



Planning for Sustainable Rural Areas

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Introduction

One of the principle reasons for the adoption of Washington’s Growth Management Act was the loss of working farms, working forests, and salmon streams to sprawl.¹ Washington residents were tired of seeing their beloved rural areas lost because cities and counties lacked the policy guidance and tools to protect them. The Growth Management Act requires

¹ Richard L. Settle & Charles G. Gavigan. *The Growth Management Revolution in Washington: Past, Present, and Future*, 16 U. Puget Sound L. Rev. 867, p. 880 (1993) & *King County v. Central Puget Sound Growth Management Hearings Bd.*, 138 Wn. 2d 161, 166 – 167, 979 P.2d 374, 377 (1999), as amended on denial of reconsideration September 22, 1999.



that rural areas be protected from inappropriate low-density sprawl.² And we are making progress. Between 1982 and 1997, each new resident in Washington used less newly developed land than all but six other states.³ We will need to continue this progress to have truly sustainable rural areas for us to pass on to our children and grandchildren.

The purpose of this summary is to assist those preparing and participating in the update of rural comprehensive plan elements and rural development regulations. It identifies the Washington State policy and requirements that apply to rural areas. While we have tried to carefully summarize the Growth Management Act provisions, they evolve as the legislature amends the Act and the Growth Management Hearing Boards (Growth Boards) and the courts continue to interpret the enactments. Consequently, this paper is not a substitute for legal research and advice.

This paper cites to provisions of the Growth Management Act, published court decisions, and published Growth Board decisions. The Growth Management Act, implementing procedural criteria, and the published decisions of the Washington State Supreme Court and Court of Appeals are all available at Legalwa.org: <http://www.legalwa.org/> The published opinions of the Growth Management Hearings Boards and their excellent digests that summarize and index there opinions are available at: <http://www.gmhb.wa.gov/> Unless otherwise noted or preceded by a Westlaw citation (which includes the year of the decision followed by the abbreviation “WL” and a document reference number), all page numbers are taken from the version available at the Growth Boards’ websites.

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Definitions

Four key terms are used by the Growth Management Act (GMA) in setting rural policy. As the Growth Management Hearings Board’s have held, an analysis of the rural provisions starts with the definitions adopted by the Legislature.⁴ This section includes the definitions for these key terms. The first definitions are derived from the GMA. The next three, rural character, rural development, and rural government services are direct quotes from the GMA.

² RCW 36.70A.070(5)(c)(iii).

³ Jeffrey D. Kline. *Comparing States With and Without Growth Management Analysis Based on Indicators With Policy Implications Comment*, 17 Land Use Policy 349, 354 (2000) (Washington used 0.48 acres of new developed land per new resident between 1982 and 1997. This was the seventh lowest rate of land conversion, only six states converted less land per new resident).

⁴ *Panesko, et al. v. Lewis County, et al.*, Western Washington Growth Management Hearings Board (WWGMHB) Case No. 98-2-0011c Final Decision and Order & Compliance Order, 2001 WL 246707 p. *11 (March 5, 2001).

The rural area is the land located outside the urban growth area and outside resource lands.⁵ Resource lands are agricultural, forest, and mineral lands of long-time commercial significance.⁶

“Rural character” refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

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

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

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

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

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

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

(g) That are consistent with the protection of natural surface water flows and ground water and surface water recharge and discharge areas.⁷

“Rural development” refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.⁸

“Rural governmental services” or “rural services” include those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and may include domestic water systems, fire and police protection services, transportation and public transit services, and other public utilities associated with rural development and normally not associated with urban areas.

⁵ RCW 36.70A.030(15), the Growth Management Act definition of rural development, & *Panesko, et al. v. Lewis County, et al.*, WWGMHB Case No. 98-2-0011c Final Decision and Order & Compliance Order, 2001 WL 246707 p. *11 (March 5, 2001).

⁶ *Id.* & RCW 36.70A.060(1).

⁷ RCW 36.70A.030(14).

⁸ RCW 36.70A.030(15).

Rural services do not include storm or sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).⁹

The Growth Board's have held that these definitions include requirements applicable to planning for rural areas.¹⁰ In interpreting these definitions, the Growth Boards have noted the following key points. Reading rural character and rural development definitions together, the Western Board wrote:

Development in the rural area can allow a variety of uses and residential densities including clusters. However, such uses and densities must be only at levels that are:

- a. consistent with rural character (as defined in [RCW 36.70A.030](14)) preservation; AND
- b. consistent with the requirements of [RCW 36.70A.070](5).¹¹

In reading rural governmental services definition, the Western Board also held that:

1. Storm and sanitary services are prohibited [outside of urban growth areas], except to alleviate an existing health or environmental hazard.
2. This definition [of rural governmental services] and the definition of urban services found in [RCW 36.70A.030](19) both include domestic water systems, fire and police protection, and transportation and public transit services. The distinguishing characteristic is that rural services must be "historically and typically delivered at an intensity usually found in rural areas." Urban services are those that are provided "at an intensity historically and typically provided in cities,"¹²

Legislative Findings for Rural Lands

With the adoption of the Growth Management Act in 1990, the Legislature found that uncoordinated and unplanned growth together with a lack of common goals posed "a threat to the environment, sustainable economic development, and the health, safety, and high quality of life enjoyed by residents of this state."¹³ The legislature also found that it is in the public interest for citizens, cities and counties, and the private sector work together to prepare and update comprehensive land use plans, and that economic development programs should be shared with communities experiencing inadequate economic growth.¹⁴

⁹ RCW 36.70A.030(16).

¹⁰ *Panesko, et al. v. Lewis County, et al.*, WWGMHB Case No. 98-2-0011c Final Decision and Order & Compliance Order, 2001 WL 246707 pp. *11 – 12 (March 5, 2001).

¹¹ *Id.* at p. *11 (March 5, 2001) (emphasis in the original).

¹² *Id.* at p. *12.

¹³ RCW 36.70A.010.

¹⁴ *Id.*

In 2002, the Legislature adopted another set of findings for rural lands. They are set out in full here:

The legislature finds that this chapter is intended to recognize the importance of rural lands and rural character to Washington’s economy, its people, and its environment, while respecting regional differences. Rural lands and rural-based economies enhance the economic desirability of the state, help to preserve traditional economic activities, and contribute to the state’s overall quality of life.

The legislature finds that to retain and enhance the job base in rural areas, rural counties must have flexibility to create opportunities for business development. Further, the legislature finds that rural counties must have the flexibility to retain existing businesses and allow them to expand. The legislature recognizes that not all business developments in rural counties require an urban level of services; and that many businesses in rural areas fit within the definition of rural character identified by the local planning unit.

Finally, the legislature finds that in defining its rural element under RCW 36.70A.070(5), a county should foster land use patterns and develop a local vision of rural character that will: Help preserve rural-based economies and traditional rural lifestyles; encourage the economic prosperity of rural residents; foster opportunities for small-scale, rural-based employment and self-employment; permit the operation of rural-based agricultural, commercial, recreational, and tourist businesses that are consistent with existing and planned land use patterns; be compatible with the use of the land by wildlife and for fish and wildlife habitat; foster the private stewardship of the land and preservation of open space; and enhance the rural sense of community and quality of life.¹⁵

Findings help guide the interpretation and implementation of the GMA. They are not, however “substantive or even procedural requirement[s] of the” GMA and do not create “a specific local government duty for compliance apart from the subsequent goals and requirements of the Act.”¹⁶

The Rural Comprehensive Plan Element & Rural Development Regulations

The core GMA requirements for sustainable rural areas are for each county fully planning under the Growth Management Act to prepare and adopt a rural comprehensive plan

¹⁵ RCW 36.70A.011.

¹⁶ *Litowitz, et al., v. City of Federal Way*, CPSGMHB Case No. 96-3-0005 Final Decision and Order p. *14 (July 22, 1996).

element and then development regulations to implement the rural element.¹⁷ This section will discuss the procedural and substantive requirements for the rural element and the development regulations that implement it.

The term “element” refers to topic areas that must be addressed in the comprehensive plan. “Development regulations” are “... controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances and” amendments.¹⁸ Incorporated cities and towns do not adopt rural elements because their jurisdiction does not include rural areas.¹⁹

County Discretion in Planning for Rural Areas

In addressing the level of discretion that counties have in planning for rural areas, the Western Board has held that:

The Legislature recognized in [RCW 36.70A.070](5)(a) that local circumstances are an important consideration “in establishing patterns of rural densities and uses.” This provision is consistent with the wide discretion allowed to local governments under the GMA. RCW 36.70A.3201.

However, that discretion was not intended by the Legislature to be unbridled. RCW 36.70A.3201 involves discretion that is “consistent” with the goals and requirements of the Act. [RCW 36.70A.070](5)(a) requires a county (through a written record) to “harmonize the goals” and “meet the requirements” of the GMA. The language of [RCW 36.70A.030] (14), (15), and (16), emphasize that the patterns of uses and densities must be those which are “historical” and “typical” to rural areas. The Legislature did not say that whatever existed in a particular county on June 30, 1990, automatically became the existing rural character of that county. The Legislature has clearly said that the rural element must have parameters involving generalized historical and traditional “lifestyles” and “visual compatibility,” as well as the predominance of the natural environment, compatibility with wildlife and fish, protection of waters and the reduction of “sprawling, low-density development.”²⁰

¹⁷ RCW 36.70A.070(5), RCW 36.70A.040(3), & RCW 36.70A.040(4).

¹⁸ RCW 36.70A.030(7).

¹⁹ RCW 36.70A.110(1).

²⁰ *Panesko, et al. v. Lewis County, et al.*, WWGMHB Case No. 98-2-0011c Final Decision and Order & Compliance Order, 2001 WL 246707 p. *12 (March 5, 2001), accord the Washington Supreme Court in *King County v. Cent. Puget Sound Growth Mgmt. Hearings Bd.*, 142 Wn.2d 543, 561, 14 P.3d 133, 142 (2000) (“Local governments have broad discretion in developing [comprehensive plans] and [development regulations] tailored to local circumstances.” *Diehl v. Mason County*, 94 Wn. App. 645, 651, 872 P.2d 543 (1999). Local discretion is bounded, however, by the goals and requirements of the GMA.”)

Requirements

- “Growth management act goals and local circumstances. Because circumstances vary from county to county, in establishing patterns of rural densities and uses, a county may consider local circumstances, but shall develop a written record explaining how the rural element harmonizes the planning goals in RCW 36.70A.020 and meets the requirements of this chapter.”²¹ While this written record could be a part of the rural element, what is required is an explanation of how the element meets the goals and complies with the GMA requirements not a listing of what has been done or just the rural element itself.²²

Rural Uses

- “The rural element shall permit rural development, forestry, and agriculture in rural areas.”²³ Rural development is defined in the definitions section of this paper.
- “The rural element shall provide for a variety of rural ... uses and [] essential public facilities.”²⁴ “Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, state and local correctional facilities, solid waste handling facilities, and in-patient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020.”²⁵
- “[P]roposed uses that meet the definition of urban growth will be prohibited in a rural area unless ... the use, by its very nature, is dependent upon being in a rural area and is compatible with the functional and visual character of rural uses in the immediate vicinity”²⁶ Generally there are two categories of these uses:
 - Certain uses require rural sites, such as sawmills that mill timber from the rural area and resources lands.²⁷
 - “Likewise, localized commercial or public facility uses that serve a rural population or other activities in the rural area are dependent upon a rural location close to their constituencies.”²⁸

²¹ RCW 36.70A.070(5)(a).

²² *Citizens for Good Governance, 1000 Friends of Washington, and City of Walla Walla v. Walla Walla County*, Eastern Washington Growth Management Hearings Board (EWGMHB) Case No. 01-1-0015c & Case No. 01-1-0014cz Final Decision and Order p. *7 of 62 (May 1, 2002).

²³ RCW 36.70A.070(5)(b).

²⁴ RCW 36.70A.070(5)(b) & *Vashon-Maury v. King County*, Central Puget Sound Growth Management Hearings Board (CPSGMHB) Case No. 95-3-0008 Final Decision and Order p. *69 (October 23, 1995).

²⁵ RCW 36.70A.200(1).

²⁶ *Vashon-Maury v. King County*, CPSGMHB Case No. 95-3-0008 Final Decision and Order p. *69 (October 23, 1995) and followed by *Timberlake Christian Fellowship v. King County*, 114 Wn. App. 174, 184 – 185, 61 P.3d 332, 337 – 338 (2002).

²⁷ *Id.*

- Major industrial developments that meet the requirement of RCW 36.70A.365(2) may be approved outside an urban growth area, which includes the rural area.²⁹ “Major industrial development’ means a master planned location for a specific manufacturing, industrial, or commercial business that: (a) Requires a parcel of land so large that no suitable parcels are available within an urban growth area; or (b) is a natural resource-based industry requiring a location near agricultural land, forest land, or mineral resource land upon which it is dependent. The major industrial development shall not be for the purpose of retail commercial development or multitenant office parks.”³⁰ To establish a process for these developments, the county must consult with the cities in the county.³¹ Final approval of a major industrial development designates the site as an urban growth area.³²
- In addition to the major industrial developments authorized by RCW 36.70A.365, many, but not all, of the counties fully planning under the GMA in consultation with the cities in the county may establish a process for designating up to two master planned locations for major industrial activity outside the urban growth area.³³ The county must meet certain eligibility requirements and the locations must meet certain standards. As of the June 2003, no master planned locations have been established.
- New or existing master planned resorts may also be allowed in rural areas if they meet certain standards.³⁴ They are briefly described in a separate section below.
- Parts of a town or district that has been designated a national historic landmark by the United States secretary of the interior under 16 U.S.C. § 461 *et seq.* “may include the types of uses that existed at times during its history and is not limited to those present at the time of the historic designation.”³⁵ This can include residential, commercial, industrial, tourist, and waterfront uses that were historically found in the town or district. These historic towns and districts may even constitute urban growth in the rural area.³⁶ The county comprehensive plan must meet certain standards to use these provisions.
- In areas used for more intense purposes, limited areas of more intense rural development (LAMIRDs) may be used to provide for these preexisting types of uses. LAMIRDs are more fully discussed in their own section below.

²⁸ *Id.*

²⁹ RCW 36.70A.365.

³⁰ RCW 36.70A.365(1).

³¹ RCW 36.70A.365.

³² RCW 36.70A.365(3).

³³ RCW 36.70A.367.

³⁴ RCW 36.70A.360 & RCW 36.70A.362.

³⁵ RCW 36.70A.520(2).

³⁶ RCW 36.70A.520.

- While rural development must be permitted in the rural area, urban growth is prohibited.³⁷
 - RCW 36.70A.030(17) defines urban growth as “... growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170. A pattern of more intensive rural development, as provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services.”
 - As was mentioned above, the Legislature has enacted limited exceptions to the rule urban growth is prohibited in the rural area for master planned resorts and historic towns and historic districts.

Rural Minimum Lot Sizes and Densities

- In rural areas, no more than one housing unit per five-acres is allowed.³⁸ Less dense development is allowed and mandated by the requirement for a variety of rural densities discussed below. For example, a county could choose not to have a density of one dwelling per five acres and only have lower densities.
- In the Central Puget Sound region (King, Kitsap, Pierce, and Snohomish Counties), a pattern of ten acre lots is “clearly rural.”³⁹ “[A] new land use pattern that consists of between 5- and 10-acre lots is an appropriate rural use, provided that the number, location and configuration of lots does not constitute urban growth; does not present an undue threat to large scale natural resource lands; will not thwart the long-term flexibility to expand the UGA; and will not otherwise be inconsistent with the goals and requirements of the Act.”⁴⁰ “‘Land use pattern’ means the number, location and

³⁷ RCW 36.70A.070(5)(b), RCW 36.70A.110(1), & *Diehl v. Mason County*, 94 Wn. App. 645, 655 – 57, 972 P.2d 543, 547 – 49 (1999).

³⁸ *City of Moses Lake v. Grant County*, EWGMHB Case No. 99-1-0016 Final Decision and Order pp. *5 – 6 of 11 (May 23, 2000), *Yanisch v. Lewis County*, Western WWMHB Case No. 02-2-0007c, Final Decision and Order p. *12 of 30 (December 11, 2002), & *Sky Valley, et al., v. Snohomish County, et al.*, Central Puget Sound Growth Management Hearings Board (CPSGMHB) Consolidated Case No. 95-3-0068c Final Decision and Order p. *46, 1996 WL 734917 pp. *33 – 34, (March 12, 1996). See also *Diehl v. Mason County*, 94 Wn. App. 645, 655-57, 972 P.2d 543, 547-49 (1999) (Residential densities of one housing unit, or more, per 2.5 acres “would allow for urban-like development” and are prohibited outside urban growth areas including in rural areas).

³⁹ *Sky Valley, et al., v. Snohomish County, et al.*, CPSGMHB Consolidated Case No. 95-3-0068c Final Decision and Order p. *46, 1996 WL 734917 p. *34, (March 12, 1996).

⁴⁰ *Sky Valley, et al., v. Snohomish County, et al.*, CPSGMHB Case No. 95-3-0068c Final Decision and Order p. *46, 1996 WL 734917 p. *34, (March 12, 1996) (in the original this sentence was in bold).

configuration of parcels of a given size.”⁴¹ “A land use pattern can be evident at a localized level (i.e., project and immediate vicinity) or an area-wide level (i.e., county-wide or a large portion of a county).”⁴²

- There are four exceptions to this rule.
 - Ferry County is allowed a density of one housing unit per 2.5-acres in the rural area. “This Board finds, given circumstances unique to Ferry County, and in acceptance of the local decision making process, that 2.5 acre lots constitute rural development in Ferry County.”⁴³
 - Higher densities and smaller minimum lot sizes are allowed in limited areas of more intense rural development (LAMIRDs).
 - Higher densities are allowed in master planned resorts.
 - Parts of a town or district that has been designated a national historic landmark by the United States secretary of the interior under 16 U.S.C. § 461 *et seq.* “may include urban densities if they reflect density patterns that existed at times during its history.”⁴⁴
- Internal and attached accessory dwelling units (ADUs) may be allowed in rural areas without being counted towards the maximum allowed residential density. These are ADUs located inside or attached to an existing house or in an existing accessory building, such as a garage, located close to the house. Freestanding ADUs count towards and must comply with the maximum allowed density. Freestanding refers to separate dwelling units constructed on the same lot a primary dwelling.⁴⁵ A county may need to analyze existing conditions, future projections, the need for ADUs, the impacts of future ADUs on public facilities and services, and the impacts of future ADUs on shorelines,

⁴¹ *Sky Valley, et al., v. Snohomish County, et al.*, CPSGMHB Consolidated Case No.: 95-3-0068c Final Decision and Order footnote 27, 1996 WL 734917 footnote 27 (March 12, 1996) *citing Bremerton*, at 50 & *Vashon-Maury*, at 79.

⁴² *Sky Valley, et al., v. Snohomish County*, CPSGMHB Case No. 95-3-0068c Order on Compliance Footnote 7 (October 2, 1997) *citing Vashon-Maury*, at 68 and *Bremerton*, Finding of Noncompliance and Determination of Invalidity in *Bremerton* and Order Dismissing *Port Gamble*, at 26.

⁴³ *Gary D. Woodmansee and Concerned Friends of Ferry County v. Ferry County*, EWGMHB Case No. 95-1-0010 Final Decision and Order p. *5 (May 13, 1996).

⁴⁴ RCW 36.70A.520(2).

⁴⁵ *Pierce County, Pierce County Neighborhood Association v. Pierce County (PNA II)*, CPSGMHB Case No. 95-3-0071 Final Decision and Order p. *22 (March 11, 1996) & *Friends of the San Juans, Lynn Bahrych and Joe Symons, et al. v. San Juan County*, WWGMHB Case No.: 03-2-0003c Corrected Final Decision and Order and Compliance Order p.*1, 2003 WL 1950153 p. *1 (April 17, 2003).

critical areas, and resource lands before adopting development regulations that authorize ADUs.⁴⁶

- A variety of rural densities is required.⁴⁷ A uniform one dwelling unit per five acre density in rural areas does not comply with the GMA and substantially interferes with GMA Goals 1, 2, 8, and 10.⁴⁸ The requirement for a variety of rural densities helps achieve a number Growth Management Act goals and requirements and community goals. They include the following:
 - A blend of one dwelling unit per five acre and lower rural densities can help achieve the rural character desired by the community.⁴⁹
 - Lower rural densities can help conserve resource-based uses in the rural area such as forestry and farming.⁵⁰ Larger minimum lot sizes can help maintain these uses and protect them from incompatible uses.
 - Use lower rural densities to buffer natural resource lands, which are agriculture, forest, and mineral lands of long-term commercial significance.⁵¹
 - Use lower rural densities to reduce rural sprawl.⁵²
 - One to five acre lots along urban growth area boundaries make the extension of public facilities, annexation, and future resubdivision at urban densities difficult, hindering the logical expansion of urban growth areas if needed in the future.⁵³ Use

⁴⁶ *Friends of the San Juans, Lynn Bahrych and Joe Symons, et al., v. San Juan County*, WWGMHB Case No.: 03-2-0003c Corrected Final Decision and Order and Compliance Order p.*1, 2003 WL 1950153 p. *1 (April 17, 2003).

⁴⁷ RCW 36.70A.070(5)(b) & *Panesko, et al. v. Lewis County, et al.*, WWGMHB Case No. 98-2-0011c Final Decision and Order & Compliance Order, 2001 WL 246707 p. *13 (March 5, 2001).

⁴⁸ *Panesko, et al. v. Lewis County, et al.*, WWGMHB Case No. 98-2-0011c Final Decision and Order & Compliance Order, 2001 WL 246707 p. *16 (March 5, 2001).

⁴⁹ RCW 36.70A.070(5)(c).

⁵⁰ *Manke Lumber Co., Inc. v. Central Puget Sound Growth Management Hearings Bd.*, 113 Wn. App. 615, 625, 53 P.3d 1011, 1016 (2002). The comprehensive plan designations that complied with the Growth Management Act were the Interim Rural Forestry (IRF) designation with a density of one dwelling unit per 20 acres, the Urban Reserve designation with a density of one dwelling unit per 10 acres, the Rural Residential designation with a density of one dwelling unit per five acres, and the Rural Protection designation with a density of one dwelling unit per 10 acres. *Id.*

⁵¹ RCW 36.70A.070(5)(c)(v) & *Achen, et al. v. Clark County, et al.*, WWGMHB Case No. 95-2-0067, 1998 WL 57349 p. *5 (February 5, 1998).

⁵² RCW 36.70A.070(5)(c)(iii) & *Achen, et al. v. Clark County, et al.*, WWGMHB Case No. 95-2-0067, 1998 WL 57349 p. *5 (February 5, 1998).

⁵³ *City of Gig Harbor, et al. v. Pierce County*, CPSGMHB Case No. 95-3-0016c Final Decision and Order, 1995 WL 903183 pp.*40 – 44 (October 31, 1995). In this case the board also held that even though there were more rural comprehensive plan designations, because the densities of several designations were the same there were effectively only two rural densities and this was not a variety of densities. The board gave as an example of compliance with the GMA's variety of densities requirement a comprehensive plan with designations that had

one dwelling unit per ten acres and lower rural densities to preserve opportunities for efficient future subdivision, the extension of public facilities, and annexation of land near the urban growth areas.

- To better match comprehensive plan designations and zoning to the actual conditions of rural areas. Some rural areas are very poorly suited to development either because of natural constraints such as a lack of water for domestic use or a lack of public services, such as fire fighting services. Lower rural densities can make development more sustainable.
- Protect rural areas with environmental attributes susceptible to damage from the development and surface and ground water resources.⁵⁴ Ground water resources may be susceptible to pollution from septic tanks or reduced recharge due to impervious surfaces. Surface and ground water resources can be damaged due to a lack for forest cover or impervious surfaces. Lower rural densities can help protect these areas.

Clustering and Innovative Techniques in Rural Areas

- “In order to achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design guidelines, conservation easements, and other innovative techniques that will accommodate appropriate rural densities and uses that are not characterized by urban growth and that are consistent with rural character.”⁵⁵
- “Those innovative techniques, however, must involve ‘appropriate rural densities and uses’ that are *not* characterized by urban growth [RCW 36.70A.020](17) and that are ‘consistent with rural character’ [RCW 36.70A.020](14).”⁵⁶
- To meet these requirements, standards are required for clustering in rural areas. Clustering groups houses, or other development, on a limited portion of the site. This is typically the more developable or higher amenity part of the site. The residual parcel remains undeveloped or is used for rural uses. Required standards for clustering include:
 - Cluster densities, including any density bonuses, cannot exceed one dwelling unit per five acres.⁵⁷

rural densities of one dwelling unit per ten acres, one dwelling unit per 20 acres, one dwelling unit per 40 acres, and one dwelling unit per 80 acres. *Id* at pp. *43 – 44.

⁵⁴ RCW 36.70A.070(5)(c)(iv).

⁵⁵ RCW 36.70A.070(5)(b).

⁵⁶ RCW 36.70A.070(5)(b) & *Vince Panesko, et al., v. Lewis County, et al.*, WWGMHB Case No. 00-2-0031c, *Eugene Butler, et al. v. Lewis County*, WWGMHB Case No. 99-2-0027c, & *Daniel Smith, et al. v. Lewis County*, WWGMHB No. 98-2-0011c Final Decision and Order p. *14 of 45, 2001 WL 246707 (March 5, 2001) emphasis in *Panesko* original.

⁵⁷ *Gig Harbor, et al. v. Pierce County*, CPSGMHB Case No. 95-3-0016c Final Decision and Order pp. *44 of 50 (October 31, 1995), *Warren Dawes et al. v. Mason County*, WWGMHB No. 96-2-0023 Finding of Invalidation, Partial Compliance, Continued Noncompliance, and Continued Invalidation p. *16 of 20 (January 14, 1999). See

- Cluster development regulations must include a limit on the maximum number of lots allowed on the land included in the cluster.⁵⁸ This is needed to prevent urban growth in rural areas and to preclude demands for urban governmental services.⁵⁹ Clusters that included more than eight housing units, even if authorized by special use review, violated the Growth Management Act based on the record before the board because it would not reduce low density sprawl and did not minimize and contain rural development as required by the Growth Management Act.⁶⁰ This was because there was no prohibition on connections to public and private water and sewer lines and there were no requirements to limit development on the residual parcel, the land on which the housing units were not clustered.⁶¹
- “The Board can conceive of a well designed compact rural development containing a small number of homes that would not look urban in character, not require urban governmental services, nor have undue growth-inducing or adverse environmental impacts on surrounding properties. Such a rural development proposal could constitute ‘compact rural development’ rather than ‘urban growth.’ However, the [challenged regulations] do[] not have parameters to prevent development projects that constitute urban growth from occurring in rural areas. For example, there is no upper limit on the acreage or unit count that the [regulations] would permit to occur

also Diehl v. Mason County, 94 Wn. App. 645, 655, 972 P.2d 543, 548 (1999) “The GMA allows counties to use varying densities and cluster developments in rural areas, as long as the densities and clusters do not become urban and do not require the extension of urban services.” In the *Durland* decision, the Western Board upheld rural clustered development with a density of two dwelling units per acre. However, the clusters are only allowed if they provide affordable housing for very-low, low and moderate income levels for at least 50 years for ownership housing and 20 years for rental housing. The cluster subdivision was limited to maximum of eight housing units. No urban-level facilities or services are allowed. A maximum of 10 clusters containing a maximum of 100 units are allowed over a decade. Public or non-profit entities must own the site. The county limited the clusters to certain rural designations. Other clusters and developments are not allowed within 1200 feet. Rural development standards address water quality, quantity and septic issues. *Michael Durland, et al., v. San Juan County*, WWGMHB Case No. 00-2-0062c & *Town of Friday Harbor, et al. v. San Juan County*, WWGMHB Case No. No. 99-2-0010c Final Decision and Order and Compliance Order, 2001 WL 529884 p.*17 (May 7, 2001). The high housing costs and few urban growth areas in the San Juan Islands played an important role in this decision and it is an example of the flexibility and regional variation allowed under the Growth Management Act. Such clusters would not be allowed in the rural area of other counties.

⁵⁸ *Whatcom Environmental Council v. Whatcom County*, WWGMHB Case No. 94-2-0009 Order Re: Invalidity & *C.U.S.T.E.R. Association, et al. v. Whatcom County*, WWGMHB Case No. 96-2-0008 Order Re: Invalidity p. *6 of 7 (July 25, 1997).

⁵⁹ *Bremerton, et al. v. Kitsap County*, CPSGMHB Case No. 95-3-0039c, 1996 WL 734917 p. *34 (October 6, 1995) & *Daniel Smith, et al. v. Lewis County*, WWGMHB Case No. 98-2-0011c, 1999 WL 187571 p. *1 & p *4 (April 5, 1999).

⁶⁰ *Vince Panesko, et al., v. Lewis County, et al.*, WWGMHB Case No. 00-2-0031c, *Eugene Butler, et al. v. Lewis County*, WWGMHB Case No. 99-2-0027c, & *Daniel Smith, et al. v. Lewis County*, WWGMHB No. 98-2-0011c Final Decision and Order p. *18 of 45, 2001 WL 246707 (March 5, 2001).

⁶¹ *Id.*

in rural areas, nor are there any parameters regarding the configuration, servicing or location of such development.”⁶²

Allowed Governmental Services

- “The rural element shall provide for ... rural governmental services needed to serve the permitted densities and uses.”⁶³
 - The definition of rural government services is included in the definitions section.
 - Urban governmental services, defined in RCW 36.70A.030(19), are generally not appropriate to be extended or expanded into the rural area.⁶⁴ They may be allowed if the following criteria are met:
 - (1) Cities are the most appropriate providers of urban governmental services;
 - (2) It is generally not appropriate to extend or expand urban governmental services into rural areas;
 - (3) Limited occasions to extend or expand are allowed that are:
 - (4) Shown to be necessary to protect:
 - (a) basic public health and safety *and*
 - (b) the environment, but;
 - (5) Only when the urban governmental services are financially supportable at rural densities; and
 - (6) Only when extension or expansion does not allow urban development.⁶⁵
 - LAMIRDs may include “... necessary public facilities and public services to serve the limited area”⁶⁶ This may include sewers and, probably, piped storm water facilities.⁶⁷ The “public services and public facilities [serving a LAMIRD] must be provided ‘in a manner that does not permit low-density sprawl.’”⁶⁸
 - RCW 36.70A.110(4) allows urban governmental services, such as water lines or sewer lines, to pass through a rural area to serve an urban growth area as long as the urban governmental services do not serve the rural area or other areas outside the urban

⁶² *Bremerton, et al. v. Kitsap County*, CPSGMHB Case No. 95-3-0039c, 1996 WL 734917 p. *34 (October 6, 1995).

⁶³ RCW 36.70A.070(5)(b).

⁶⁴ RCW 36.70A.110(4).

⁶⁵ RCW 36.70A.110(4) & *Thurston County v. Cooper Point Association*, 108 Wn. App. 429, 434, 31 P.3d 28, 33 – 34 (2001). The Washington Supreme Court affirmed the Court of Appeals decision in *Thurston County v. Cooper Point Association*, 148 Wn. 2d 1, 57 P.3d 1156 (2002).

⁶⁶ RCW 36.70A.070(5)(d).

⁶⁷ *Gain v. Pierce County*, CPSGMHB Case No. 99-3-0019 Final Decision and Order pp. *3 – 5 (April 18, 2000).

⁶⁸ *Panesko, et al. v. Lewis County, et al.*, WWGMHB Case No. 98-2-0011c Final Decision and Order & Compliance Order, 2001 WL 246707 p. *15 (March 5, 2001).

growth area.⁶⁹ Similarly, urban governmental services may run from one urban growth area to another provided they do not serve land outside urban growth areas.⁷⁰

Measures to Protect Rural Character

■ “The rural element shall include measures that apply to rural development and protect the rural character of the area, as established by the county, by:

- “(i) Containing or otherwise controlling rural development;
- “(ii) Assuring visual compatibility of rural development with the surrounding rural area;
- “(iii) Reducing the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area;
- “(iv) Protecting critical areas, as provided in RCW 36.70A.060, and surface water and ground water resources; and
- “(v) Protecting against conflicts with the use of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170.”⁷¹

The definition of rural character is included in the definitions section of this document.

Limited Areas of More Intense Rural Development (LAMIRDs)

Purposes

The “LAMIRD provisions were added to GMA to allow the county to acknowledge pre-existing development, not as a prospective and ongoing rural development tool.”⁷²

LAMIRDs are also one of several tools available to provide rural counties with the flexibility to attract and retain businesses, and the jobs associated with those businesses, to already developed areas while protecting the surrounding areas from unchecked development, especially low-density sprawl. However, as we have seen, there are better tools for resource based industries, businesses that serve the rural area, and some other economic development opportunities as well. See the sections above on rural uses.

⁶⁹ *Heikkila, et al. v. City of Winlock*, WWGMHB Case No. 04-2-0020c Order on Motions pp. *5 – 6 (December 14, 2004) & *Gain v. Pierce County*, CPSGMHB Case No. 99-3-0019 Final Decision and Order pp. *3 – 4 (April 18, 2000).

⁷⁰ *Id.*

⁷¹ RCW 36.70A.070(5)(c). Type 1 LAMIRDs do not have to comply with RCW 36.70A.070(5)(c)(ii) and RCW 36.70A.070(5)(c)(iii) in this quotation.

⁷² *City of Anacortes v. Skagit County*, WWGMHB Case No. 00-2-0049c Compliance Order p. *16 (January 31, 2002).

LAMIRDs are a Local Option

Counties may include LAMIRDs in their comprehensive plans and development regulations, but they are not required to do so.⁷³ It is a local option. Nor are counties required to designate any particular part of the county, such as shorelines areas, as LAMIRDs.⁷⁴

LAMIRDs were authorized by the 1997 amendments to the GMA that clarified and expanded the GMA's policy towards rural areas.⁷⁵

Requirements for Designating LAMIRDs and Allowed Uses

Definition of LAMIRDs

A LAMIRD is a part of the rural area with existing land use patterns that are more concentrated than typically found in a rural area. This compact form of rural development is not considered urban growth under the GMA.⁷⁶ LAMIRDs are not “to be the predominant pattern of future rural development.”⁷⁷ Indeed, the Western Board held that Skagit County could not designate new LAMIRDs six years after the opportunity was provided by the adoption of RCW 36.70A.070(5)(d).⁷⁸

LAMIRDs are sometimes referred to as Areas of More Intense Rural Development (AMIRDs), Rural Areas of Intense Development [RAIDs], Rural Activity Centers (RACs), or similar terms. Some RACs are rural commercial areas authorized under other provisions of the GMA.

There are three types of LAMIRDs, each authorizing a different category of rural development. The types refer to the subparts in RCW 36.70A.070(5)(d) that authorizes them. A Type 1 LAMIRD, authorized by RCW 36.70A.070(5)(d)(i), designates existing areas of commercial, industrial, residential or mixed-use development. A Type 2 LAMIRD, authorized by RCW 36.70A.070(5)(d)(ii), allows small recreational and tourist businesses to develop and grow. Finally, a Type 3 LAMIRD, authorized by RCW 36.70A.070(5)(d)(iii),

⁷³ RCW 36.70A.070(5)(d), *Manke Lumber Co., Inc. v. Central Puget Sound Growth Management Hearings Bd.*, 113 Wn. App. 615, 625 – 626, 53 P.3d 1011, 1016 (2002), & *Vines v. Jefferson County*, WWGMHB Case No. 98-2-0018 Final Decision and Order p.*2 (April 5, 1999).

⁷⁴ RCW 36.70A.070(5)(d), *Manke Lumber Co., Inc. v. Central Puget Sound Growth Management Hearings Bd.*, 113 Wn. App. 615, 625 – 626, 53 P.3d 1011, 1016 (2002) “The Board and trial court properly found that the GMA does not require that the 1998 Plan allow[] for more intensive development along the shoreline. This provision clearly indicates a permissive, not mandatory posture. See RCW 36.70A.070(5)(d) (stating that the rural element of a county’s comprehensive plan “may allow for limited areas of more intensive rural development”). Given the wide discretion local governments have to develop their comprehensive plans, the County acted within its discretion.”

⁷⁵ 1997 Session Laws, Chapter 429 § 7.

⁷⁶ RCW 36.70A.030(17).

⁷⁷ *Burrow v. Kitsap County, et al.*, CPSGMHB Case No. 99-3-0018 Coordinated with Consolidated Case No. 98-3-0032c Order on Compliance in a Portion of Alpine and Final Decision and Order in Burrow p. *19, 2000 WL 1075913 p. *12 (March 29, 2000).

⁷⁸ *City of Anacortes v. Skagit County*, WWGMHB Case No. 00-2-0049c Compliance Order p. *16 (January 31, 2002).

allows for the growth and new development of isolated cottage industries and small-scale businesses. Public facilities and services, such as water lines, necessary to serve the LAMIRD may be provided.⁷⁹

Type 1 LAMIRDs and the Logical Outer Boundary Requirement

A Type 1 LAMIRD can include infill, development, or redevelopment of existing commercial, industrial, residential or mixed-use areas, such as shoreline developments, villages, hamlets, rural activity centers, or crossroads development. Any development or redevelopment other than an industrial area or an industrial use within a mixed-use area or an industrial area under RCW 36.70A.070(5)(d)(i) must be principally designed to serve the existing and projected rural population.⁸⁰ An industrial area or an industrial use within a mixed-use area or an industrial area under RCW 36.70A.070(5)(d)(i) is not required to be principally designed to serve the existing and projected rural population.⁸¹ Development and redevelopment may include changes in use from vacant land or a previously existing use so long as the new use conforms to the requirements of RCW 36.70A.070(5).⁸² Any development or redevelopment in terms of building size, scale, use, or intensity shall be consistent with the existing character of the LAMIRD.⁸³ Unlike other forms of rural development, a Type 1 LAMIRD is not required to be visually compatible with the surrounding rural area. In order to preserve the character of the natural neighborhoods and communities, however, the county must limit the intensive development to areas where it already occurs. All (d)(i) LAMIRD uses (commercial, residential, or mixed-use) must be principally designed to serve the “existing and projected rural population.”⁸⁴ The provisions of RCW 36.70A.070(5)(d)(i) that exempt industrial areas from the requirement of being principally designed to serve the existing and projected rural population do not apply to industrial uses within a mixed use LAMIRD.⁸⁵

In determining the location of a Type 1 LAMIRD, the county must clearly identify the *logical outer boundary* (sometimes called an LOB) of the area. The logical outer boundary is one of the rare circumstances where a county must show its work. This is so because the Growth Management Act establishes specific criteria that must met rather than just considered.⁸⁶

⁷⁹ RCW 36.70A.070(5)(d).

⁸⁰ RCW 36.70A.050(5)(d)(1)(B).

⁸¹ RCW 36.70A.050(5)(d)(1)(B).

⁸² RCW 36.70A.050(5)(d)(1)(C).

⁸³ RCW 36.70A.050(5)(d)(1)(C).

⁸⁴ RCW 36.70A.050(5)(d)(1)(B) & *Panesko, et al. v. Lewis County, et al.*, WWGMHB Case No. 98-2-0011c Final Decision and Order & Compliance Order, 2001 WL 246707 p. *14 (March 5, 2001).

⁸⁵ *Dawes v. Mason County*, WWGMHB Case No. 96-2-0023 Order Denying Reconsideration p. *2 (January 17, 2001) (underlining in original).

⁸⁶ *James A. Whitaker v. Grant County*, EWGMHB Case No. 99-1-0019 Second Order on Compliance pp. *7 – 8, 2004 WL 2624887 p. *5 (November 1, 2004).

The logical outer boundary is delineated predominately by the “built environment” that existed on July 1, 1990, or the date when the county was first required or chose to fully plan under the GMA.⁸⁷ The “built environment” includes man-made structures located above and below the ground, such as existing buildings, sewer lines, and other urban level utilities or infrastructure.⁸⁸ The extent of the infrastructure or the service area that existed in 1990 or the date when the county was first required or chose to fully plan under the GMA may be used to set the logical outer boundary.⁸⁹ Vested developments not build in 1990 or the date the county was required or chose to fully plan under the GMA cannot be used to determine the built environment.⁹⁰ Existing zoning cannot be the sole criteria for determining the location of a LAMIRD, it can however be used as an exclusionary criteria.⁹¹ In order to minimize and contain the existing development, the county must draw the boundary closely around the built environment and be able to clearly justify its choices.⁹² Vacant land may be included in the LAMIRD and a county may make minor adjustments to a logical outer boundary to include undeveloped property.⁹³ Such undeveloped property is to provide for infill.⁹⁴ Infilling is allowed if it is “‘minimized’ and ‘contained’ within a ‘logical outer boundary.’”⁹⁵

⁸⁷ RCW 36.70A.070(5)(d)(iv).

⁸⁸ *City of Anacortes v. Skagit County*, WWGMHB Case No. 00-2-0049c Final Decision and Order (C/I Development Issues) p. *13 (February 6, 2001), *Panesko, et al. v. Lewis County, et al.*, WWGMHB Case No. 98-2-0011c Final Decision and Order & Compliance Order, 2001 WL 246707 p. *15 (March 5, 2001), *People For A Liveable Community, Jim Lindsay, et al. v. Jefferson County*, WWGMHB Case No. 03-2-0009c Final Decision and Order p. *21 (August 22, 2003), & *James A. Whitaker v. Grant County*, EWGMHB Case No. 99-1-0019 Second Order on Compliance, 2004 WL 2624887 p. *3 (November 1, 2004).

⁸⁹ *Burrow v. Kitsap County*, CPSGMHB Case No. Case No. 99-3-0018 coordinated with *Alpine, et al. v. Kitsap County*, Case No. 98-3-0032c [Portion dealing with Compliance with Remand Items 3.d and 3.f] Order on Compliance in a Portion of Alpine and Final Decision and Order in Burrow p. *14 (March 29, 2000).

⁹⁰ *City of Anacortes v. Skagit County*, WWGMHB Case No. 00-2-0049c Final Decision and Order (C/I Development Issues) p. *18 (February 6, 2001).

⁹¹ *Vines v. Jefferson County*, WWGMHB Case No. 98-2-0018 Final Decision and Order p.*2 (April 5, 1999).

⁹² *Citizens for Good Governance, 1000 Friends of Washington, and City of Walla Walla v. Walla Walla County*, Case No. 01-1-0015c & Case No. 01-1-0014cz Final Decision and Order, 2002 WL 32065594 *16 (May 1, 2002).

⁹³ *Bremerton et al. v. Kitsap County & Port Gamble, et al. v. Kitsap County*, CPSGMHB Case No. 95- 3-0039c coordinated with Case No. 97-3-0024c Finding of Noncompliance and Determination of Invalidity in Bremerton and Order Dismissing Port Gamble p. *14 (September 8, 1997) & *Citizens for Good Governance, 1000 Friends of Washington, and City of Walla Walla v. Walla Walla County*, Case No. 01-1-0015c & Case No. 01-1-0014cz Final Decision and Order, 2002 WL 32065594 *17 (May 1, 2002).

⁹⁴ *Panesko v. Lewis County*, WWGMHB Case 00-2-0031c Decision and Order p. *19 (March 5, 2001).

⁹⁵ *Bremerton et al. v. Kitsap County & Port Gamble, et al. v. Kitsap County*, CPSGMHB Case No. 95- 3-0039c coordinated with Case No. 97-3-0024c Finding of Noncompliance and Determination of Invalidity in Bremerton and Order Dismissing Port Gamble p. *14 (September 8, 1997) & *Panesko v. Lewis County*, WWGMHB Case No. 00-2-0031c Final Decision and Order p.*19 (March 5, 2001). *Accord Citizens for Good Governance, 1000 Friends of Washington, and City of Walla Walla v. Walla Walla County*, Case No. 01-1-0015c & Case No. 01-1-0014cz Final Decision and Order, 2002 WL 32065594 *17 (May 1, 2002).

In addition to the man-made environment, a county must address the following factors in establishing the logical outer boundary: “(A) the need to preserve the character of existing natural neighborhoods and communities, (B) physical boundaries such as bodies of water, streets and highways, and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl.”⁹⁶ The county must avoid abnormally irregular boundaries, but this does not require that the boundary be drawn in a concentric circle or a squared-off block.⁹⁷ The GMA does not mandate the use of any one physical feature, such as a water body or street, in setting the logical outer boundary.⁹⁸ A county must take into account the requirement of including adequate public facilities and services that do not permit low density sprawl all within the logical outer boundary.⁹⁹

The boundaries of a Type 1 LAMIRD are permanent; the boundary cannot be expanded because this would be inconsistent with the goal of infilling existing areas of development.¹⁰⁰ Demand or need for commercial or residential development does not permit the expansion of LAMIRDs beyond their logical outer boundaries.¹⁰¹ To do so would discourage commercial and residential development within urban growth areas as required by the GMA.¹⁰² In a later decision, the Western Board clarified that if LAMIRD boundaries are to be reevaluated, “that evaluation must be done on a one-time basis only to acknowledge historical reality under RCW 36.70A.020(5) and not to provide for” additional development.¹⁰³

Type 2 LAMIRDs

A Type 2 LAMIRD may include new, intensified, and expanded development of small-scale recreational or tourist uses that rely on a rural location and setting.¹⁰⁴ The development

⁹⁶ RCW 36.70A.070(5)(d)(iv).

⁹⁷ *Vines v. Jefferson County*, WWGMHB Case No. 98-2-0018 Final Decision and Order p.*3 (April 5, 1999).

⁹⁸ *Burrow v. Kitsap County*, CPSGMHB Case No. Case No. 99-3-0018 *coordinated with Alpine, et al. v. Kitsap County*, Case No. 98-3-0032c [Portion dealing with Compliance with Remand Items 3.d and 3.f] Order on Compliance in a Portion of Alpine and Final Decision and Order in Burrow p. *14 (March 29, 2000) & *City of Anacortes v. Skagit County*, WWGMHB Case No. 00-2-0049c Final Decision and Order (C/I Development Issues) p. *13 (February 6, 2001).

⁹⁹ *Panesko v. Lewis County*, WWGMHB Case No. 00-2-0031c Final Decision and Order p. *19 (May 5, 2001).

¹⁰⁰ *Olympic Environmental Council v. Jefferson County*, WWGMHB Case No. 00-2-0019 Final Decision and Order p. *5 of 8 (November 22, 2000).

¹⁰¹ *Olympic Environmental Council v. Jefferson County*, WWGMHB Case No. 00-2-0019 Final Decision and Order p. *5 of 8 (November 22, 2000).

¹⁰² *Id.*

¹⁰³ *People For A Liveable Community, Jim Lindsay, et al. v. Jefferson County*, WWGMHB Case No. 03-2-0009 Order Granting County’s Motion For Reconsideration p. *1 (September 19, 2003).

¹⁰⁴ RCW 36.70A.070(5)(d)(ii) & *City of Anacortes v. Skagit County*, WWGMHB Case No. 00-2-0049c Final Decision and Order (C/I Development Issues) p. *9 (February 6, 2001).

may also include commercial facilities that serve the recreational or tourist uses, but new residential developments are specifically excluded in this type of LAMIRD.¹⁰⁵ Unlike other LAMIRDS, small-scale recreational or tourist uses are not required to primarily serve or provide job opportunities for local residents.¹⁰⁶ Type 2 LAMIRDS cannot include new residential development.¹⁰⁷

A Type 2 LAMIRD is meant to be a single lot or a combination of lots, not a wide area.¹⁰⁸ The public services and public facilities serving a Type 2 shall be limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl.¹⁰⁹

Type 3 LAMIRDS

A Type 3 LAMIRD can include the intensification of development on lots containing non-residential uses or the new development of isolated cottage industries and isolated small-scale businesses.¹¹⁰ “An isolated use, then, must be one that is set apart from others. The Legislature’s use of the term ‘isolated’ for both cottage industry and small-scale businesses demonstrates an unambiguous intention to ensure that any commercial uses established by the mechanism of a type (d)(iii) LAMIRD be set apart from other such uses.”¹¹¹

These businesses do not need to be designed to serve the rural population; however, they must provide job opportunities for rural residents.¹¹² Both expansions of small-scale businesses and new small scale businesses shall conform to the rural character of the area as defined by the county according to RCW 36.70A.030(14).¹¹³ “Public services and public facilities shall be limited to those necessary to serve the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl.”¹¹⁴

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *City of Anacortes v. Skagit County*, WWGMHB Case No. 00-2-0049c Final Decision and Order (C/I Development Issues) p. *9 (February 6, 2001).

¹⁰⁸ RCW 36.70A.070(5)(d)(iii).

¹⁰⁹ RCW 36.70A.070(5)(d)(ii) & *City of Anacortes v. Skagit County*, WWGMHB Case No. 00-2-0049c Final Decision and Order (C/I Development Issues) p. *9 (February 6, 2001).

¹¹⁰ RCW 36.70A.070(5)(d)(iii).

¹¹¹ *Better Brinnon Coalition v. Jefferson County*, WWGMHB Case No. 03-2-0007 Compliance Order p. *7 of 14, 2004 WL 1864628 p. *4 (June 23, 2004) & *James A. Whitaker v. Grant County*, EWGMHB Case No. 99-1-0019 Second Order on Compliance p. *6, 2004 WL 2624887 p. *4 (November 1, 2004) quoting *Better Brinnon Coalition*.

¹¹² RCW 36.70A.070(5)(d)(iii).

¹¹³ RCW 36.70A.070(5)(d)(iii).

¹¹⁴ RCW 36.70A.070(5)(d)(iii).

Type 2 and Type 3 LAMIRDs must comply with the requirements of RCW 36.70A.070(5)(a), (b), and (c).¹¹⁵ For example, they are required to be visually compatible with the surrounding rural area and to limit the conversion of undeveloped land into low-density sprawl developments.¹¹⁶

Requirements Applicable to All LAMIRDs

Major industrial developments and master-planned resorts cannot be authorized by a LAMIRD.¹¹⁷ The Central and Eastern Growth Boards have held that LAMIRDs cannot be located near an urban growth area.¹¹⁸ The Western Board prohibited a LAMIRD adjacent to an urban growth area where there was no evaluation of suitability of allowed urban style development, no evaluation of the need for urban services, and no evaluation of whether the area should have been included an urban growth area.¹¹⁹ In a different case, the Western Board upheld a LAMIRD adjacent to an urban growth area where there had been careful study of the LAMIRD and where the city opposed both urban growth area expansions and a non-municipal urban growth area for the area within the LAMIRD.¹²⁰

For those LAMIRDs that allow residential uses, the GMA “does not put an explicit limit on the absolute residential density permitted in LAMIRDs. The limit is unique to each LAMIRD and is established by the conditions that existed on July 1, 1990 [or the date the county chose or was required to plan under the GMA].”¹²¹

“The GMA does not require that an analysis of capital facilities for LAMIRD designation, nor does it require that population forecasts be used in establishing LAMIRDs.”¹²²

¹¹⁵ *City of Anacortes v. Skagit County*, WWGMHB Case No. 00-2-0049c Final Decision and Order (C/I Development Issues) p. *9 (February 6, 2001).

¹¹⁶ RCW 36.70A.070(5)(c)(ii) & (iii).

¹¹⁷ RCW 36.70A.070(5)(e) & *City of Anacortes v. Skagit County*, WWGMHB Case No. 00-2-0049c Final Decision and Order (C/I Development Issues) p. *8 (February 6, 2001).

¹¹⁸ *City of Tacoma v. Pierce County*, CPSGMHB Case No. 99-3-0023c, Final Decision and Order p. *8 (June 26, 2000) & *Citizens for Good Governance, 1000 Friends of Washington, and City of Walla Walla v. Walla Walla County*, Case No. 01-1-0015c & Case No. 01-1-0014cz Final Decision and Order pp. *27 – 28 of 62 (May 1, 2002).

¹¹⁹ *City of Anacortes v. Skagit County*, WWGMHB Case No. 00-2-0049c Final Decision and Order (C/I Development Issues) p. *18 (February 6, 2001)

¹²⁰ *People for A Liveable Community, Jim Lindsay, et al. v. Jefferson County*, WWGMHB Case No. 03-2-0009c Final Decision and Order p. * 11 (August 22, 2003).

¹²¹ *Burrow v. Kitsap County, et al.*, CPSGMHB Case No. 99-3-0018 Coordinated with Consolidated Case No. 98-3-0032c Order on Compliance in a Portion of Alpine and Final Decision and Order in Burrow p. *19, 2000 WL 1075913 p. *12 (March 29, 2000).

¹²² *Better Brinnon Coalition v. Jefferson County*, WWGMHB Case No. 03-2-0007 Final Decision and Order, 2003 WL 22896402 p. *17 (August 22, 2003).

Master Planned Resorts (MPRs)

- Master planned resorts are described as “self-contained and fully integrated planned unit development[s], in a setting of significant natural amenities, with [a] primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of developed on-site indoor or outdoor recreational facilities.”¹²³
- Master planned resorts can include either an existing resort or new resort if the standards in the GMA and local government policies and regulations are met.¹²⁴ “An existing resort means a resort in existence on July 1, 1990, and developed, in whole or in part, as a significantly self-contained and integrated development that includes short-term visitor accommodations associated with a range of indoor and outdoor recreational facilities within the property boundaries in a setting of significant natural amenities.”¹²⁵
- The resort can provide a full range of capital facilities and services to serve resort.¹²⁶ On-site capital facilities and services “shall be limited to meeting the needs of the master planned resort. Such facilities, utilities, and services may be provided to a master planned resort by outside service providers, including municipalities and special purpose districts, provided that all costs associated with service extensions and capacity increases directly attributable to the master planned resort are fully borne by the resort.”¹²⁷
- Master planned resorts are allowed to permit urban growth outside urban growth areas.¹²⁸
- “A master planned resort may include other residential uses within its boundaries, but only if the residential uses are integrated into and support the on-site recreational nature of the resort.”¹²⁹
- The MountainStar Resort, now know as Suncadia, in Kittitas County is an example of an approved master planned resort.
- The Municipal Research and Services Center has prepared a handbook on master planned resorts: Susan Enger, *Master Planned Resorts “Washington Style”* (Municipal Research and Services Center Report No. 57, Seattle, WA: May 2003). You can download the report from: <http://www.mrsc.org/Publications/mrscpubs.aspx> please scroll down to *Master Planned Resorts “Washington Style.”*

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¹²³ RCW 36.70A.360(1).

¹²⁴ RCW 36.70A.360 & RCW 36.70A.362.

¹²⁵ RCW 36.70A.362.

¹²⁶ RCW 36.70A.360(2).

¹²⁷ RCW 36.70A.360(2).

¹²⁸ RCW 36.70A.360(1) & RCW 36.70A.362.

¹²⁹ RCW 36.70A.360(3).