
HOUSE BILL 1084

State of Washington 59th Legislature 2005 Regular Session

By Representatives Dunshee, Lovick and Pearson

Read first time 01/13/2005. Referred to Committee on Local Government.

1 AN ACT Relating to limited recreational activities, playing fields,
2 and supporting facilities existing before January 1, 2004, on
3 designated recreational lands in jurisdictions planning under RCW
4 36.70A.040; amending RCW 36.70A.030, 36.70A.060, and 36.70A.130; adding
5 new sections to chapter 36.70A RCW; providing expiration dates; and
6 declaring an emergency.

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

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

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

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

15 (2) "Agricultural land" means land primarily devoted to the
16 commercial production of horticultural, viticultural, floricultural,
17 dairy, apiary, vegetable, or animal products or of berries, grain, hay,
18 straw, turf, seed, Christmas trees not subject to the excise tax

1 imposed by RCW 84.33.100 through 84.33.140, finfish in upland
2 hatcheries, or livestock, and that has long-term commercial
3 significance for agricultural production.

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

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

9 (5) "Critical areas" include the following areas and ecosystems:

- 10 (a) Wetlands; (b) areas with a critical recharging effect on aquifers
11 used for potable water; (c) fish and wildlife habitat conservation
12 areas; (d) frequently flooded areas; and (e) geologically hazardous
13 areas.

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

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

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

1 timber production; and (d) the availability of public facilities and
2 services conducive to conversion of forest land to other uses.

3 (9) "Geologically hazardous areas" means areas that because of
4 their susceptibility to erosion, sliding, earthquake, or other
5 geological events, are not suited to the siting of commercial,
6 residential, or industrial development consistent with public health or
7 safety concerns.

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

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

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

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

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

17 (17) "Urban growth" refers to growth that makes intensive use of
18 land for the location of buildings, structures, and impermeable
19 surfaces to such a degree as to be incompatible with the primary use of
20 land for the production of food, other agricultural products, or fiber,
21 or the extraction of mineral resources, rural uses, rural development,
22 and natural resource lands designated pursuant to RCW 36.70A.170. A
23 pattern of more intensive rural development, as provided in RCW
24 36.70A.070(5)(d), is not urban growth. When allowed to spread over
25 wide areas, urban growth typically requires urban governmental
26 services. "Characterized by urban growth" refers to land having urban
27 growth located on it, ~~((or))~~ to land located in relationship to an area
28 with urban growth on it as to be appropriate for urban growth, or,
29 until June 30, 2010, to land with playing fields and supporting
30 facilities existing before January 1, 2004, for sports played on grass
31 playing fields.

32 (18) "Urban growth areas" means those areas designated by a county
33 pursuant to RCW 36.70A.110.

34 (19) "Urban governmental services" or "urban services" include
35 those public services and public facilities at an intensity
36 historically and typically provided in cities, specifically including
37 storm and sanitary sewer systems, domestic water systems, street

1 cleaning services, fire and police protection services, public transit
2 services, and other public utilities associated with urban areas and
3 normally not associated with rural areas.

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

18 **Sec. 2.** RCW 36.70A.060 and 1998 c 286 s 5 are each amended to read
19 as follows:

20 (1)(a) Except as provided in section 3 of this act, each county
21 that is required or chooses to plan under RCW 36.70A.040, and each city
22 within such county, shall adopt development regulations on or before
23 September 1, 1991, to assure the conservation of agricultural, forest,
24 and mineral resource lands designated under RCW 36.70A.170.
25 Regulations adopted under this subsection may not prohibit uses legally
26 existing on any parcel prior to their adoption and shall remain in
27 effect until the county or city adopts development regulations pursuant
28 to RCW 36.70A.040. Such regulations shall assure that the use of lands
29 adjacent to agricultural, forest, or mineral resource lands shall not
30 interfere with the continued use, in the accustomed manner and in
31 accordance with best management practices, of these designated lands
32 for the production of food, agricultural products, or timber, or for
33 the extraction of minerals.

34 (b) Counties and cities shall require that all plats, short plats,
35 development permits, and building permits issued for development
36 activities on, or within five hundred feet of, lands designated as
37 agricultural lands, forest lands, or mineral resource lands, contain a

1 notice that the subject property is within or near designated
2 agricultural lands, forest lands, or mineral resource lands on which a
3 variety of commercial activities may occur that are not compatible with
4 residential development for certain periods of limited duration. The
5 notice for mineral resource lands shall also inform that an application
6 might be made for mining-related activities, including mining,
7 extraction, washing, crushing, stockpiling, blasting, transporting, and
8 recycling of minerals.

9 (2) Each county and city shall adopt development regulations that
10 protect critical areas that are required to be designated under RCW
11 36.70A.170. For counties and cities that are required or choose to
12 plan under RCW 36.70A.040, such development regulations shall be
13 adopted on or before September 1, 1991. For the remainder of the
14 counties and cities, such development regulations shall be adopted on
15 or before March 1, 1992.

16 (3) Such counties and cities shall review these designations and
17 development regulations when adopting their comprehensive plans under
18 RCW 36.70A.040 and implementing development regulations under RCW
19 36.70A.120 and may alter such designations and development regulations
20 to insure consistency.

21 (4) Forest land and agricultural land located within urban growth
22 areas shall not be designated by a county or city as forest land or
23 agricultural land of long-term commercial significance under RCW
24 36.70A.170 unless the city or county has enacted a program authorizing
25 transfer or purchase of development rights.

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

28 (1)(a) The legislative authority of a county or city planning under
29 RCW 36.70A.040 may, by resolution, and in accordance with the
30 requirements of RCW 36.70A.035 and 36.70A.140, designate agricultural
31 lands designated pursuant to RCW 36.70A.170 as recreational lands.
32 Lands eligible for designation as recreational lands must not be in use
33 for the commercial production of food or other agricultural products
34 and must have playing fields and supporting facilities existing before
35 January 1, 2004, for sports played on grass playing fields.

36 (b) Designated recreational lands may be used only for athletic or

1 related activities, playing fields, and supporting facilities for
2 sports played on grass playing fields.

3 (c) The recreational lands designation shall supersede previous
4 designations and shall require an amendment to the comprehensive plan
5 prepared pursuant to RCW 36.70A.070.

6 (2) This section expires June 30, 2010.

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

9 (1) In accordance with the provisions of sections 1 through 3 and
10 6 of this act and the requirements of RCW 36.70A.070, playing fields
11 and supporting facilities existing before January 1, 2004, on
12 designated recreational lands shall be considered characteristics of
13 urban growth.

14 (2) This section expires June 30, 2010.

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

17 In accordance with the provisions of sections 1 through 3 and 6 of
18 this act, playing fields and supporting facilities existing before
19 January 1, 2004, on designated recreational lands shall be considered
20 in compliance with the requirements of this chapter.

21 **Sec. 6.** RCW 36.70A.130 and 2002 c 320 s 1 are each amended to read
22 as follows:

23 (1)(a) Each comprehensive land use plan and development regulations
24 shall be subject to continuing review and evaluation by the county or
25 city that adopted them. A county or city shall take legislative action
26 to review and, if needed, revise its comprehensive land use plan and
27 development regulations to ensure the plan and regulations comply with
28 the requirements of this chapter according to the time periods
29 specified in subsection (4) of this section. A county or city not
30 planning under RCW 36.70A.040 shall take action to review and, if
31 needed, revise its policies and development regulations regarding
32 critical areas and natural resource lands adopted according to this
33 chapter to ensure these policies and regulations comply with the
34 requirements of this chapter according to the time periods specified in
35 subsection (4) of this section. Legislative action means the adoption

1 of a resolution or ordinance following notice and a public hearing
2 indicating at a minimum, a finding that a review and evaluation has
3 occurred and identifying the revisions made, or that a revision was not
4 needed and the reasons therefore. The review and evaluation required
5 by this subsection may be combined with the review required by
6 subsection (3) of this section. The review and evaluation required by
7 this subsection shall include, but is not limited to, consideration of
8 critical area ordinances and, if planning under RCW 36.70A.040, an
9 analysis of the population allocated to a city or county from the most
10 recent ten-year population forecast by the office of financial
11 management.

12 (b) Any amendment of or revision to a comprehensive land use plan
13 shall conform to this chapter. Any amendment of or revision to
14 development regulations shall be consistent with and implement the
15 comprehensive plan.

16 (2)(a) Each county and city shall establish and broadly disseminate
17 to the public a public participation program consistent with RCW
18 36.70A.035 and 36.70A.140 that identifies procedures and schedules
19 whereby updates, proposed amendments, or revisions of the comprehensive
20 plan are considered by the governing body of the county or city no more
21 frequently than once every year. "Updates" means to review and revise,
22 if needed, according to subsection (1) of this section, and the time
23 periods specified in subsection (4) of this section. Amendments may be
24 considered more frequently than once per year under the following
25 circumstances:

26 (i) The initial adoption of a subarea plan that does not modify the
27 comprehensive plan policies and designations applicable to the subarea;

28 (ii) The adoption or amendment of a shoreline master program under
29 the procedures set forth in chapter 90.58 RCW; (~~and~~)

30 (iii) The amendment of the capital facilities element of a
31 comprehensive plan that occurs concurrently with the adoption or
32 amendment of a county or city budget; and

33 (iv) Until June 30, 2010, the designation of recreational lands
34 pursuant to section 3 of this act.

35 (b) Except as otherwise provided in (a) of this subsection, all
36 proposals shall be considered by the governing body concurrently so the
37 cumulative effect of the various proposals can be ascertained.
38 However, after appropriate public participation a county or city may

1 adopt amendments or revisions to its comprehensive plan that conform
2 with this chapter whenever an emergency exists or to resolve an appeal
3 of a comprehensive plan filed with a growth management hearings board
4 or with the court.

5 (3) Each county that designates urban growth areas under RCW
6 36.70A.110 shall review, at least every ten years, its designated urban
7 growth area or areas, and the densities permitted within both the
8 incorporated and unincorporated portions of each urban growth area. In
9 conjunction with this review by the county, each city located within an
10 urban growth area shall review the densities permitted within its
11 boundaries, and the extent to which the urban growth occurring within
12 the county has located within each city and the unincorporated portions
13 of the urban growth areas. The county comprehensive plan designating
14 urban growth areas, and the densities permitted in the urban growth
15 areas by the comprehensive plans of the county and each city located
16 within the urban growth areas, shall be revised to accommodate the
17 urban growth projected to occur in the county for the succeeding
18 twenty-year period. The review required by this subsection may be
19 combined with the review and evaluation required by RCW 36.70A.215.

20 (4) The department shall establish a schedule for counties and
21 cities to take action to review and, if needed, revise their
22 comprehensive plans and development regulations to ensure the plan and
23 regulations comply with the requirements of this chapter. The schedule
24 established by the department shall provide for the reviews and
25 evaluations to be completed as follows:

26 (a) On or before December 1, 2004, and every seven years
27 thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce,
28 Snohomish, Thurston, and Whatcom counties and the cities within those
29 counties;

30 (b) On or before December 1, 2005, and every seven years
31 thereafter, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and
32 Skamania counties and the cities within those counties;

33 (c) On or before December 1, 2006, and every seven years
34 thereafter, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and
35 Yakima counties and the cities within those counties; and

36 (d) On or before December 1, 2007, and every seven years
37 thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield,

1 Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille,
2 Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities
3 within those counties.

4 (5)(a) Nothing in this section precludes a county or city from
5 conducting the review and evaluation required by this section before
6 the time limits established in subsection (4) of this section.
7 Counties and cities may begin this process early and may be eligible
8 for grants from the department, subject to available funding, if they
9 elect to do so.

10 (b) State agencies are encouraged to provide technical assistance
11 to the counties and cities in the review of critical area ordinances,
12 comprehensive plans, and development regulations.

13 (6) A county or city subject to the time periods in subsection
14 (4)(a) of this section that, pursuant to an ordinance adopted by the
15 county or city establishing a schedule for periodic review of its
16 comprehensive plan and development regulations, has conducted a review
17 and evaluation of its comprehensive plan and development regulations
18 and, on or after January 1, 2001, has taken action in response to that
19 review and evaluation shall be deemed to have conducted the first
20 review required by subsection (4)(a) of this section. Subsequent
21 review and evaluation by the county or city of its comprehensive plan
22 and development regulations shall be conducted in accordance with the
23 time periods established under subsection (4)(a) of this section.

24 (7) The requirements imposed on counties and cities under this
25 section shall be considered "requirements of this chapter" under the
26 terms of RCW 36.70A.040(1). Only those counties and cities in
27 compliance with the schedules in this section shall have the requisite
28 authority to receive grants, loans, pledges, or financial guarantees
29 from those accounts established in RCW 43.155.050 and 70.146.030. Only
30 those counties and cities in compliance with the schedules in this
31 section shall receive preference for grants or loans subject to the
32 provisions of RCW 43.17.250.

33 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
34 preservation of the public peace, health, or safety, or support of the
35 state government and its existing public institutions, and takes effect

1 immediately.

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