
HOUSE BILL 2161

State of Washington

55th Legislature

1997 Regular Session

By Representatives Koster and Thompson

Read first time 02/25/97. Referred to Committee on Government Reform & Land Use.

1 AN ACT Relating to the development, adoption, and review of
2 comprehensive plans and development regulations; amending RCW
3 36.70A.020, 36.70A.060, 36.70A.070, 36.70A.110, 36.70A.170, and
4 36.70A.290; and adding new sections to chapter 36.70A RCW.

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

6 **Sec. 1.** RCW 36.70A.020 and 1990 1st ex.s. c 17 s 2 are each
7 amended to read as follows:

8 The following goals are adopted to guide the development and
9 adoption of comprehensive plans and development regulations of those
10 counties and cities that are required or choose to plan under RCW
11 36.70A.040. The ((following)) goals under subsections (1) through (13)
12 of this section are not listed in order of priority and shall be used
13 exclusively for the purpose of guiding the development of comprehensive
14 plans and development regulations. However, counties and cities may
15 prioritize each of the following planning goals, but may not entirely
16 disregard any of the goals:

17 (1) Urban growth. Encourage development in urban areas where
18 adequate public facilities and services exist or can be provided in an
19 efficient manner.

1 (2) Reduce sprawl. Reduce the inappropriate conversion of
2 undeveloped land into sprawling, low-density development.

3 (3) Transportation. Encourage efficient multimodal transportation
4 systems that are based on regional priorities and coordinated with
5 county and city comprehensive plans.

6 (4) Housing. Encourage the availability of affordable housing to
7 all economic segments of the population of this state, promote a
8 variety of residential densities and housing types, and encourage
9 preservation of existing housing stock.

10 (5) Economic development. Encourage economic development
11 throughout the state that is consistent with adopted comprehensive
12 plans, promote economic opportunity for all citizens of this state,
13 especially for unemployed and for disadvantaged persons, and encourage
14 growth in areas experiencing insufficient economic growth, all within
15 the capacities of the state's natural resources, public services, and
16 public facilities.

17 (6) Property rights. Private property shall not be taken for
18 public use without just compensation having been made. The property
19 rights of landowners shall be protected from arbitrary and
20 discriminatory actions.

21 (7) Permits. Applications for both state and local government
22 permits should be processed in a timely and fair manner to ensure
23 predictability.

24 (8) Natural resource industries. Maintain and enhance natural
25 resource-based industries, including productive timber, agricultural,
26 and fisheries industries. Encourage the conservation of productive
27 forest lands and productive agricultural lands, and discourage
28 incompatible uses.

29 (9) Open space and recreation. Encourage the retention of open
30 space and development of recreational opportunities, conserve fish and
31 wildlife habitat, increase access to natural resource lands and water,
32 and develop parks.

33 (10) Environment. Protect the environment and enhance the state's
34 high quality of life, including air and water quality, and the
35 availability of water.

36 (11) Citizen participation and coordination. Encourage the
37 involvement of citizens in the planning process and ensure coordination
38 between communities and jurisdictions to reconcile conflicts.

1 (12) Public facilities and services. Ensure that those public
2 facilities and services necessary to support development shall be
3 adequate to serve the development at the time the development is
4 available for occupancy and use without decreasing current service
5 levels below locally established minimum standards.

6 (13) Historic preservation. Identify and encourage the
7 preservation of lands, sites, and structures, that have historical or
8 archaeological significance.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A RCW
10 to read as follows:

11 Counties and cities may develop and implement interim ordinances
12 while permanent changes are being developed.

13 **Sec. 3.** RCW 36.70A.060 and 1991 sp.s. c 32 s 21 are each amended
14 to read as follows:

15 (1) Each county that is required or chooses to plan under RCW
16 36.70A.040, and each city within such county, shall adopt development
17 regulations on or before September 1, 1991, to assure the conservation
18 of agricultural, forest, and mineral resource lands designated under
19 RCW 36.70A.170. Regulations adopted under this subsection may not
20 prohibit uses legally existing on any parcel prior to their adoption
21 and shall remain in effect until the county or city adopts development
22 regulations pursuant to RCW 36.70A.120. Such regulations shall assure
23 that the use of lands adjacent to agricultural, forest, or mineral
24 resource lands shall not interfere with the continued use, in the
25 accustomed manner and in accordance with best management practices, of
26 these designated lands for the production of food, agricultural
27 products, or timber, or for the extraction of minerals. Counties and
28 cities shall require that all plats, short plats, development permits,
29 and building permits issued for development activities on, or within
30 three hundred feet of, lands designated as agricultural lands, forest
31 lands, or mineral resource lands, contain a notice that the subject
32 property is within or near designated agricultural lands, forest lands,
33 or mineral resource lands on which a variety of commercial activities
34 may occur that are not compatible with residential development for
35 certain periods of limited duration.

36 (2) Each county and city shall adopt development regulations that
37 protect critical areas that are required to be designated under RCW

1 36.70A.170. For counties and cities that are required or choose to
2 plan under RCW 36.70A.040, such development regulations shall be
3 adopted on or before September 1, 1991. For the remainder of the
4 counties and cities, such development regulations shall be adopted on
5 or before March 1, 1992.

6 (3) Such counties and cities shall review these designations and
7 development regulations when adopting their comprehensive plans under
8 RCW 36.70A.040 and implementing development regulations under RCW
9 36.70A.120 and may alter such designations and development regulations
10 to insure consistency.

11 (4) Forest land and agricultural land located within urban growth
12 areas shall not be designated by a county or city as forest land or
13 agricultural land of long-term commercial significance under RCW
14 36.70A.170 unless the city or county has enacted a program authorizing
15 transfer or purchase of development rights. A county may consider the
16 amount of land within its borders that is under the jurisdiction of
17 state, federal, or regional governments and this land may be considered
18 to fulfill, in whole or in part, the county's obligation to conserve
19 agricultural, forest, and mineral resource lands of long-term
20 commercial significance.

21 **Sec. 4.** RCW 36.70A.070 and 1996 c 239 s 1 are each amended to read
22 as follows:

23 The comprehensive plan of a county or city that is required or
24 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
25 and descriptive text covering objectives, principles, and standards
26 used to develop the comprehensive plan. The plan shall be an
27 internally consistent document and all elements shall be consistent
28 with the future land use map. A comprehensive plan shall be adopted
29 and amended with public participation as provided in RCW 36.70A.140.

30 Each comprehensive plan shall include a plan, scheme, or design for
31 each of the following:

32 (1) A land use element designating the proposed general
33 distribution and general location and extent of the uses of land, where
34 appropriate, for agriculture, timber production, housing, commerce,
35 industry, recreation, open spaces, general aviation airports, public
36 utilities, public facilities, and other land uses. The land use
37 element shall include population densities, building intensities, and
38 estimates of future population growth. The land use element shall

1 provide for protection of the quality and quantity of ground water used
2 for public water supplies. Where applicable, the land use element
3 shall review drainage, flooding, and storm water run-off in the area
4 and nearby jurisdictions and provide guidance for corrective actions to
5 mitigate or cleanse those discharges that pollute waters of the state,
6 including Puget Sound or waters entering Puget Sound.

7 (2) A housing element ensuring the vitality and character of
8 established residential neighborhoods that: (a) Includes an inventory
9 and analysis of existing and projected housing needs; (b) includes a
10 statement of goals, policies, objectives, and mandatory provisions for
11 the preservation, improvement, and development of housing, including
12 single-family residences; (c) identifies sufficient land for housing,
13 including, but not limited to, government-assisted housing, housing for
14 low-income families, manufactured housing, multifamily housing, and
15 group homes and foster care facilities; and (d) makes adequate
16 provisions for existing and projected needs of all economic segments of
17 the community.

18 (3) A capital facilities plan element consisting of: (a) An
19 inventory of existing capital facilities owned by public entities,
20 showing the locations and capacities of the capital facilities; (b) a
21 forecast of the future needs for such capital facilities; (c) the
22 proposed locations and capacities of expanded or new capital
23 facilities; (d) at least a six-year plan that will finance such capital
24 facilities within projected funding capacities and clearly identifies
25 sources of public money for such purposes; and (e) a requirement to
26 reassess the land use element if probable funding falls short of
27 meeting existing needs and to ensure that the land use element, capital
28 facilities plan element, and financing plan within the capital
29 facilities plan element are coordinated and consistent.

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

34 (5) Counties shall include a rural element including lands that are
35 not designated for urban growth, agriculture, forest, or mineral
36 resources. The rural element shall permit appropriate land uses that
37 are compatible with the rural character of such lands and provide for
38 a variety of rural densities and uses and may also provide for
39 clustering, density transfer, design guidelines, conservation

1 easements, and other innovative techniques that will accommodate
2 appropriate rural uses not characterized by urban growth. In
3 establishing its rural element, the county may consider the amount of
4 land within its borders that is under the jurisdiction of state,
5 federal, or regional governments and this land may be considered to
6 fulfill, in whole or in part, the county's obligation to conserve
7 agricultural, forest, and mineral resource lands of long-term
8 commercial significance. A county's rural element may allow more
9 intensive uses of land when the rural character is enhanced because
10 land within the county's jurisdiction is used for resource purposes and
11 is under the ownership or control of other governmental entities.

12 (6) A transportation element that implements, and is consistent
13 with, the land use element. The transportation element shall include
14 the following subelements:

15 (a) Land use assumptions used in estimating travel;

16 (b) Facilities and services needs, including:

17 (i) An inventory of air, water, and ground transportation
18 facilities and services, including transit alignments and general
19 aviation airport facilities, to define existing capital facilities and
20 travel levels as a basis for future planning;

21 (ii) Level of service standards for all arterials and transit
22 routes to serve as a gauge to judge performance of the system. These
23 standards should be regionally coordinated;

24 (iii) Specific actions and requirements for bringing into
25 compliance any facilities or services that are below an established
26 level of service standard;

27 (iv) Forecasts of traffic for at least ten years based on the
28 adopted land use plan to provide information on the location, timing,
29 and capacity needs of future growth;

30 (v) Identification of system expansion needs and transportation
31 system management needs to meet current and future demands;

32 (c) Finance, including:

33 (i) An analysis of funding capability to judge needs against
34 probable funding resources;

35 (ii) A multiyear financing plan based on the needs identified in
36 the comprehensive plan, the appropriate parts of which shall serve as
37 the basis for the six-year street, road, or transit program required by
38 RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
39 35.58.2795 for public transportation systems;

1 (iii) If probable funding falls short of meeting identified needs,
2 a discussion of how additional funding will be raised, or how land use
3 assumptions will be reassessed to ensure that level of service
4 standards will be met;

5 (d) Intergovernmental coordination efforts, including an assessment
6 of the impacts of the transportation plan and land use assumptions on
7 the transportation systems of adjacent jurisdictions;

8 (e) Demand-management strategies.

9 After adoption of the comprehensive plan by jurisdictions required
10 to plan or who choose to plan under RCW 36.70A.040, local jurisdictions
11 must adopt and enforce ordinances which prohibit development approval
12 if the development causes the level of service on a transportation
13 facility to decline below the standards adopted in the transportation
14 element of the comprehensive plan, unless transportation improvements
15 or strategies to accommodate the impacts of development are made
16 concurrent with the development. These strategies may include
17 increased public transportation service, ride sharing programs, demand
18 management, and other transportation systems management strategies.
19 For the purposes of this subsection (6) "concurrent with the
20 development" shall mean that improvements or strategies are in place at
21 the time of development, or that a financial commitment is in place to
22 complete the improvements or strategies within six years.

23 The transportation element described in this subsection, and the
24 six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for
25 counties, and RCW 35.58.2795 for public transportation systems, must be
26 consistent.

27 **Sec. 5.** RCW 36.70A.110 and 1995 c 400 s 2 are each amended to read
28 as follows:

29 (1) Each county that is required or chooses to plan under RCW
30 36.70A.040 shall either develop a plan of its own design which shall
31 promote orderly growth and efficient use of infrastructure by
32 encouraging growth as planned by the county or designate an urban
33 growth area or areas within which urban growth shall be encouraged and
34 outside of which growth can occur only if it is not urban in nature.
35 Each city that is located in such a county shall be included within an
36 urban growth area. An urban growth area may include more than a single
37 city. An urban growth area may include territory that is located
38 outside of a city only if such territory already is characterized by

1 urban growth whether or not the urban growth area includes a city, or
2 is adjacent to territory already characterized by urban growth, or is
3 a designated new fully contained community as defined by RCW
4 36.70A.350.

5 (2) Based upon the growth management population projection made for
6 the county by the office of financial management, the urban growth
7 areas in the county shall include areas and densities sufficient to
8 permit the urban growth that is projected to occur in the county for
9 the succeeding twenty-year period. Each urban growth area shall permit
10 urban densities and shall include greenbelt and open space areas. An
11 urban growth area determination may include a reasonable land market
12 supply factor and shall permit a range of urban densities and uses. In
13 determining this market factor, cities and counties may consider local
14 circumstances. Cities and counties have discretion in their
15 comprehensive plans to make many choices about accommodating growth.

16 Within one year of July 1, 1990, each county that as of June 1,
17 1991, was required or chose to plan under RCW 36.70A.040, shall begin
18 consulting with each city located within its boundaries and each city
19 shall propose the location of an urban growth area. Within sixty days
20 of the date the county legislative authority of a county adopts its
21 resolution of intention or of certification by the office of financial
22 management, all other counties that are required or choose to plan
23 under RCW 36.70A.040 shall begin this consultation with each city
24 located within its boundaries. The county shall attempt to reach
25 agreement with each city on the location of an urban growth area within
26 which the city is located. If such an agreement is not reached with
27 each city located within the urban growth area, the county shall
28 justify in writing why it so designated the area an urban growth area.
29 A city may object formally with the department over the designation of
30 the urban growth area within which it is located. Where appropriate,
31 the department shall attempt to resolve the conflicts, including the
32 use of mediation services.

33 (3) Urban growth should be located first in areas already
34 characterized by urban growth that have adequate existing public
35 facility and service capacities to serve such development, second in
36 areas already characterized by urban growth that will be served
37 adequately by a combination of both existing public facilities and
38 services and any additional needed public facilities and services that
39 are provided by either public or private sources, and third in the

1 remaining portions of the urban growth areas. Urban growth may also be
2 located in designated new fully contained communities as defined by RCW
3 36.70A.350.

4 (4) In general, cities are the units of local government most
5 appropriate to provide urban governmental services. In general, it is
6 not appropriate that urban governmental services be extended to or
7 expanded in rural areas except in those limited circumstances shown to
8 be necessary to protect basic public health and safety and the
9 environment and when such services are financially supportable at rural
10 densities and do not permit urban development.

11 (5) On or before October 1, 1993, each county that was initially
12 required to plan under RCW 36.70A.040(1) shall adopt development
13 regulations designating interim urban growth areas under this chapter.
14 Within three years and three months of the date the county legislative
15 authority of a county adopts its resolution of intention or of
16 certification by the office of financial management, all other counties
17 that are required or choose to plan under RCW 36.70A.040 shall adopt
18 development regulations designating interim urban growth areas under
19 this chapter. Adoption of the interim urban growth areas may only
20 occur after public notice; public hearing; and compliance with the
21 state environmental policy act, chapter 43.21C RCW, and RCW 36.70A.110.
22 Such action may be appealed to the appropriate growth management
23 hearings board under RCW 36.70A.280. Final urban growth areas shall be
24 adopted at the time of comprehensive plan adoption under this chapter.

25 (6) Each county shall include designations of urban growth areas in
26 its comprehensive plan.

27 **Sec. 6.** RCW 36.70A.170 and 1990 1st ex.s. c 17 s 17 are each
28 amended to read as follows:

29 (1) On or before September 1, 1991, each county, and each city,
30 shall designate where appropriate:

31 (a) Agricultural lands that are not already characterized by urban
32 growth and that have long-term significance for the commercial
33 production of food or other agricultural products;

34 (b) Forest lands that are not already characterized by urban growth
35 and that have long-term significance for the commercial production of
36 timber;

1 (c) Mineral resource lands that are not already characterized by
2 urban growth and that have long-term significance for the extraction of
3 minerals; and

4 (d) Critical areas.

5 (2) In making the designations required by this section, counties
6 and cities shall consider the guidelines established pursuant to RCW
7 36.70A.050.

8 (3) In making designations required by subsection (1)(a) through
9 (c) of this section, counties and cities shall not restrict land for
10 resource use unless each parcel of property separately has significance
11 for long-term commercial resource use. Long-term commercial use must
12 be significant enough to enable the owner to profit from such use
13 comparable to other commercial operations in the same resource use.

14 NEW SECTION. Sec. 7. A new section is added to chapter 36.70A RCW
15 to read as follows:

16 Any person, as defined under RCW 36.70A.280(3), may seek relief in
17 superior court for violations of this chapter.

18 **Sec. 8.** RCW 36.70A.290 and 1995 c 347 s 109 are each amended to
19 read as follows:

20 ~~(1) ((All requests for review to a growth management hearings board~~
21 ~~shall be initiated by filing a petition that includes a detailed~~
22 ~~statement of issues presented for resolution by the board.))~~ Only if
23 all parties to an action filed in superior court seeking relief from a
24 violation of this chapter agree that the issues should be referred to
25 a growth management hearings board, the superior court shall order the
26 plaintiff or petitioner to present its issues in the form of a petition
27 to the growth management hearings board. A growth management hearings
28 board shall not consider a petition unless referred by a superior
29 court.

30 (2) All petitions relating to whether or not an adopted
31 comprehensive plan, development regulation, or permanent amendment
32 thereto, is in compliance with the goals and requirements of this
33 chapter or chapter 90.58 or 43.21C RCW must be filed within sixty days
34 after publication by the legislative bodies of the county or city.

35 (a) Except as provided in (c) of this subsection, the date of
36 publication for a city shall be the date the city publishes the
37 ordinance, or summary of the ordinance, adopting the comprehensive plan

1 or development regulations, or amendment thereto, as is required to be
2 published.

3 (b) Promptly after adoption, a county shall publish a notice that
4 it has adopted the comprehensive plan or development regulations, or
5 amendment thereto.

6 Except as provided in (c) of this subsection, for purposes of this
7 section the date of publication for a county shall be the date the
8 county publishes the notice that it has adopted the comprehensive plan
9 or development regulations, or amendment thereto.

10 (c) For local governments planning under RCW 36.70A.040, promptly
11 after approval or disapproval of a local government s shoreline master
12 program or amendment thereto by the department of ecology as provided
13 in RCW 90.58.090, the local government shall publish a notice that the
14 shoreline master program or amendment thereto has been approved or
15 disapproved by the department of ecology. For purposes of this
16 section, the date of publication for the adoption or amendment of a
17 shoreline master program is the date the local government publishes
18 notice that the shoreline master program or amendment thereto has been
19 approved or disapproved by the department of ecology.

20 (3) Unless the board dismisses the petition as frivolous or finds
21 that the person filing the petition lacks standing, the board shall,
22 within ten days of receipt of the petition, set a time for hearing the
23 matter.

24 (4) The board shall base its decision on the record developed by
25 the city, county, or the state and supplemented with additional
26 evidence if the board determines that such additional evidence would be
27 necessary or of substantial assistance to the board in reaching its
28 decision.

29 (5) The board, shall consolidate, when appropriate, all petitions
30 involving the review of the same comprehensive plan or the same
31 development regulation or regulations.

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