, subdivision ordinances, and binding site  
39 plan ordinances together with any amendments thereto. A development

1 regulation does not include a decision to approve a project permit  
2 application, as defined in RCW 36.70B.020, even though the decision  
3 may be expressed in a resolution or ordinance of the legislative body  
4 of the county or city.

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

20 (9) "Freight rail dependent uses" means buildings and other  
21 infrastructure that are used in the fabrication, processing, storage,  
22 and transport of goods where the use is dependent on and makes use of  
23 an adjacent short line railroad. Such facilities are both urban and  
24 rural development for purposes of this chapter. "Freight rail  
25 dependent uses" does not include buildings and other infrastructure  
26 that are used in the fabrication, processing, storage, and transport  
27 of coal, liquefied natural gas, or "crude oil" as defined in RCW  
28 90.56.010.

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

34 ~~((10))~~ (11) "Long-term commercial significance" includes the  
35 growing capacity, productivity, and soil composition of the land for  
36 long-term commercial production, in consideration with the land's  
37 proximity to population areas, and the possibility of more intense  
38 uses of the land.

39 ~~((11))~~ (12) "Minerals" include gravel, sand, and valuable  
40 metallic substances.

1       (~~(12)~~) (13) "Public facilities" include streets, roads,  
2 highways, sidewalks, street and road lighting systems, traffic  
3 signals, domestic water systems, storm and sanitary sewer systems,  
4 parks and recreational facilities, and schools.

5       (~~(13)~~) (14) "Public services" include fire protection and  
6 suppression, law enforcement, public health, education, recreation,  
7 environmental protection, and other governmental services.

8       (~~(14)~~) (15) "Recreational land" means land so designated under  
9 RCW 36.70A.1701 and that, immediately prior to this designation, was  
10 designated as agricultural land of long-term commercial significance  
11 under RCW 36.70A.170. Recreational land must have playing fields and  
12 supporting facilities existing before July 1, 2004, for sports played  
13 on grass playing fields.

14       (~~(15)~~) (16) "Rural character" refers to the patterns of land  
15 use and development established by a county in the rural element of  
16 its comprehensive plan:

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

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

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

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

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

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

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

32       (~~(16)~~) (17) "Rural development" refers to development outside  
33 the urban growth area and outside agricultural, forest, and mineral  
34 resource lands designated pursuant to RCW 36.70A.170. Rural  
35 development can consist of a variety of uses and residential  
36 densities, including clustered residential development, at levels  
37 that are consistent with the preservation of rural character and the  
38 requirements of the rural element. Rural development does not refer  
39 to agriculture or forestry activities that may be conducted in rural  
40 areas.

1        ~~((17))~~ (18) "Rural governmental services" or "rural services"  
2 include those public services and public facilities historically and  
3 typically delivered at an intensity usually found in rural areas, and  
4 may include domestic water systems, fire and police protection  
5 services, transportation and public transit services, and other  
6 public utilities associated with rural development and normally not  
7 associated with urban areas. Rural services do not include storm or  
8 sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

9        ~~((18))~~ (19) "Short line railroad" means those railroad lines  
10 designated Class II or Class III by the United States surface  
11 transportation board.

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

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

32        ~~((20))~~ (22) "Urban growth areas" means those areas designated  
33 by a county pursuant to RCW 36.70A.110.

34        ~~((21))~~ (23) "Wetland" or "wetlands" means areas that are  
35 inundated or saturated by surface water or groundwater at a frequency  
36 and duration sufficient to support, and that under normal  
37 circumstances do support, a prevalence of vegetation typically  
38 adapted for life in saturated soil conditions. Wetlands generally  
39 include swamps, marshes, bogs, and similar areas. Wetlands do not  
40 include those artificial wetlands intentionally created from

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

9       **Sec. 3.** RCW 36.70A.060 and 2014 c 147 s 2 are each amended to  
10 read as follows:

11       (1)(a) Each county that is required or chooses to plan under RCW  
12 36.70A.040, and each city within such county, shall adopt development  
13 regulations on or before September 1, 1991, to assure the  
14 conservation of agricultural, forest, and mineral resource lands  
15 designated under RCW 36.70A.170. Regulations adopted under this  
16 subsection may not prohibit uses legally existing on any parcel prior  
17 to their adoption and shall remain in effect until the county or city  
18 adopts development regulations pursuant to RCW 36.70A.040. Such  
19 regulations shall assure that the use of lands adjacent to  
20 agricultural, forest, or mineral resource lands shall not interfere  
21 with the continued use, in the accustomed manner and in accordance  
22 with best management practices, of these designated lands for the  
23 production of food, agricultural products, or timber, or for the  
24 extraction of minerals. Any county located to the west of the crest  
25 of the Cascade mountains that has both a population of at least four  
26 hundred thousand and a border that touches another state, and any  
27 city in such county, may adopt development regulations to assure that  
28 agriculture, forest, and mineral resource lands adjacent to short  
29 line railroads may be developed for freight rail dependent uses.

30       (b) Counties and cities shall require that all plats, short  
31 plats, development permits, and building permits issued for  
32 development activities on, or within five hundred feet of, lands  
33 designated as agricultural lands, forest lands, or mineral resource  
34 lands, contain a notice that the subject property is within or near  
35 designated agricultural lands, forest lands, or mineral resource  
36 lands on which a variety of commercial activities may occur that are  
37 not compatible with residential development for certain periods of  
38 limited duration. The notice for mineral resource lands shall also  
39 inform that an application might be made for mining-related

1 activities, including mining, extraction, washing, crushing,  
2 stockpiling, blasting, transporting, and recycling of minerals.

3 (c) Each county that adopts a resolution of partial planning  
4 under RCW 36.70A.040(2)(b), and each city within such county, shall  
5 adopt development regulations within one year after the adoption of  
6 the resolution of partial planning to assure the conservation of  
7 agricultural, forest, and mineral resource lands designated under RCW  
8 36.70A.170. Regulations adopted under this subsection (1)(c) must  
9 comply with the requirements governing regulations adopted under (a)  
10 of this subsection.

11 (d)(i) A county that adopts a resolution of partial planning  
12 under RCW 36.70A.040(2)(b) and that is not in compliance with the  
13 planning requirements of this section, RCW 36.70A.040(4),  
14 36.70A.070(5), 36.70A.170, and 36.70A.172 at the time the resolution  
15 is adopted must, by January 30, 2017, apply for a determination of  
16 compliance from the department finding that the county's development  
17 regulations, including development regulations adopted to protect  
18 critical areas, and comprehensive plans are in compliance with the  
19 requirements of this section, RCW 36.70A.040(4), 36.70A.070(5),  
20 36.70A.170, and 36.70A.172. The department must approve or deny the  
21 application for a determination of compliance within one hundred  
22 twenty days of its receipt or by June 30, 2017, whichever date is  
23 earlier.

24 (ii) If the department denies an application under (d)(i) of this  
25 subsection, the county and each city within is obligated to comply  
26 with all requirements of this chapter and the resolution for partial  
27 planning adopted under RCW 36.70A.040(2)(b) is no longer in effect.

28 (iii) A petition for review of a determination of compliance  
29 under (d)(i) of this subsection may only be appealed to the growth  
30 management hearings board within sixty days of the issuance of the  
31 decision by the department.

32 (iv) In the event of a filing of a petition in accordance with  
33 (d)(iii) of this subsection, the county and the department must  
34 equally share the costs incurred by the department for defending an  
35 approval of determination of compliance that is before the growth  
36 management hearings board.

37 (v) The department may implement this subsection (~~((1))~~)(1)(d)  
38 by adopting rules related to determinations of compliance. The rules  
39 may address, but are not limited to: The requirements for  
40 applications for a determination of compliance; charging of costs

1 under (d)(iv) of this subsection; procedures for processing  
2 applications; criteria for the evaluation of applications; issuance  
3 and notice of department decisions; and applicable timelines.

4 (e) Any county that borders both the Cascade mountains and  
5 another country and has a population of less than fifty thousand  
6 people, and any city in such county, may adopt development  
7 regulations to assure that agriculture, forest, and mineral resource  
8 lands adjacent to short line railroads may be developed for freight  
9 rail dependent uses.

10 (2) Each county and city shall adopt development regulations that  
11 protect critical areas that are required to be designated under RCW  
12 36.70A.170. For counties and cities that are required or choose to  
13 plan under RCW 36.70A.040, such development regulations shall be  
14 adopted on or before September 1, 1991. For the remainder of the  
15 counties and cities, such development regulations shall be adopted on  
16 or before March 1, 1992.

17 (3) Such counties and cities shall review these designations and  
18 development regulations when adopting their comprehensive plans under  
19 RCW 36.70A.040 and implementing development regulations under RCW  
20 36.70A.120 and may alter such designations and development  
21 regulations to insure consistency.

22 (4) Forest land and agricultural land located within urban growth  
23 areas shall not be designated by a county or city as forest land or  
24 agricultural land of long-term commercial significance under RCW  
25 36.70A.170 unless the city or county has enacted a program  
26 authorizing transfer or purchase of development rights.

27 **Sec. 4.** RCW 36.70A.070 and 2017 c 331 s 2 are each amended to  
28 read as follows:

29 The comprehensive plan of a county or city that is required or  
30 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,  
31 and descriptive text covering objectives, principles, and standards  
32 used to develop the comprehensive plan. The plan shall be an  
33 internally consistent document and all elements shall be consistent  
34 with the future land use map. A comprehensive plan shall be adopted  
35 and amended with public participation as provided in RCW 36.70A.140.  
36 Each comprehensive plan shall include a plan, scheme, or design for  
37 each of the following:

38 (1) A land use element designating the proposed general  
39 distribution and general location and extent of the uses of land,



1 where appropriate, for agriculture, timber production, housing,  
2 commerce, industry, recreation, open spaces, general aviation  
3 airports, public utilities, public facilities, and other land uses.  
4 The land use element shall include population densities, building  
5 intensities, and estimates of future population growth. The land use  
6 element shall provide for protection of the quality and quantity of  
7 groundwater used for public water supplies. Wherever possible, the  
8 land use element should consider utilizing urban planning approaches  
9 that promote physical activity. Where applicable, the land use  
10 element shall review drainage, flooding, and storm water run-off in  
11 the area and nearby jurisdictions and provide guidance for corrective  
12 actions to mitigate or cleanse those discharges that pollute waters  
13 of the state, including Puget Sound or waters entering Puget Sound.

14 (2) A housing element ensuring the vitality and character of  
15 established residential neighborhoods that: (a) Includes an inventory  
16 and analysis of existing and projected housing needs that identifies  
17 the number of housing units necessary to manage projected growth; (b)  
18 includes a statement of goals, policies, objectives, and mandatory  
19 provisions for the preservation, improvement, and development of  
20 housing, including single-family residences; (c) identifies  
21 sufficient land for housing, including, but not limited to,  
22 government-assisted housing, housing for low-income families,  
23 manufactured housing, multifamily housing, and group homes and foster  
24 care facilities; and (d) makes adequate provisions for existing and  
25 projected needs of all economic segments of the community.

26 (3) A capital facilities plan element consisting of: (a) An  
27 inventory of existing capital facilities owned by public entities,  
28 showing the locations and capacities of the capital facilities; (b) a  
29 forecast of the future needs for such capital facilities; (c) the  
30 proposed locations and capacities of expanded or new capital  
31 facilities; (d) at least a six-year plan that will finance such  
32 capital facilities within projected funding capacities and clearly  
33 identifies sources of public money for such purposes; and (e) a  
34 requirement to reassess the land use element if probable funding  
35 falls short of meeting existing needs and to ensure that the land use  
36 element, capital facilities plan element, and financing plan within  
37 the capital facilities plan element are coordinated and consistent.  
38 Park and recreation facilities shall be included in the capital  
39 facilities plan element.

1 (4) A utilities element consisting of the general location,  
2 proposed location, and capacity of all existing and proposed  
3 utilities, including, but not limited to, electrical lines,  
4 telecommunication lines, and natural gas lines.

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

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

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

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

28 (i) Containing or otherwise controlling rural development;

29 (ii) Assuring visual compatibility of rural development with the  
30 surrounding rural area;

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

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

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

37 (d) Limited areas of more intensive rural development. Subject to  
38 the requirements of this subsection and except as otherwise  
39 specifically provided in this subsection (5)(d), the rural element  
40 may allow for limited areas of more intensive rural development,

1 including necessary public facilities and public services to serve  
2 the limited area as follows:

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

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

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

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

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

31 (iii) The intensification of development on lots containing  
32 isolated nonresidential uses or new development of isolated cottage  
33 industries and isolated small-scale businesses that are not  
34 principally designed to serve the existing and projected rural  
35 population and nonresidential uses, but do provide job opportunities  
36 for rural residents. Rural counties may allow the expansion of small-  
37 scale businesses as long as those small-scale businesses conform with  
38 the rural character of the area as defined by the local government  
39 according to RCW 36.70A.030(~~((+15+))~~) (16). Rural counties may also  
40 allow new small-scale businesses to utilize a site previously

1 occupied by an existing business as long as the new small-scale  
2 business conforms to the rural character of the area as defined by  
3 the local government according to RCW 36.70A.030(~~(+15+)~~) (16). Public  
4 services and public facilities shall be limited to those necessary to  
5 serve the isolated nonresidential use and shall be provided in a  
6 manner that does not permit low-density sprawl;

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

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

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

29 (B) On the date the county adopted a resolution under RCW  
30 36.70A.040(2), in a county that is planning under all of the  
31 provisions of this chapter under RCW 36.70A.040(2); or

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

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

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

3 (a) The transportation element shall include the following  
4 subelements:

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

6 (ii) Estimated traffic impacts to state-owned transportation  
7 facilities resulting from land use assumptions to assist the  
8 department of transportation in monitoring the performance of state  
9 facilities, to plan improvements for the facilities, and to assess  
10 the impact of land-use decisions on state-owned transportation  
11 facilities;

12 (iii) Facilities and services needs, including:

13 (A) An inventory of air, water, and ground transportation  
14 facilities and services, including transit alignments and general  
15 aviation airport facilities, to define existing capital facilities  
16 and travel levels as a basis for future planning. This inventory must  
17 include state-owned transportation facilities within the city or  
18 county's jurisdictional boundaries;

19 (B) Level of service standards for all locally owned arterials  
20 and transit routes to serve as a gauge to judge performance of the  
21 system. These standards should be regionally coordinated;

22 (C) For state-owned transportation facilities, level of service  
23 standards for highways, as prescribed in chapters 47.06 and 47.80  
24 RCW, to gauge the performance of the system. The purposes of  
25 reflecting level of service standards for state highways in the local  
26 comprehensive plan are to monitor the performance of the system, to  
27 evaluate improvement strategies, and to facilitate coordination  
28 between the county's or city's six-year street, road, or transit  
29 program and the office of financial management's ten-year investment  
30 program. The concurrency requirements of (b) of this subsection do  
31 not apply to transportation facilities and services of statewide  
32 significance except for counties consisting of islands whose only  
33 connection to the mainland are state highways or ferry routes. In  
34 these island counties, state highways and ferry route capacity must  
35 be a factor in meeting the concurrency requirements in (b) of this  
36 subsection;

37 (D) Specific actions and requirements for bringing into  
38 compliance locally owned transportation facilities or services that  
39 are below an established level of service standard;

1 (E) Forecasts of traffic for at least ten years based on the  
2 adopted land use plan to provide information on the location, timing,  
3 and capacity needs of future growth;

4 (F) Identification of state and local system needs to meet  
5 current and future demands. Identified needs on state-owned  
6 transportation facilities must be consistent with the statewide  
7 multimodal transportation plan required under chapter 47.06 RCW;

8 (iv) Finance, including:

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

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

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

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

26 (vi) Demand-management strategies;

27 (vii) Pedestrian and bicycle component to include collaborative  
28 efforts to identify and designate planned improvements for pedestrian  
29 and bicycle facilities and corridors that address and encourage  
30 enhanced community access and promote healthy lifestyles.

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

1 systems management strategies. For the purposes of this subsection  
2 (6), "concurrent with the development" means that improvements or  
3 strategies are in place at the time of development, or that a  
4 financial commitment is in place to complete the improvements or  
5 strategies within six years. If the collection of impact fees is  
6 delayed under RCW 82.02.050(3), the six-year period required by this  
7 subsection (6)(b) must begin after full payment of all impact fees is  
8 due to the county or city.

9 (c) The transportation element described in this subsection (6),  
10 the six-year plans required by RCW 35.77.010 for cities, RCW  
11 36.81.121 for counties, and RCW 35.58.2795 for public transportation  
12 systems, and the ten-year investment program required by RCW  
13 47.05.030 for the state, must be consistent.

14 (7) An economic development element establishing local goals,  
15 policies, objectives, and provisions for economic growth and vitality  
16 and a high quality of life. (~~The element may include the provisions~~  
17 ~~in section 3 of this act.~~) A city that has chosen to be a  
18 residential community is exempt from the economic development element  
19 requirement of this subsection.

20 (8) A park and recreation element that implements, and is  
21 consistent with, the capital facilities plan element as it relates to  
22 park and recreation facilities. The element shall include: (a)  
23 Estimates of park and recreation demand for at least a ten-year  
24 period; (b) an evaluation of facilities and service needs; and (c) an  
25 evaluation of intergovernmental coordination opportunities to provide  
26 regional approaches for meeting park and recreational demand.

27 (9) It is the intent that new or amended elements required after  
28 January 1, 2002, be adopted concurrent with the scheduled update  
29 provided in RCW 36.70A.130. Requirements to incorporate any such new  
30 or amended elements shall be null and void until funds sufficient to  
31 cover applicable local government costs are appropriated and  
32 distributed by the state at least two years before local government  
33 must update comprehensive plans as required in RCW 36.70A.130.

34 **Sec. 5.** RCW 36.70A.108 and 2005 c 328 s 1 are each amended to  
35 read as follows:

36 (1) The transportation element required by RCW 36.70A.070 may  
37 include, in addition to improvements or strategies to accommodate the  
38 impacts of development authorized under RCW 36.70A.070(6)(b),  
39 multimodal transportation improvements or strategies that are made

1 concurrent with the development. These transportation improvements or  
2 strategies may include, but are not limited to, measures implementing  
3 or evaluating:

4 (a) Multiple modes of transportation with peak and nonpeak hour  
5 capacity performance standards for locally owned transportation  
6 facilities; and

7 (b) Modal performance standards meeting the peak and nonpeak hour  
8 capacity performance standards.

9 (2) Any county located to the west of the crest of the Cascade  
10 mountains that has both a population of at least four hundred  
11 thousand and a border that touches another state, and any city in  
12 such county, may include development of freight rail dependent uses  
13 on land adjacent to a short line railroad in the transportation  
14 element required by RCW 36.70A.070. Such counties and cities may also  
15 modify development regulations to include development of freight rail  
16 dependent uses that do not require urban governmental services in  
17 rural lands.

18 (3) Nothing in this section or RCW 36.70A.070(6)(b) shall be  
19 construed as prohibiting a county or city planning under RCW  
20 36.70A.040 from exercising existing authority to develop multimodal  
21 improvements or strategies to satisfy the concurrency requirements of  
22 this chapter.

23 ((+3)) (4) Nothing in this section is intended to affect or  
24 otherwise modify the authority of jurisdictions planning under RCW  
25 36.70A.040.

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