

# Municipal Research News

LOCAL GOVERNMENT  
SUCCESS



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## About MRSC

Municipal Research and Services Center (MRSC) is a nonprofit organization dedicated to proactively supporting the success of local governments through one-on-one consultation, research tools, online and in-person training, and timely, unbiased information on issues impacting all aspects of local governments.

For more than 80 years, local governments in Washington State have turned to MRSC for assistance. Our trusted staff attorneys, policy consultants, and finance experts have decades of experience and provide personalized guidance through Ask MRSC and our extensive online resources. Every year we help thousands of staff and elected officials research policies, comply with state and federal laws, and improve day-to-day operations through best practices.

Municipal Research News is published quarterly to inform, engage, and educate readers about ongoing and emerging issues. In print and online at the MRSC Insight blog, we cover such major topics as the Growth Management Act, the legalization of recreational marijuana, and the ever-evolving complexities of the Public Records Act, to name a few. When the legal landscape changes, we are here to clarify the issues and help local government leaders make the right decisions for their communities.



## Washington Trivia Question

Which city lies at the end of the Oregon (“Cowlitz”) Trail and is the oldest permanent American settlement in the Puget Sound?

Answer on page 10

Your ideas and comments are appreciated. If you have news you would like to share or if you would like to write a short feature article, please contact the editor, Leah LaCivita, at [llacivita@mrsc.org](mailto:llacivita@mrsc.org)

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# MRSC HIGHLIGHTS

## New Resources to Reduce Climate Impacts, Build Resilient Communities

**MRSC’ Local Climate Response Project assists local governments in their climate planning efforts. As part of this project, MRSC has developed six new webpages that cover funding and general resources, equity and engagement, climate action plans (CAPs), greenhouse gas (GHG) emissions reduction strategies, and local climate adaptation and resiliency plans. These webpages offer tools to local government staff or elected officials to help them reduce climate impacts and build more prepared and resilient communities.**

[Here is a closer look at these six new webpages.](#)

### LOCAL GOVERNMENT CLIMATE CHANGE DOCUMENTS WEBPAGE

This webpage includes a selection of over 300 climate impact-related resources from local governments across the state. Accessible via an interactive map and a detailed list, these documents address mitigation and adaptation efforts tailored to community needs and strengths.

### CLIMATE ACTION FUNDING AND GENERAL RESOURCES WEBPAGE

This webpage includes state grants and loans, such as Growth Management Grants that provide assistance for housing action plans and transit-oriented development. It also offers sample technical resources, research institutes, and peer networks, such as GEOS Institute’s Climate Ready Program, which helps communities create local climate resilience plans.

### CLIMATE EQUITY AND ENGAGEMENT WEBPAGE

The impacts of climate-related disasters will fall more heavily on certain populations. This webpage discusses frontline communities and inclusive engagement planning processes. Examples include Bainbridge Island’s Climate Action Plan, which emphasizes resident empowerment and education; and the Thurston Climate Mitigation Plan, which identifies strategies that support marginalized communities and reduce GHG emissions.

The webpage also links to the Washington State Department of Health’s Environmental Health Disparities Map, an interactive tool that shows how U.S. census tracts across the state rank for

environmental-health hazards (e.g., diesel emissions, potential lead exposure, proximity to toxic waste).

### CLIMATE ACTION PLANS WEBPAGE

Several Washington agencies have already or are planning to adopt CAPs that target GHG emissions reduction goals. This webpage includes examples of CAPs, GHG inventories and targets, and more. Sample CAPs include King County’s Strategic Climate Action Plan, which integrates climate action into all areas of county operations for a five-year timespan; and Methow Valley’s Climate Action Plan, which was developed through an intensive community engagement effort and includes area jurisdictions throughout the Methow Valley.

### GREENHOUSE GAS EMISSION REDUCTION STRATEGIES WEBPAGE

This webpage focuses on GHG reduction strategies from across sectors, including municipal operations, buildings, land use and transportation planning, urban forestry, and waste. Some sample documents include Redmond’s Environmental Sustainability Action Plan, which calls for protecting and enhancing equitably accessible native habitats and open space, supporting local agriculture, enhancing resilience of natural areas and systems to climate change, expanding green infrastructure and associated services, and increasing citywide tree canopy.

### CLIMATE IMPACT PREPAREDNESS, ADAPTATION, AND RESILIENCE WEBPAGE

This webpage is focused on helping local governments prepare for, adapt to, and become more resilient to climate impacts. It includes vulnerability and risk assessments, adaptation plans, and other resources, such as Everett’s Hazard Inventory and Vulnerability Analysis, which identifies known hazards (e.g., landslides and flooding) but also climate-change-related secondary hazards, such as heat waves. Also featured is Olympia’s Sea Level Rise Response Plan, which focuses on flood damage, the most pressing climate impact threat to the city.

We hope these new topic pages are a useful resource to local governments in their climate action planning efforts. If you have feedback, suggestions for additional resources, or any questions about these new webpages, contact us at [climateresources@mrsc.org](mailto:climateresources@mrsc.org).



BY STEVE BUTLER, MRSC POLICY CONSULTANT

# AFFORDABLE HOUSING AND THE IMPACT OF SHORT-TERM RENTALS

Short-term rentals (STRs), sometimes also referred to as “Home Sharing,” are very popular with travelers who often view them as a way to temporarily feel part of a local neighborhood rather than staying in a hotel or motel in a nondescript area.

STRs have been in existence for several decades but widespread usage of them exploded with the advent of online platforms such as Airbnb and VRBO. The market took a major hit during the early days of the COVID-19 pandemic, but its popularity has been rising now that more people are traveling again. With this ever-increasing popularity has come unanticipated and unwanted problems, particularly for residential neighbors living close to them. Negative impacts caused by some STR visitors include excessive noise, after-hours partying, and parking conflicts, to name just a few. In response, several communities have adopted regulations to address those negative impacts.

One major item that has recently been facing increasing local government scrutiny is the impact that STRs have on the supply of affordable housing. The worry is not about a homeowner renting out a room or two to help with monthly mortgage payments. Rather, there is a concern that investors will purchase existing residential units and turn these into STRs, thereby taking those units out of the long-term rental housing market.

## STR’S EFFECT ON THE LOCAL AFFORDABLE HOUSING SUPPLY

While not the primary cause of affordable housing problems, many experts believe that STRs do have a negative impact on affordable housing at the local level, especially in high-tourism communities. Several organizations, such as The Pew Charitable Trusts and the Harvard Business Review (HBR), have conducted or published research showing that as the number of short-term rentals increase in a community, the quantity of affordable housing units decrease. A 2019 HBR article that focused on the effects of STRs observed that, “because of Airbnb, absentee landlords are moving their properties out of the long-term rental and for-sale markets and into the short-term rental market.” The authors noted that as absentee landlords reduce the housing supply, it increases the housing cost for local renters:

The worry is not about a homeowner renting out a room or two to help with monthly mortgage payments. Rather, there is a concern that investors will purchase existing residential units and turn these into STRs, thereby taking those units out of the long-term rental housing market.

(In aggregate, the growth in home-sharing through Airbnb contributes to about one-fifth [or 20%] of the average annual increase in U.S. rents and about one-seventh [or 14%] of the average annual increase in U.S. housing prices.

But what about non-absentee property owners using online platforms like Airbnb to rent out their properties? The HBR researchers found that “owner-occupiers” who rent out their spare rooms or even an entire house to short-term visitors using a virtual house-sharing platform do not impact the long-term rental market.

## REGULATIONS THAT ADDRESS STRS AND AFFORDABLE HOUSING CONCERNS

Affordable housing impacts caused by the conversion of long-term housing to short-term rental use are such a concern that it is becoming a major rationale for regulating STRs, with one community — Aspen (CO) — taking the dramatic step of enacting a one-year moratorium. While not going so far as Aspen, several Washington State jurisdictions have adopted plans and STR regulations that explicitly identify the impact on affordable housing as a major policy rationale. Examples include:

- Chelan County Municipal Code Sec. 11.88.290(C) — This section on short-term rentals references affordable housing as one reason for regulation.
- Kirkland Ordinance 4607 — Cites housing affordability in the third ‘whereas.’
- Olympia Housing Action Plan — Strategy 2b states: “Adopt short-term rental regulations to minimize impacts on long-term housing availability.”

- Walla Walla Municipal Code Sec. 20.139.010(B) — The purpose statement in the short-term rentals section cites regulation of STRs as “necessary to provide adequate housing opportunities to low- and moderate-income persons.”

In addition to having a clear affordable housing policy statement, Chelan County has recently updated its STR regulations to provide more flexibility for owner-occupied units. These are categorized as “Tier 1” rentals and must meet one of the following characteristics:

1. Is a room in a dwelling in which the owner is personally present during the rental period;
2. Is a unit located on the same parcel as the owner’s principal residence and the owner is personally present during the rental period, or;
3. Is the entire dwelling, which is rented for no more than 15 total days in a calendar year provided that an on-site qualified person is there during the owner’s absence.

STRs that don’t meet one of these three Tier 1 criteria are categorized as Tier 2 or Tier 3 and are more strictly regulated by the county, in large part due to affordable housing concerns. In fact,

the Chelan County code requires that new STRs deemed to be Tier 2 and/or Tier 3 “cannot be located in specified areas where short-term rentals make up more than the maximum share of the total housing stock in [those specifically identified] residential zoning districts...” For most of the specified areas in Chelan County, the maximum share is 6%, with two exceptions being the Manson urban growth area (UGA) at 9% and the Peshastin UGA at 0%.

## CONCLUSION

There may be many reasons behind a local government’s decision to regulate or not regulate the local STR market. On the one hand, mitigating the negative impacts of ill-behaved visitors on local residents may prompt a jurisdiction to adopt STR regulations. Conversely, allowing property owners to rent out an extra room, which may make it easier for them to pay their mortgage, is sometimes the reason why restrictions on STRs are more limited or nonexistent in some communities.

For those local governments wrestling with a tight housing supply and a strong tourist/visitor market, affordable housing is another significant policy factor to weigh when considering how strictly to regulate short-term rentals.



Steve Butler, Policy Consultant, joined MRSC in February 2015. He has been involved in most aspects of community planning for over 30 years, both in the public and private sectors. Steve has served as president of statewide planning associations in both Washington and Maine, and was elected to the American Institute of Certified Planner’s College of Fellows in 2008. Steve writes about a variety of planning-related topics, such as short term rental regulations, approaches to affordable housing, local government zoning, specialized impact fees, and the Growth Management Act. [sbutler@mrsc.org](mailto:sbutler@mrsc.org)

# ASK MRSC

## Questions related to environmental issues

Every month, Ask MRSC receives hundreds of inquiries from Washington cities, towns, counties, and certain special purpose districts. The following is a sample of these inquiries and the answers provided by our skilled legal and policy consultants.

Can you recommend incentive-based electric vehicle (EV) infrastructure-related code examples that are particularly noteworthy, have been appealed and upheld, or have been in place long enough to have good data on their effectiveness?

Many Washington agencies have code provisions that create standards and regulations for electric vehicle charging stations. The following codes are examples of the two often-seen tactics to increase or incentivize charging stations by either (1) creating more leniency for compliance to parking requirements or (2) providing a minimum number of EV charging stations for developments.

- **Mountlake Terrace** Municipal Code Ch. 19.126.040 – Enforces a minimum number of electric vehicle charging stations for each land use type
- **Walla Walla** Municipal Code Ch. 20.156 – Allows an electric vehicle charging station space to be included in the calculation for minimum required parking spaces that are required in a development

In addition, here are documents within which local governments have incorporated the idea of incentivizing EV charging stations in their transportation or sustainability plans, including:

- **Bainbridge Island** *Community Based Strategies to Reduce GHG Emissions* (2019): The city will pilot an electric vehicle charging infrastructure program that partners with Puget Sound Energy in order to provide residential and commercial customers with rebates for EV supply equipment and installations.
- **Bellevue** *Environmental Stewardship Plan 2021-2025* – See Strategy M.3.2, which calls for the review of existing incentives available from Puget Sound Energy, the state, or other sources and seeks to either help building owners and tenants access these incentives or provide additional incentives to accelerate the installation of EV charging infrastructure in multi-family and commercial buildings.
- **Kirkland** *Sustainability Master Plan* (2020) – See Action ES-4.2, which enacts local code and programs to create incentives or require EV charging station retrofits in existing buildings or on development sites.

Can you provide three examples of greenhouse gas (GHG) policies by other Growth Management Act (GMA) counties?

Below are some examples of climate plans, which include greenhouse gas emissions reduction strategies, from GMA counties. Population numbers from 2019 are included.

- King County Climate Change Action, population 2,252,782.
- Thurston Climate Adaptation Plan, population 290,536.
- Whatcom County Draft Climate Action Plan, population 229,247.
- Port Townsend/Jefferson County Climate Action Plan, population 31,221.

Could you provide examples of local governments that encourage residential solar installations?

Below are examples of local governments employing various tools (e.g. permitting, education and incentives) to encourage residential solar power.

- **Bellevue's** solar panel permitting webpage page includes a checklist for residential photovoltaic systems and several other resources.
- **Bellingham** created the first solar panel building permit exemption program in the state, eliminating permitting and engineering requirements for almost all residential installations.
- **Edmonds** is a Northwest Solar Community, which means it works to promote solar energy and reduce some of the costs associated with solar installations. The program includes a flat fee and height exemptions for rooftop solar installations, among other elements.
- **Issaquah** no longer requires building permits for certain residential solar installations.
- **Langley** no longer requires building permits for small roof-mounted systems less than 15kW.
- **Mercer Island** is part of the Solarize Northwest program that provides discounts from participating installers. The Solarize Mercer Island campaign has been in place since 2014.

Finally, as part of a federal Department of Energy grant, grant partners Kirkland, Seattle, Bellevue have developed a streamlined process for permitting small-scale rooftop mounted solar installations for single-family residential customers.

# NEW RECORDING AND DISCLOSURE REQUIREMENTS

## for Certain Law Enforcement Interrogations



Effective January 1, 2022, and codified in Chapter 10.122 RCW, the Uniform Electronic Recordation of Custodial Interrogations Act (“Act”), places new recording requirements on certain types of custodial interrogations. While agency prosecutors and law enforcement professionals are already working on the operational, pre-trial, and trial aspects of the Act, this article focuses on the record-keeping and disclosure requirements.

### RECORDING REQUIREMENT

The Act requires law enforcement officers to electronically record certain “custodial interrogations” that occur at a “place of detention” as defined in the Act, which includes traditional locations, such as police interrogation rooms, but also police vehicles and in the case of juveniles, schools. The recording can be made by audio or video, depending on where the interrogation takes place. To comply with this requirement, local agencies will need to install or expand the use of recording equipment within these locations and retain any recordings of custodial interrogations that take place there.

### RECORDS RETENTION REQUIREMENT

Section 14 of the Act, codified as RCW 10.122.140, requires each law enforcement agency to establish and enforce procedures to ensure that electronic recordings are “identified, accessible, and preserved throughout the length of any resulting sentence, including any period of community custody extending through final discharge.” This language likely supersedes any conflicting provision of the Local Government Records Retention Schedules, specifically the Law Enforcement Records Retention Schedule and the Prosecuting Attorney

Records Retention Schedule, until such schedules are updated. This language must be read along with the retention requirement in RCW 9.73.090(2), which states:

All recordings of communications or conversations made pursuant to this subsection shall be retained for as long as any crime may be charged based on the events or communications or conversations recorded.

Additionally, RCW 10.109.010(1)(f) requires agencies to adopt a policy to protect data collected and stored from body-worn cameras.

A law enforcement agency may want to adjust its local procedures to require keeping a recording for the longer of the two periods (i.e., “throughout the length of a resulting sentence” or “as long as any crime may be charged”). Also, Section 15 of the Act, codified as RCW 10.122.150, requires a law enforcement agency to adopt a process for “preserving the chain of custody of the electronic recording.” While this requirement does not directly affect retention, agencies will need to include language addressing chain-of-custody requirements in their local procedures.

Based on our outreach to county prosecutors and city attorneys, it appears that most of them are still developing their records retention procedures. Some agencies that

have already adopted policies for retaining electronic records produced by body-worn cameras are expanding that policy to include all electronic records.

### DISCLOSURE OF ELECTRONIC RECORDINGS

The Act discusses electronic recordings *in general*. It does not distinguish among recordings made in a facility, by vehicle-mounted systems (aka, dashcam), or by body-worn cameras. Since there are specific statutes that relate to vehicle-mounted and body-worn cameras, agencies need to make sure those requirements are still met when adopting the new procedures required by this Act. We discuss disclosure of electronic records on our Disclosure of Law Enforcement Video Footage topic page. As we note on that page:

Other law enforcement videos may be covered by other exemptions or prohibitions; for instance:

- Videos that are part of an open investigation; or
- Videos that are part of an investigative record and nondisclosure of the video footage is essential to effective law enforcement or the protection of any person's right to privacy under RCW 42.56.240(1); or

- Videos in which a witness requesting anonymity appears. See, for example, *Jane Does 1 through 15 v. King County*, in which a university's private surveillance videos were released after redacting witness and victim identity by both pixelation of the faces and black boxes.

In addition to these other exemptions or prohibitions, dashcam videos and associated sound recordings get their own specific treatment in RCW 9.73.090(1)(c), which prohibits public disclosure of an in-car video if there is actual, pending litigation arising from the recorded event. In these cases, the videos may only be disclosed to the public after final disposition (see *Fisher Broadcasting v. City of Seattle*). However, this prohibition does not apply if the requestor is one of the parties involved in the litigation.

Body camera footage is exempt under RCW 42.56.240(14) to the extent nondisclosure is essential for the protection of any person's right to privacy as described in RCW 42.56.050. The privacy test requires the agency to determine whether the recording would be highly offensive to a reasonable person and is not of legitimate concern to the public. RCW 42.56.240(14) lists several examples of when public release of a body

camera recording is presumed to be highly offensive, but that only addresses the first part of the privacy test. Before it can withhold the recording, the agency must also decide if the footage is of legitimate concern to the public. If it is not, then the second element of the right to privacy test is met and the agency can withhold the record.

One thing to remember is that the exemptions in section RCW 42.56.240 are largely discretionary — except for subsection 14. As expressly stated in subsection 14, the exemption is mandatory, and nondisclosure is required if the agency concludes that the recording meets both parts of the privacy test. Even though RCW 42.56.240(14) provides specific exemptions for body cameras, other exemptions such as the victim/witness exemption or the open investigation exemption may also apply.



Steve Gross, Legal Consultant, writes about a variety of topics impacting local governments. He has worked in municipal law and government for over 20 years. [sgross@mrsc.org](mailto:sgross@mrsc.org)

# The ABCs of Piggybacking

BY JOSH KLIKA, MRSC PROCUREMENT & CONTRACTING CONSULTANT



Have you found a contract from another agency that looks like it has a product or service similar to your agency's? RCW 39.34.030 provides an exception to public bidding, providing the ability for local government agencies to use another agency's contract for products, services, and public works. This a process is known as "piggybacking." In a piggybacking arrangement, a public agency or group of public agencies (cooperative) conduct a competitive solicitation. Their solicitation requirements include an option for other public agencies to access, or "piggyback," the awarded contract. The use of this exception to public bidding is optional for local governments.

This article will provide the ABCs of piggybacking:

- Contract products or services are Adaptable,
- Pricing and contract terms are Beneficial, and
- The contract award process is Compliant with agency policy and the law.

Reviewing these ABCs will assist your agency when deciding whether piggybacking is the proper alternate to your agency's competitive procurement process. Let's look at each item.

## ARE THE PRODUCTS/SERVICES ADAPTABLE FOR YOUR AGENCY?

The very first thing to confirm is whether the contract you are considering for piggybacking was awarded by a public agency, which is defined by statute. In RCW 39.34.020 (1), "public agency" is defined as "any agency of the United States; any Indian tribe recognized as such by the federal government; and any political subdivision of another state." This means contracts from outside the state can be considered unless these contracts involve the federal government. You are not piggybacking under the exception to competitive bidding in RCW 39.34.030 when purchasing from the federal government because those purchases are exempt from bidding per RCW 39.32.090.

Next, verify that the awarding public agency has met the requirements of RCW 39.34.030, which are to comply with its own statutory contracting requirements and to post the solicitation online.

As a final check for adaptability, review whether your agency's needs match the specifications and scope of the awarded contract. The intent of piggybacking is acquiring "like" products or services already available under contract. If your agency requires features or services not addressed in the awarded contract, you may be outside of the contract scope and need to source independently though your public bidding requirements.

## ARE THE PRICING/TERMS BENEFICIAL FOR YOUR AGENCY?

Piggybacking can reduce transaction and administrative costs, workload, and processing time, and possibly even item or service costs. You will also be able to take advantage of standardized contract terms and vendor service levels. For instance, piggybacking on a contract for vehicle rentals or package delivery services with nationwide providers may benefit your agency with leveraged pricing and standard contractual terms.

On the other side of the coin, there are circumstances where pricing and standard terms available on a piggybacked contract *may not* be beneficial to your agency. Why? Pricing on these types of

contracts can be reflective of the contract terms required for providers. For instance, if the contract required next-day shipping included in item price or a delivery surcharge for your geographic area, you could be paying a premium for an item you could purchase locally. Also, you may get more favorable contract terms by following your own agency competitive procurement process. For instance, if you were to post your own competitive solicitation for 75 desks and 75 chairs for your office, local providers may offer better volume pricing and meet your agency's unique contract requirements, like chair fittings, warranty part replacements, and location-specific delivery within your workspaces.

Careful consideration should be taken on the cost and non-cost value for your agency.

## IS THE CONTRACT AWARD PROCESS COMPLIANT?

Depending on which type of contract you intend to use, compliance can occur in multiple ways:

1. When the decision has been made to piggyback on a contract from another public agency, the host agency and the piggybacking agency must sign an interlocal agreement and file it with the county auditor or post it online by subject (see RCW 39.34.040).
2. When deciding to use contracts awarded by the State of Washington, local governments are compliant by signing the one-time Master Contracts Usage Agreement, at no cost.
3. If you have made the decision to use a national or state cooperative, then your agency would complete the membership application, and this would potentially be similar to an interlocal agreement and meet the requirements of RCW 39.34.030. As each cooperative membership agreement is different, consider consulting with your legal counsel to ensure it satisfies all interlocal agreement act requirements.

If you are using any federal funds on a procurement, the procurement process must

follow the strictest requirements from either the local, state, or federal source. There is an option for piggybacking in the Uniform Guidance, 2 CFR §200.318(e).

Utilizing piggybacking as an exception to public bidding can be great tool for local governments in many situations. Following the ABCs will help determine when this tool fits the specific situation. For additional information, including sample documents related to interlocal procurement and piggybacking, please visit MRSC's Interlocal Procurement and 'Piggybacking' webpage.



Josh Klika, Procurement & Contracting Consultant, has a broad public procurement background with over 20 years in state and local governments. [jklika@mrsc.org](mailto:jklika@mrsc.org)

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## Washington Trivia Answer

The City of Tumwater is located at the mouth of the Deschutes River where it cascades into Puget Sound at its most southerly point.

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### UPCOMING WEBINARS

#### Public Records Act Basics & More – Two-Session Virtual Workshop

Multiple dates/times from April 5 – May 12  
Credits: CLE, WAPRO, CML

#### Procurement Series Part 3: Public Works

Thursday, April 21, 1:00 PM – 2:30 PM  
Credits: APWA-CAEC

#### Building a Great Workplace Culture in a Time of Change

Thursday, May 19, 11:00 AM – 12:00 PM  
Credits: CML (Pending Approval)