
HOUSE BILL 1736

State of Washington

61st Legislature

2009 Regular Session

By Representatives Takko and Short

Read first time 01/28/09. Referred to Committee on Local Government & Housing.

1 AN ACT Relating to limiting the period of time in which level of
2 service standards for local transportation facilities may be used to
3 prohibit development under local comprehensive plans; and amending RCW
4 36.70A.070.

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

6 **Sec. 1.** RCW 36.70A.070 and 2005 c 360 s 2 are each amended to read
7 as follows:

8 The comprehensive plan of a county or city that is required or
9 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
10 and descriptive text covering objectives, principles, and standards
11 used to develop the comprehensive plan. The plan shall be an
12 internally consistent document and all elements shall be consistent
13 with the future land use map. A comprehensive plan shall be adopted
14 and amended with public participation as provided in RCW 36.70A.140.

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

17 (1) A land use element designating the proposed general
18 distribution and general location and extent of the uses of land, where
19 appropriate, for agriculture, timber production, housing, commerce,

1 industry, recreation, open spaces, general aviation airports, public
2 utilities, public facilities, and other land uses. The land use
3 element shall include population densities, building intensities, and
4 estimates of future population growth. The land use element shall
5 provide for protection of the quality and quantity of groundwater used
6 for public water supplies. Wherever possible, the land use element
7 should consider utilizing urban planning approaches that promote
8 physical activity. Where applicable, the land use element shall review
9 drainage, flooding, and storm water run-off in the area and nearby
10 jurisdictions and provide guidance for corrective actions to mitigate
11 or cleanse those discharges that pollute waters of the state, including
12 Puget Sound or waters entering Puget Sound.

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

25 (3) A capital facilities plan element consisting of: (a) An
26 inventory of existing capital facilities owned by public entities,
27 showing the locations and capacities of the capital facilities; (b) a
28 forecast of the future needs for such capital facilities; (c) the
29 proposed locations and capacities of expanded or new capital
30 facilities; (d) at least a six-year plan that will finance such capital
31 facilities within projected funding capacities and clearly identifies
32 sources of public money for such purposes; and (e) a requirement to
33 reassess the land use element if probable funding falls short of
34 meeting existing needs and to ensure that the land use element, capital
35 facilities plan element, and financing plan within the capital
36 facilities plan element are coordinated and consistent. Park and
37 recreation facilities shall be included in the capital facilities plan
38 element.

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

5 (5) Rural element. Counties shall include a rural element
6 including lands that are not designated for urban growth, agriculture,
7 forest, or mineral resources. The following provisions shall apply to
8 the rural element:

9 (a) Growth management act goals and local circumstances. Because
10 circumstances vary from county to county, in establishing patterns of
11 rural densities and uses, a county may consider local circumstances,
12 but shall develop a written record explaining how the rural element
13 harmonizes the planning goals in RCW 36.70A.020 and meets the
14 requirements of this chapter.

15 (b) Rural development. The rural element shall permit rural
16 development, forestry, and agriculture in rural areas. The rural
17 element shall provide for a variety of rural densities, uses, essential
18 public facilities, and rural governmental services needed to serve the
19 permitted densities and uses. To achieve a variety of rural densities
20 and uses, counties may provide for clustering, density transfer, design
21 guidelines, conservation easements, and other innovative techniques
22 that will accommodate appropriate rural densities and uses that are not
23 characterized by urban growth and that are consistent with rural
24 character.

25 (c) Measures governing rural development. The rural element shall
26 include measures that apply to rural development and protect the rural
27 character of the area, as established by the county, by:

28 (i) Containing or otherwise controlling rural development;

29 (ii) Assuring visual compatibility of rural development with the
30 surrounding rural area;

31 (iii) Reducing the inappropriate conversion of undeveloped land
32 into sprawling, low-density development in the rural area;

33 (iv) Protecting critical areas, as provided in RCW 36.70A.060, and
34 surface water and groundwater resources; and

35 (v) Protecting against conflicts with the use of agricultural,
36 forest, and mineral resource lands designated under RCW 36.70A.170.

37 (d) Limited areas of more intensive rural development. Subject to
38 the requirements of this subsection and except as otherwise

1 specifically provided in this subsection (5)(d), the rural element may
2 allow for limited areas of more intensive rural development, including
3 necessary public facilities and public services to serve the limited
4 area as follows:

5 (i) Rural development consisting of the infill, development, or
6 redevelopment of existing commercial, industrial, residential, or
7 mixed-use areas, whether characterized as shoreline development,
8 villages, hamlets, rural activity centers, or crossroads developments.

9 (A) A commercial, industrial, residential, shoreline, or mixed-use
10 area shall be subject to the requirements of (d)(iv) of this
11 subsection, but shall not be subject to the requirements of (c)(ii) and
12 (iii) of this subsection.

13 (B) Any development or redevelopment other than an industrial area
14 or an industrial use within a mixed-use area or an industrial area
15 under this subsection (5)(d)(i) must be principally designed to serve
16 the existing and projected rural population.

17 (C) Any development or redevelopment in terms of building size,
18 scale, use, or intensity shall be consistent with the character of the
19 existing areas. Development and redevelopment may include changes in
20 use from vacant land or a previously existing use so long as the new
21 use conforms to the requirements of this subsection (5);

22 (ii) The intensification of development on lots containing, or new
23 development of, small-scale recreational or tourist uses, including
24 commercial facilities to serve those recreational or tourist uses, that
25 rely on a rural location and setting, but that do not include new
26 residential development. A small-scale recreation or tourist use is
27 not required to be principally designed to serve the existing and
28 projected rural population. Public services and public facilities
29 shall be limited to those necessary to serve the recreation or tourist
30 use and shall be provided in a manner that does not permit low-density
31 sprawl;

32 (iii) The intensification of development on lots containing
33 isolated nonresidential uses or new development of isolated cottage
34 industries and isolated small-scale businesses that are not principally
35 designed to serve the existing and projected rural population and
36 nonresidential uses, but do provide job opportunities for rural
37 residents. Rural counties may allow the expansion of small-scale
38 businesses as long as those small-scale businesses conform with the

1 rural character of the area as defined by the local government
2 according to RCW 36.70A.030(~~((+14))~~) (15). Rural counties may also
3 allow new small-scale businesses to utilize a site previously occupied
4 by an existing business as long as the new small-scale business
5 conforms to the rural character of the area as defined by the local
6 government according to RCW 36.70A.030(~~((+14))~~) (15). Public services
7 and public facilities shall be limited to those necessary to serve the
8 isolated nonresidential use and shall be provided in a manner that does
9 not permit low-density sprawl;

10 (iv) A county shall adopt measures to minimize and contain the
11 existing areas or uses of more intensive rural development, as
12 appropriate, authorized under this subsection. Lands included in such
13 existing areas or uses shall not extend beyond the logical outer
14 boundary of the existing area or use, thereby allowing a new pattern of
15 low-density sprawl. Existing areas are those that are clearly
16 identifiable and contained and where there is a logical boundary
17 delineated predominately by the built environment, but that may also
18 include undeveloped lands if limited as provided in this subsection.
19 The county shall establish the logical outer boundary of an area of
20 more intensive rural development. In establishing the logical outer
21 boundary the county shall address (A) the need to preserve the
22 character of existing natural neighborhoods and communities, (B)
23 physical boundaries such as bodies of water, streets and highways, and
24 land forms and contours, (C) the prevention of abnormally irregular
25 boundaries, and (D) the ability to provide public facilities and public
26 services in a manner that does not permit low-density sprawl;

27 (v) For purposes of (d) of this subsection, an existing area or
28 existing use is one that was in existence:

29 (A) On July 1, 1990, in a county that was initially required to
30 plan under all of the provisions of this chapter;

31 (B) On the date the county adopted a resolution under RCW
32 36.70A.040(2), in a county that is planning under all of the provisions
33 of this chapter under RCW 36.70A.040(2); or

34 (C) On the date the office of financial management certifies the
35 county's population as provided in RCW 36.70A.040(5), in a county that
36 is planning under all of the provisions of this chapter pursuant to RCW
37 36.70A.040(5).

1 (e) Exception. This subsection shall not be interpreted to permit
2 in the rural area a major industrial development or a master planned
3 resort unless otherwise specifically permitted under RCW 36.70A.360 and
4 36.70A.365.

5 (6) A transportation element that implements, and is consistent
6 with, the land use element.

7 (a) The transportation element shall include the following
8 subelements:

9 (i) Land use assumptions used in estimating travel;

10 (ii) Estimated traffic impacts to state-owned transportation
11 facilities resulting from land use assumptions to assist the department
12 of transportation in monitoring the performance of state facilities, to
13 plan improvements for the facilities, and to assess the impact of land-
14 use decisions on state-owned transportation facilities;

15 (iii) Facilities and services needs, including:

16 (A) An inventory of air, water, and ground transportation
17 facilities and services, including transit alignments and general
18 aviation airport facilities, to define existing capital facilities and
19 travel levels as a basis for future planning. This inventory must
20 include state-owned transportation facilities within the city or
21 county's jurisdictional boundaries;

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

25 (C) For state-owned transportation facilities, level of service
26 standards for highways, as prescribed in chapters 47.06 and 47.80 RCW,
27 to gauge the performance of the system. The purposes of reflecting
28 level of service standards for state highways in the local
29 comprehensive plan are to monitor the performance of the system, to
30 evaluate improvement strategies, and to facilitate coordination between
31 the county's or city's six-year street, road, or transit program and
32 the department of transportation's six-year investment program. The
33 concurrency requirements of (b) of this subsection do not apply to
34 transportation facilities and services of statewide significance except
35 for counties consisting of islands whose only connection to the
36 mainland are state highways or ferry routes. In these island counties,
37 state highways and ferry route capacity must be a factor in meeting the
38 concurrency requirements in (b) of this subsection;

1 (D) Specific actions and requirements for bringing into compliance
2 locally owned transportation facilities or services that are below an
3 established level of service standard;

4 (E) Forecasts of traffic for at least ten years based on the
5 adopted land use plan to provide information on the location, timing,
6 and capacity needs of future growth;

7 (F) Identification of state and local system needs to meet current
8 and future demands. Identified needs on state-owned transportation
9 facilities must be consistent with the statewide multimodal
10 transportation plan required under chapter 47.06 RCW;

11 (iv) Finance, including:

12 (A) An analysis of funding capability to judge needs against
13 probable funding resources;

14 (B) A multiyear financing plan based on the needs identified in the
15 comprehensive plan, the appropriate parts of which shall serve as the
16 basis for the six-year street, road, or transit program required by RCW
17 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795
18 for public transportation systems. The multiyear financing plan should
19 be coordinated with the (~~six-year~~) ten-year improvement program
20 developed by the department of transportation as required by RCW
21 47.05.030;

22 (C) If probable funding falls short of meeting identified needs, a
23 discussion of how additional funding will be raised, or how land use
24 assumptions will be reassessed to ensure that level of service
25 standards will be met;

26 (v) Intergovernmental coordination efforts, including an assessment
27 of the impacts of the transportation plan and land use assumptions on
28 the transportation systems of adjacent jurisdictions;

29 (vi) Demand-management strategies;

30 (vii) Pedestrian and bicycle component to include collaborative
31 efforts to identify and designate planned improvements for pedestrian
32 and bicycle facilities and corridors that address and encourage
33 enhanced community access and promote healthy lifestyles.

34 (b) After adoption of the comprehensive plan by jurisdictions
35 required to plan or who choose to plan under RCW 36.70A.040, local
36 jurisdictions must adopt and enforce ordinances which prohibit
37 development approval if the development causes the level of service on
38 a locally owned transportation facility to decline below the standards

1 adopted in the transportation element of the comprehensive plan, unless
2 transportation improvements or strategies to accommodate the impacts of
3 development are made concurrent with the development. These strategies
4 may include increased public transportation service, ride sharing
5 programs, demand management, and other transportation systems
6 management strategies. For the purposes of this subsection (6)
7 "concurrent with the development" shall mean that improvements or
8 strategies are in place at the time of development, or that a financial
9 commitment is in place to complete the improvements or strategies
10 within six years. A local jurisdiction may prohibit the approval of a
11 specific development pursuant to this subsection for a single
12 prohibition period totaling a maximum of twenty-four consecutive months
13 from the time that the local jurisdiction determines that the proposed
14 development will cause the level of service for a transportation
15 facility to fall below the standards adopted in the transportation
16 element of the comprehensive plan. After this prohibition period ends,
17 the local jurisdiction must make a decision on the application for the
18 proposed development and may not deny the application based upon the
19 proposed development's impact on the level of service for a
20 transportation facility. The developer's contribution to
21 transportation improvements or strategies to accommodate the impacts of
22 development are limited to mitigation that is consistent with chapters
23 43.21C and 82.02 RCW.

24 (c) The transportation element described in this subsection (6),
25 (~~and~~) the six-year plans required by RCW 35.77.010 for cities, RCW
26 36.81.121 for counties, and RCW 35.58.2795 for public transportation
27 systems, and the ten-year plan required by RCW 47.05.030 for the state,
28 must be consistent.

29 (7) An economic development element establishing local goals,
30 policies, objectives, and provisions for economic growth and vitality
31 and a high quality of life. The element shall include: (a) A summary
32 of the local economy such as population, employment, payroll, sectors,
33 businesses, sales, and other information as appropriate; (b) a summary
34 of the strengths and weaknesses of the local economy defined as the
35 commercial and industrial sectors and supporting factors such as land
36 use, transportation, utilities, education, workforce, housing, and
37 natural/cultural resources; and (c) an identification of policies,
38 programs, and projects to foster economic growth and development and to

1 address future needs. A city that has chosen to be a residential
2 community is exempt from the economic development element requirement
3 of this subsection.

4 (8) A park and recreation element that implements, and is
5 consistent with, the capital facilities plan element as it relates to
6 park and recreation facilities. The element shall include: (a)
7 Estimates of park and recreation demand for at least a ten-year period;
8 (b) an evaluation of facilities and service needs; and (c) an
9 evaluation of intergovernmental coordination opportunities to provide
10 regional approaches for meeting park and recreational demand.

11 (9) It is the intent that new or amended elements required after
12 January 1, 2002, be adopted concurrent with the scheduled update
13 provided in RCW 36.70A.130. Requirements to incorporate any such new
14 or amended elements shall be null and void until funds sufficient to
15 cover applicable local government costs are appropriated and
16 distributed by the state at least two years before local government
17 must update comprehensive plans as required in RCW 36.70A.130.

--- END ---