
SENATE BILL 5321

State of Washington

56th Legislature

1999 Regular Session

By Senators Patterson and Rasmussen

Read first time 01/20/1999. Referred to Committee on State & Local Government.

1 AN ACT Relating to public facility siting and planning; amending
2 RCW 36.70A.030, 36.70A.200, 36.70A.210, 43.21C.031, 43.21C.060, and
3 82.02.090; adding a new section to chapter 36.70A RCW; and creating a
4 new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that current processes
7 for the siting and operation of major regional public facilities often
8 fail to adequately address regional and localized impacts and benefits
9 of such facilities. Throughout the state there are proposals for
10 siting major public facilities in which surrounding neighborhoods and
11 communities will be disproportionately impacted while the benefits of
12 the facility are provided to the larger region or to the entire state.
13 These facilities include major transportation facilities such as
14 highways, bridges, airports, and rail lines, and other
15 nontransportation facilities such as prisons and landfills. The
16 legislature also finds that although the growth management act provides
17 procedures for establishing county-wide policies for coordinated
18 planning of such facilities, those procedures do not include all public
19 entities that provide such facilities and do not provide sufficient

1 guidance to local jurisdictions to ensure consideration and mitigation
2 of impacts to surrounding communities and participation in siting
3 processes by those communities.

4 Therefore, it is the intent of the legislature to ensure that these
5 considerations are incorporated into the county-wide planning policies
6 required under the growth management act, and to provide sufficient
7 authority so that siting decisions and mitigation measures adopted
8 through using such policies may be fully implemented.

9 **Sec. 2.** RCW 36.70A.030 and 1997 c 429 s 3 are each amended to read
10 as follows:

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout this chapter.

13 (1) "Adopt a comprehensive land use plan" means to enact a new
14 comprehensive land use plan or to update an existing comprehensive land
15 use plan.

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

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

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

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

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

35 (7) "Development regulations" or "regulation" means the controls
36 placed on development or land use activities by a county or city,
37 including, but not limited to, zoning ordinances, critical areas
38 ordinances, shoreline master programs, official controls, planned unit

1 development ordinances, subdivision ordinances, and binding site plan
2 ordinances together with any amendments thereto. A development
3 regulation does not include a decision to approve a project permit
4 application, as defined in RCW 36.70B.020, even though the decision may
5 be expressed in a resolution or ordinance of the legislative body of
6 the county or city.

7 (8) "Essential public facilities" are those public facilities, and
8 their expansion, that are typically difficult to site, and include:
9 (a) "Local essential public facilities" planned for the primary purpose
10 of serving the residents of the jurisdiction in which the facilities
11 are planned to be located, and (b) "regional or state-wide essential
12 public facilities," which include airports, state education
13 facilities, state or regional transportation facilities, sewage
14 treatment facilities, solid waste handling facilities, and additional
15 facilities that may be defined in a county-wide planning policy
16 developed pursuant to RCW 36.70A.210. "Essential public facilities" do
17 not include facilities whose siting is governed by chapter 80.50 or
18 70.105 RCW.

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

33 ~~((+9))~~ (10) "Geologically hazardous areas" means areas that
34 because of their susceptibility to erosion, sliding, earthquake, or
35 other geological events, are not suited to the siting of commercial,
36 residential, or industrial development consistent with public health or
37 safety concerns.

38 ~~((+10))~~ (11) "Long-term commercial significance" includes the
39 growing capacity, productivity, and soil composition of the land for

1 long-term commercial production, in consideration with the land's
2 proximity to population areas, and the possibility of more intense
3 uses of the land.

4 ~~((11))~~ (12) "Minerals" include gravel, sand, and valuable
5 metallic substances.

6 ~~((12))~~ (13) "Public facilities" include streets, roads, highways,
7 sidewalks, street and road lighting systems, traffic signals, airports,
8 bridges, domestic water systems, storm and sanitary sewer systems,
9 parks and recreational facilities, ~~((and))~~ schools, correctional
10 facilities, solid waste handling facilities, and in-patient facilities.

11 ~~((13))~~ (14) "Public services" include fire protection and
12 suppression, law enforcement, public health, education, recreation,
13 environmental protection, and other governmental services.

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

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

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

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

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

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

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

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

32 ~~((15))~~ (16) "Rural development" refers to development outside the
33 urban growth area and outside agricultural, forest, and mineral
34 resource lands designated pursuant to RCW 36.70A.170. Rural
35 development can consist of a variety of uses and residential densities,
36 including clustered residential development, at levels that are
37 consistent with the preservation of rural character and the
38 requirements of the rural element. Rural development does not refer to

1 agriculture or forestry activities that may be conducted in rural
2 areas.

3 ~~((+16+))~~ (17) "Rural governmental services" or "rural services"
4 include those public services and public facilities historically and
5 typically delivered at an intensity usually found in rural areas, and
6 may include domestic water systems, fire and police protection
7 services, transportation and public transit services, and other public
8 utilities associated with rural development and normally not associated
9 with urban areas. Rural services do not include storm or sanitary
10 sewers, except as otherwise authorized by RCW 36.70A.110(4).

11 ~~((+17+))~~ (18) "Urban growth" refers to growth that makes intensive
12 use of land for the location of buildings, structures, and impermeable
13 surfaces to such a degree as to be incompatible with the primary use of
14 land for the production of food, other agricultural products, or fiber,
15 or the extraction of mineral resources, rural uses, rural development,
16 and natural resource lands designated pursuant to RCW 36.70A.170. A
17 pattern of more intensive rural development, as provided in RCW
18 36.70A.070(5)(d), is not urban growth. When allowed to spread over
19 wide areas, urban growth typically requires urban governmental
20 services. "Characterized by urban growth" refers to land having urban
21 growth located on it, or to land located in relationship to an area
22 with urban growth on it as to be appropriate for urban growth.

23 ~~((+18+))~~ (19) "Urban growth areas" means those areas designated by
24 a county pursuant to RCW 36.70A.110.

25 ~~((+19+))~~ (20) "Urban governmental services" or "urban services"
26 include those public services and public facilities at an intensity
27 historically and typically provided in cities, specifically including
28 storm and sanitary sewer systems, domestic water systems, street
29 cleaning services, fire and police protection services, public transit
30 services, and other public utilities associated with urban areas and
31 normally not associated with rural areas.

32 ~~((+20+))~~ (21) "Wetland" or "wetlands" means areas that are
33 inundated or saturated by surface water or ground water at a frequency
34 and duration sufficient to support, and that under normal circumstances
35 do support, a prevalence of vegetation typically adapted for life in
36 saturated soil conditions. Wetlands generally include swamps, marshes,
37 bogs, and similar areas. Wetlands do not include those artificial
38 wetlands intentionally created from nonwetland sites, including, but
39 not limited to, irrigation and drainage ditches, grass-lined swales,

1 canals, detention facilities, wastewater treatment facilities, farm
2 ponds, and landscape amenities, or those wetlands created after July 1,
3 1990, that were unintentionally created as a result of the construction
4 of a road, street, or highway. Wetlands may include those artificial
5 wetlands intentionally created from nonwetland areas created to
6 mitigate conversion of wetlands.

7 **Sec. 3.** RCW 36.70A.200 and 1998 c 171 s 3 are each amended to read
8 as follows:

9 (1) The comprehensive plan of each county and city that is planning
10 under this chapter shall include a process for identifying and siting
11 essential public facilities. ~~((Essential public facilities include
12 those facilities that are typically difficult to site, such as
13 airports, state education facilities and state or regional
14 transportation facilities as defined in RCW 47.06.140, state and local
15 correctional facilities, solid waste handling facilities, and in-
16 patient facilities including substance abuse facilities, mental health
17 facilities, and group homes.))~~ The processes for identifying and
18 siting regional or state-wide essential public facilities shall be
19 coordinated through the county-wide planning policy adopted under RCW
20 36.70A.210.

21 (2) The office of financial management shall maintain a list of
22 those essential state-owned and state-operated public facilities that
23 are required or likely to be built within the next six years. The
24 office of financial management may ~~((at any time))~~ add facilities to
25 the list, following consultation with the governing bodies of the
26 cities or counties under consideration for siting of the facilities.
27 No county or city shall be required to amend its comprehensive plan to
28 meet the requirements of this section due to the listing of a facility
29 by the office of financial management, prior to the next scheduled plan
30 revision.

31 (3) No local comprehensive plan or development regulation may
32 preclude the siting of essential public facilities. This subsection
33 does not limit the authority of a local government to require the
34 avoidance or mitigation of impacts of a proposed essential public
35 facility under chapter 43.21C RCW or other applicable authority, and
36 the imposition of requirements to avoid or mitigate such impacts shall
37 not be construed as precluding the siting of an essential public
38 facility.

1 **Sec. 4.** RCW 36.70A.210 and 1998 c 171 s 4 are each amended to read
2 as follows:

3 (1) The legislature recognizes that counties are regional
4 governments within their boundaries, and cities are primary providers
5 of urban governmental services within urban growth areas. For the
6 purposes of this section, a "county-wide planning policy" is a written
7 policy statement or statements used solely for establishing a county-
8 wide framework from which county and city comprehensive plans are
9 developed (~~and~~), adopted, and implemented pursuant to this chapter.
10 This framework shall ensure that city and county comprehensive plans
11 are consistent as required in RCW 36.70A.100, and that such plans and
12 the planning for public facilities by the county, cities, and special
13 districts are consistent as required by subsection (9) of this section.
14 Nothing in this section shall be construed to alter the land-use powers
15 of cities.

16 (2) The legislative authority of a county that plans under RCW
17 36.70A.040 shall adopt a county-wide planning policy in cooperation
18 with the cities located in whole or in part within the county as
19 follows:

20 (a) No later than sixty calendar days from July 16, 1991, the
21 legislative authority of each county that as of June 1, 1991, was
22 required or chose to plan under RCW 36.70A.040 shall convene a meeting
23 with representatives of each city located within the county for the
24 purpose of establishing a collaborative process that will provide a
25 framework for the adoption of a county-wide planning policy. In other
26 counties that are required or choose to plan under RCW 36.70A.040, this
27 meeting shall be convened no later than sixty days after the date the
28 county adopts its resolution of intention or was certified by the
29 office of financial management.

30 (b) The process and framework for adoption of a county-wide
31 planning policy specified in (a) of this subsection shall determine the
32 manner in which the county and the cities agree to all procedures and
33 provisions including but not limited to desired planning policies,
34 deadlines, ratification of final agreements and demonstration thereof,
35 and financing, if any, of all activities associated therewith.

36 (c) If a county fails for any reason to convene a meeting with
37 representatives of cities as required in (a) of this subsection, the
38 governor may immediately impose any appropriate sanction or sanctions
39 on the county from those specified under RCW 36.70A.340.

1 (d) If there is no agreement by October 1, 1991, in a county that
2 was required or chose to plan under RCW 36.70A.040 as of June 1, 1991,
3 or if there is no agreement within one hundred twenty days of the date
4 the county adopted its resolution of intention or was certified by the
5 office of financial management in any other county that is required or
6 chooses to plan under RCW 36.70A.040, the governor shall first inquire
7 of the jurisdictions as to the reason or reasons for failure to reach
8 an agreement. If the governor deems it appropriate, the governor may
9 immediately request the assistance of the department of community,
10 trade, and economic development to mediate any disputes that preclude
11 agreement. If mediation is unsuccessful in resolving all disputes that
12 will lead to agreement, the governor may impose appropriate sanctions
13 from those specified under RCW 36.70A.340 on the county, city, or
14 cities for failure to reach an agreement as provided in this section.
15 The governor shall specify the reason or reasons for the imposition of
16 any sanction.

17 (e) No later than July 1, 1992, the legislative authority of each
18 county that was required or chose to plan under RCW 36.70A.040 as of
19 June 1, 1991, or no later than fourteen months after the date the
20 county adopted its resolution of intention or was certified by the
21 office of financial management the county legislative authority of any
22 other county that is required or chooses to plan under RCW 36.70A.040,
23 shall adopt a county-wide planning policy according to the process
24 provided under this section and that is consistent with the agreement
25 pursuant to (b) of this subsection, and after holding a public hearing
26 or hearings on the proposed county-wide planning policy.

27 (3) A county-wide planning policy shall at a minimum, address the
28 following:

29 (a) Policies to implement RCW 36.70A.110;

30 (b) Policies for promotion of contiguous and orderly development
31 and provision of urban services to such development;

32 (c) Policies for identifying and siting regional and state-wide
33 essential public ((capital)) facilities ((of a county-wide or state-
34 wide nature)), including transportation facilities ((of state-wide
35 significance as defined in RCW 47.06.140)). Such policies shall
36 include the procedures and provisions required by subsection (4) of
37 this section;

38 (d) Policies for county-wide transportation facilities and
39 strategies;

1 (e) Policies that consider the need for affordable housing, such as
2 housing for all economic segments of the population and parameters for
3 its distribution;

4 (f) Policies for joint county and city planning within urban growth
5 areas;

6 (g) Policies for county-wide economic development and employment;
7 and

8 (h) An analysis of the fiscal impact.

9 (4) The county-wide planning policy for identifying and siting
10 regional or state-wide essential public facilities shall be developed
11 collaboratively by the county, the cities, the state agencies with
12 regulatory jurisdiction over the siting of such facilities, and special
13 purpose districts that are located within the county and provide one or
14 more types of such facilities. Participation by special purpose
15 districts shall be limited to districts that provide one or more types
16 of regional or state-wide essential public facilities or additional
17 types of facilities proposed to be included in the county-wide policy.
18 The policy shall at a minimum address the following:

19 (a) Criteria and procedures to determine which facilities will be
20 subject to the policy;

21 (b) Creation of a regional entity to apply the policy and make
22 regional decisions regarding the siting of a facility. The policy
23 shall ensure the fair participation or representation of all
24 jurisdictions that may be impacted or benefited by the facility. The
25 policy shall ensure an active public participation process in which the
26 public may propose siting dispute provisions and may comment upon
27 proposals by the regional decisional entity. The decisional
28 procedures shall define circumstances in which alternative dispute
29 resolution mechanisms may be employed. The procedures shall also
30 include criteria for determining when a decisional impasse has
31 occurred;

32 (c) Provide criteria and procedures by which the decisional entity
33 considers whether the facility:

34 (i) Unreasonably interferes with the objectives of the adopted
35 comprehensive plan of a jurisdiction adversely impacted by the
36 facility;

37 (ii) Is consistent with the adopted comprehensive plan and
38 development regulation of a jurisdiction adversely impacted by the
39 facility;

1 (iii) Fairly apportions the relative burdens and benefits of the
2 facility;

3 (iv) To the extent practicable, avoids or minimizes the impacts
4 upon local jurisdictions, and if avoidance or minimization of the
5 impacts is not practicable, provides other mitigation measures that
6 compensate for the impacts;

7 (d) Provides procedures by which impacted local jurisdictions with
8 the approval of the regional decisional entity may ensure the
9 implementation of mitigation conditions or compensation, including the
10 imposition of such conditions upon the permits issued by the permitting
11 jurisdictions, including local governments and state agencies; and

12 (e) Funding of mitigating measures on a regional basis, including
13 the contribution of funding from multiple jurisdictions that will be
14 benefited by the facility.

15 (5) Federal agencies and Indian tribes may participate in and
16 cooperate with the county-wide planning policy adoption process.
17 Adopted county-wide planning policies shall be adhered to by state
18 agencies.

19 ~~((+5))~~ (6) Failure to adopt a county-wide planning policy that
20 meets the requirements of this section may result in the imposition of
21 a sanction or sanctions on a county or city within the county, as
22 specified in RCW 36.70A.340. In imposing a sanction or sanctions, the
23 governor shall specify the reasons for failure to adopt a county-wide
24 planning policy in order that any imposed sanction or sanctions are
25 fairly and equitably related to the failure to adopt a county-wide
26 planning policy.

27 ~~((+6))~~ (7) Cities and the governor may appeal an adopted county-
28 wide planning policy to the growth management hearings board within
29 sixty days of the adoption of the county-wide planning policy.

30 ~~((+7))~~ (8) Multicounty planning policies shall be adopted by two
31 or more counties, each with a population of four hundred fifty thousand
32 or more, with contiguous urban areas and may be adopted by other
33 counties, according to the process established under this section or
34 other processes agreed to among the counties and cities within the
35 affected counties throughout the multicounty region.

36 (9) In a county with an adopted county-wide planning policy adopted
37 before July 1, 1999, the county shall adopt an element governing the
38 siting of regional or state-wide essential public facilities pursuant

1 to subsection (4) of this section in the next scheduled comprehensive
2 revision of its policy, but not later than July 1, 2001.

3 NEW SECTION. **Sec. 5.** A new section is added to chapter 36.70A RCW
4 to read as follows:

5 The department shall adopt minimum guidelines for the development
6 of county-wide planning policies on the siting of essential public
7 facilities under RCW 36.70A.210(4).

8 **Sec. 6.** RCW 43.21C.031 and 1995 c 347 s 203 are each amended to
9 read as follows:

10 (1) An environmental impact statement (the detailed statement
11 required by RCW 43.21C.030(2)(c)) shall be prepared on proposals for
12 legislation and other major actions having a probable significant,
13 adverse environmental impact. The environmental impact statement may
14 be combined with the recommendation or report on the proposal or issued
15 as a separate document. The substantive decisions or recommendations
16 shall be clearly identifiable in the combined document. Actions
17 categorically exempt under RCW 43.21C.110(1)(a) do not require
18 environmental review or the preparation of an environmental impact
19 statement under this chapter. In a county, city, or town planning
20 under RCW 36.70A.040, a planned action, as provided for in subsection
21 (2) of this section, does not require a threshold determination or the
22 preparation of an environmental impact statement under this chapter,
23 but is subject to environmental review and mitigation as provided in
24 this chapter.

25 An environmental impact statement is required to analyze only those
26 probable adverse environmental impacts which are significant.
27 Beneficial environmental impacts may be discussed. The responsible
28 official shall consult with agencies and the public to identify such
29 impacts and limit the scope of an environmental impact statement. The
30 subjects listed in RCW 43.21C.030(2)(c) need not be treated as separate
31 sections of an environmental impact statement. Discussions of
32 significant short-term and long-term environmental impacts, significant
33 irrevocable commitments of natural resources, significant alternatives
34 including mitigation measures, and significant environmental impacts
35 which cannot be mitigated should be consolidated or included, as
36 applicable, in those sections of an environmental impact statement
37 where the responsible official decides they logically belong.

1 (2)(a) For purposes of this section, a planned action means one or
2 more types of project action that:

3 (i) Are designated planned actions by an ordinance or resolution
4 adopted by a county, city, or town planning under RCW 36.70A.040;

5 (ii) Have had the significant impacts adequately addressed in an
6 environmental impact statement prepared in conjunction with (A) a
7 comprehensive plan or subarea plan adopted under chapter 36.70A RCW, or
8 (B) a fully contained community, a master planned resort, a master
9 planned development, or a phased project;

10 (iii) Are subsequent or implementing projects for the proposals
11 listed in (a)(ii) of this subsection;

12 (iv) Are located within an urban growth area, as defined in RCW
13 36.70A.030;

14 (v) Are not essential public facilities, as defined in RCW
15 (~~36.70A.200~~) 36.70A.030; and

16 (vi) Are consistent with a comprehensive plan adopted under chapter
17 36.70A RCW.

18 (b) A county, city, or town shall limit planned actions to certain
19 types of development or to specific geographical areas that are less
20 extensive than the jurisdictional boundaries of the county, city, or
21 town and may limit a planned action to a time period identified in the
22 environmental impact statement or the ordinance or resolution adopted
23 under this subsection.

24 **Sec. 7.** RCW 43.21C.060 and 1983 c 117 s 3 are each amended to read
25 as follows:

26 (1) The policies and goals set forth in this chapter are
27 supplementary to those set forth in existing authorizations of all
28 branches of government of this state, including state agencies,
29 municipal and public corporations, and counties. Any governmental
30 action may be conditioned or denied pursuant to this chapter:
31 PROVIDED, That such conditions or denials shall be based upon policies
32 identified by the appropriate governmental authority and incorporated
33 into regulations, plans, or codes which are formally designated by the
34 agency (or appropriate legislative body, in the case of local
35 government) as possible bases for the exercise of authority pursuant to
36 this chapter. Such designation shall occur at the time specified by
37 RCW 43.21C.120. Such action may be conditioned only to mitigate
38 specific adverse environmental impacts which are identified in the

1 environmental documents prepared under this chapter. These conditions
2 shall be stated in writing by the decisionmaker. Mitigation measures
3 shall be reasonable and capable of being accomplished. In order to
4 deny a proposal under this chapter, an agency must find that: ((+1))
5 (a) The proposal would result in significant adverse impacts identified
6 in a final or supplemental environmental impact statement prepared
7 under this chapter; and ((+2)) (b) reasonable mitigation measures are
8 insufficient to mitigate the identified impact. Except for permits and
9 variances issued pursuant to chapter 90.58 RCW, when such a
10 governmental action, not requiring a legislative decision, is
11 conditioned or denied by a nonelected official of a local governmental
12 agency, the decision shall be appealable to the legislative authority
13 of the acting local governmental agency unless that legislative
14 authority formally eliminates such appeals. Such appeals shall be in
15 accordance with procedures established for such appeals by the
16 legislative authority of the acting local governmental agency.

17 (2) In the siting of essential public facilities through the
18 procedures of a county-wide planning policy under RCW 36.70A.210, the
19 governing body of a city or county may identify mitigation measures in
20 the environmental impact statement and impose those as conditions upon
21 the siting decision.

22 **Sec. 8.** RCW 82.02.090 and 1990 1st ex.s. c 17 s 48 are each
23 amended to read as follows:

24 Unless the context clearly requires otherwise, the following
25 definitions shall apply in RCW 82.02.050 through 82.02.090:

26 (1) "Development activity" means any construction or expansion of
27 a building, structure, or use, any change in use of a building or
28 structure, or any changes in the use of land, that creates additional
29 demand and need for public facilities.

30 (2) "Development approval" means any written authorization from a
31 county, city, or town which authorizes the commencement of development
32 activity.

33 (3) "Impact fee" means a payment of money imposed upon development
34 as a condition of development approval to pay for public facilities
35 needed to serve new growth and development, and that is reasonably
36 related to the new development that creates additional demand and need
37 for public facilities, that is a proportionate share of the cost of the
38 public facilities, and that is used for facilities that reasonably

1 benefit the new development. "Impact fee" does not include a
2 reasonable permit or application fee.

3 (4) "Owner" means the owner of record of real property, although
4 when real property is being purchased under a real estate contract, the
5 purchaser shall be considered the owner of the real property if the
6 contract is recorded.

7 (5) "Proportionate share" means that portion of the cost of public
8 facility improvements that are reasonably related to the service
9 demands and needs of new development.

10 (6) "Project improvements" mean site improvements and facilities
11 that are planned and designed to provide service for a particular
12 development project and that are necessary for the use and convenience
13 of the occupants or users of the project, and are not system
14 improvements. No improvement or facility included in a capital
15 facilities plan approved by the governing body of the county, city, or
16 town shall be considered a project improvement.

17 (7) "Public facilities" means the following capital facilities
18 owned or operated by government entities: (a) Public streets ((and)),
19 roads, and other transportation facilities; (b) publicly owned parks,
20 open space, and recreation facilities; (c) school facilities; and (d)
21 fire protection facilities in jurisdictions that are not part of a fire
22 district.

23 (8) "Service area" means a geographic area defined by a county,
24 city, town, or intergovernmental agreement in which a defined set of
25 public facilities provide service to development within the area.
26 Service areas shall be designated on the basis of sound planning or
27 engineering principles.

28 (9) "System improvements" mean public facilities that are included
29 in the capital facilities plan and are designed to provide service to
30 service areas within the community at large, in contrast to project
31 improvements.

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