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HOUSE BILL 1803

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State of Washington

56th Legislature

1999 Regular Session

By Representative Ericksen

Read first time 02/05/1999. Referred to Committee on Local Government.

1 AN ACT Relating to making technical revisions to provisions  
2 affecting master planned resorts; and amending RCW 36.70A.030,  
3 36.70A.360, and 36.70A.362.

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

5 **Sec. 1.** RCW 36.70A.030 and 1997 c 429 s 3 are each amended to read  
6 as follows:

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

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

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

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

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

5 (5) "Critical areas" include the following areas and ecosystems:  
6 (a) Wetlands; (b) areas with a critical recharging effect on aquifers  
7 used for potable water; (c) fish and wildlife habitat conservation  
8 areas; (d) frequently flooded areas; and (e) geologically hazardous  
9 areas.

10 (6) "Department" means the department of community, trade, and  
11 economic development.

12 (7) "Development regulations" or "regulation" means the controls  
13 placed on development or land use activities by a county or city,  
14 including, but not limited to, zoning ordinances, critical areas  
15 ordinances, shoreline master programs, official controls, planned unit  
16 development ordinances, subdivision ordinances, and binding site plan  
17 ordinances together with any amendments thereto. A development  
18 regulation does not include a decision to approve a project permit  
19 application, as defined in RCW 36.70B.020, even though the decision may  
20 be expressed in a resolution or ordinance of the legislative body of  
21 the county or city.

22 (8) "Forest land" means land primarily devoted to growing trees for  
23 long-term commercial timber production on land that can be economically  
24 and practically managed for such production, including Christmas trees  
25 subject to the excise tax imposed under RCW 84.33.100 through  
26 84.33.140, and that has long-term commercial significance. In  
27 determining whether forest land is primarily devoted to growing trees  
28 for long-term commercial timber production on land that can be  
29 economically and practically managed for such production, the following  
30 factors shall be considered: (a) The proximity of the land to urban,  
31 suburban, and rural settlements; (b) surrounding parcel size and the  
32 compatibility and intensity of adjacent and nearby land uses; (c) long-  
33 term local economic conditions that affect the ability to manage for  
34 timber production; and (d) the availability of public facilities and  
35 services conducive to conversion of forest land to other uses.

36 (9) "Geologically hazardous areas" means areas that because of  
37 their susceptibility to erosion, sliding, earthquake, or other  
38 geological events, are not suited to the siting of commercial,

1 residential, or industrial development consistent with public health or  
2 safety concerns.

3 (10) "Long-term commercial significance" includes the growing  
4 capacity, productivity, and soil composition of the land for long-term  
5 commercial production, in consideration with the land's proximity to  
6 population areas, and the possibility of more intense uses of the land.

7 (11) "Master planned resort" means a self-contained and fully  
8 integrated planned unit development, in a setting of significant  
9 natural amenities, with primary focus on destination resort facilities  
10 consisting of short-term visitor accommodations associated with a range  
11 of developed on-site indoor or outdoor recreational facilities.

12 (12) "Minerals" include gravel, sand, and valuable metallic  
13 substances.

14 (~~(12)~~) (13) "Public facilities" include streets, roads, highways,  
15 sidewalks, street and road lighting systems, traffic signals, domestic  
16 water systems, storm and sanitary sewer systems, parks and recreational  
17 facilities, and schools.

18 (~~(13)~~) (14) "Public services" include fire protection and  
19 suppression, law enforcement, public health, education, recreation,  
20 environmental protection, and other governmental services.

21 (~~(14)~~) (15) "Rural character" refers to the patterns of land use  
22 and development established by a county in the rural element of its  
23 comprehensive plan:

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

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

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

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

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

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

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

1       (~~(15)~~) (16) "Rural development" refers to development outside the  
2 urban growth area and outside agricultural, forest, and mineral  
3 resource lands designated pursuant to RCW 36.70A.170. Rural  
4 development can consist of a variety of uses and residential densities,  
5 including clustered residential development, at levels that are  
6 consistent with the preservation of rural character and the  
7 requirements of the rural element. Rural development does not refer to  
8 agriculture or forestry activities that may be conducted in rural  
9 areas.

10       (~~(16)~~) (17) "Rural governmental services" or "rural services"  
11 include those public services and public facilities historically and  
12 typically delivered at an intensity usually found in rural areas, and  
13 may include domestic water systems, fire and police protection  
14 services, transportation and public transit services, and other public  
15 utilities associated with rural development and normally not associated  
16 with urban areas. Rural services do not include storm or sanitary  
17 sewers, except as otherwise authorized by RCW 36.70A.110(4).

18       (~~(17)~~) (18) "Urban growth" refers to growth that makes intensive  
19 use of land for the location of buildings, structures, and impermeable  
20 surfaces to such a degree as to be incompatible with the primary use of  
21 land for the production of food, other agricultural products, or fiber,  
22 or the extraction of mineral resources, rural uses, rural development,  
23 and natural resource lands designated pursuant to RCW 36.70A.170. A  
24 pattern of more intensive rural development, as provided in RCW  
25 36.70A.070(5)(d), is not urban growth. When allowed to spread over  
26 wide areas, urban growth typically requires urban governmental  
27 services. "Characterized by urban growth" refers to land having urban  
28 growth located on it, or to land located in relationship to an area  
29 with urban growth on it as to be appropriate for urban growth.

30       (~~(18)~~) (19) "Urban growth areas" means those areas designated by  
31 a county pursuant to RCW 36.70A.110.

32       (~~(19)~~) (20) "Urban governmental services" or "urban services"  
33 include those public services and public facilities at an intensity  
34 historically and typically provided in cities, specifically including  
35 storm and sanitary sewer systems, domestic water systems, street  
36 cleaning services, fire and police protection services, public transit  
37 services, and other public utilities associated with urban areas and  
38 normally not associated with rural areas.

1       (~~(20)~~) (21) "Wetland" or "wetlands" means areas that are  
2 inundated or saturated by surface water or ground water at a frequency  
3 and duration sufficient to support, and that under normal circumstances  
4 do support, a prevalence of vegetation typically adapted for life in  
5 saturated soil conditions. Wetlands generally include swamps, marshes,  
6 bogs, and similar areas. Wetlands do not include those artificial  
7 wetlands intentionally created from nonwetland sites, including, but  
8 not limited to, irrigation and drainage ditches, grass-lined swales,  
9 canals, detention facilities, wastewater treatment facilities, farm  
10 ponds, and landscape amenities, or those wetlands created after July 1,  
11 1990, that were unintentionally created as a result of the construction  
12 of a road, street, or highway. Wetlands may include those artificial  
13 wetlands intentionally created from nonwetland areas created to  
14 mitigate conversion of wetlands.

15       **Sec. 2.** RCW 36.70A.360 and 1998 c 112 s 2 are each amended to read  
16 as follows:

17       (1) Counties (~~(that are required or choose to plan)~~) planning under  
18 RCW 36.70A.040 may permit master planned resorts, which may constitute  
19 urban growth outside (~~(of)~~) urban growth areas as limited by this  
20 section(~~(. A master planned resort means a self-contained and fully~~  
21 ~~integrated planned unit development, in a setting of significant~~  
22 ~~natural amenities, with primary focus on destination resort facilities~~  
23 ~~consisting of short-term visitor accommodations associated with a range~~  
24 ~~of developed on-site indoor or outdoor recreational facilities))~~, only  
25 if:

26       (a) The comprehensive plan specifically identifies policies to  
27 guide the development of master planned resorts;

28       (b) The comprehensive plan and development regulations include  
29 restrictions that preclude new urban or suburban land uses in the  
30 vicinity of the master planned resort, except in areas otherwise  
31 designated for urban growth under RCW 36.70A.110;

32       (c) The county includes a finding as a part of the approval process  
33 that the land is better suited, and has more long-term importance, for  
34 the master planned resort than for the commercial harvesting of timber  
35 or agricultural production, if located on land that otherwise would be  
36 designated as forest land or agricultural land under RCW 36.70A.170;

1 (d) The county ensures that the plan for the master planned resort  
2 is consistent with the development regulations established for critical  
3 areas; and

4 (e) On-site and off-site infrastructure and service impacts are  
5 fully considered and mitigated.

6 (2) Capital facilities, utilities, and services, including those  
7 related to sewer, water, storm water, security, fire suppression, and  
8 emergency medical, provided on-site shall be limited to meeting the  
9 needs of the master planned resort.

10 ~~((Such))~~ (3) Capital facilities, utilities, and services may be  
11 provided to a master planned resort by outside service providers,  
12 including municipalities and special purpose districts, ~~((provided~~  
13 ~~that))~~ if the master planned resort bears all costs associated with  
14 service extensions and capacity increases directly attributable to the  
15 master planned resort ~~((are fully borne by the resort))~~. A master  
16 planned resort and service providers may enter into agreements for  
17 shared capital facilities and utilities ~~((, provided that))~~ if such  
18 facilities and utilities serve only the master planned resort or urban  
19 growth areas.

20 (4) Nothing in ~~((this))~~ subsection (2) or (3) of this section may  
21 be construed as: Establishing an order of priority for processing  
22 applications for water right permits, for granting such permits, or for  
23 issuing certificates of water right; altering or authorizing in any  
24 manner the alteration of the place of use for a water right; or  
25 affecting or impairing in any manner whatsoever an existing water  
26 right.

27 All waters or the use of waters shall be regulated and controlled  
28 as provided in chapters 90.03 and 90.44 RCW and not otherwise.

29 ~~((3))~~ (5) A master planned resort may include other residential  
30 uses within its boundaries ~~((, but))~~ only if the residential uses are  
31 integrated into and support the on-site recreational nature of the  
32 resort.

33 ~~((4) A master planned resort may be authorized by a county only~~  
34 ~~if:~~

35 ~~(a) The comprehensive plan specifically identifies policies to~~  
36 ~~guide the development of master planned resorts;~~

37 ~~(b) The comprehensive plan and development regulations include~~  
38 ~~restrictions that preclude new urban or suburban land uses in the~~

1 vicinity of the master planned resort, except in areas otherwise  
2 designated for urban growth under RCW 36.70A.110;

3 (c) The county includes a finding as a part of the approval process  
4 that the land is better suited, and has more long term importance, for  
5 the master planned resort than for the commercial harvesting of timber  
6 or agricultural production, if located on land that otherwise would be  
7 designated as forest land or agricultural land under RCW 36.70A.170;

8 (d) The county ensures that the resort plan is consistent with the  
9 development regulations established for critical areas; and

10 (e) On-site and off-site infrastructure and service impacts are  
11 fully considered and mitigated.)

12 **Sec. 3.** RCW 36.70A.362 and 1997 c 382 s 1 are each amended to read  
13 as follows:

14 (1) Counties ((that are required or choose to plan)) planning under  
15 RCW 36.70A.040 may include existing resorts as master planned resorts,  
16 which may constitute urban growth outside ((of)) urban growth areas as  
17 limited by this section, only if:

18 (a) The comprehensive plan specifically identifies policies to  
19 guide the development of the existing resort;

20 (b) The comprehensive plan and development regulations include  
21 restrictions that preclude new urban or suburban land uses in the  
22 vicinity of the existing resort, except in areas otherwise designated  
23 for urban growth under RCW 36.70A.110 and 36.70A.360(1);

24 (c) The county includes a finding as a part of the approval process  
25 that the land is better suited, and has more long-term importance, for  
26 the existing resort than for the commercial harvesting of timber or  
27 agricultural production, if located on land that otherwise would be  
28 designated as forest land or agricultural land under RCW 36.70A.170;

29 (d) The county finds that the resort plan is consistent with the  
30 development regulations established for critical areas; and

31 (e) On-site and off-site infrastructure impacts are fully  
32 considered and mitigated.

33 (2) A county may allocate a portion of its twenty-year population  
34 projection, prepared by the office of financial management, to the  
35 master planned resort corresponding to the projected number of  
36 permanent residents within the master planned resort.

37 (3) For purposes of this section, an existing resort means a resort  
38 in existence on July 1, 1990, and developed, in whole or in part, as a

1 significantly self-contained and integrated development that includes  
2 short-term visitor accommodations associated with a range of indoor and  
3 outdoor recreational facilities within the property boundaries in a  
4 setting of significant natural amenities. An existing resort may  
5 include other permanent residential uses, conference facilities, and  
6 commercial activities supporting the resort(~~(, but)~~) only if these  
7 other uses are integrated into and consistent with the on-site  
8 recreational nature of the resort.

9 ~~((An existing resort may be authorized by a county only if:~~

10 ~~(1) The comprehensive plan specifically identifies policies to~~  
11 ~~guide the development of the existing resort;~~

12 ~~(2) The comprehensive plan and development regulations include~~  
13 ~~restrictions that preclude new urban or suburban land uses in the~~  
14 ~~vicinity of the existing resort, except in areas otherwise designated~~  
15 ~~for urban growth under RCW 36.70A.110 and 36.70A.360(1);~~

16 ~~(3) The county includes a finding as a part of the approval process~~  
17 ~~that the land is better suited, and has more long term importance, for~~  
18 ~~the existing resort than for the commercial harvesting of timber or~~  
19 ~~agricultural production, if located on land that otherwise would be~~  
20 ~~designated as forest land or agricultural land under RCW 36.70A.170;~~

21 ~~(4) The county finds that the resort plan is consistent with the~~  
22 ~~development regulations established for critical areas; and~~

23 ~~(5) On site and off site infrastructure impacts are fully~~  
24 ~~considered and mitigated.~~

25 ~~A county may allocate a portion of its twenty year population~~  
26 ~~projection, prepared by the office of financial management, to the~~  
27 ~~master planned resort corresponding to the projected number of~~  
28 ~~permanent residents within the master planned resort.))~~

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