
SENATE BILL 6611

State of Washington 64th Legislature 2016 Regular Session

By Senators Angel, Rolfes, and Roach

Read first time 01/29/16. Referred to Committee on Government Operations & Security.

1 AN ACT Relating to traditional and alternative sewer systems; and
2 amending RCW 36.70A.030 and 36.70A.110.

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

4 **Sec. 1.** RCW 36.70A.030 and 2012 c 21 s 1 are each amended to
5 read as follows:

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

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

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

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

19 (4) "Comprehensive land use plan," "comprehensive plan," or
20 "plan" means a generalized coordinated land use policy statement of

1 the governing body of a county or city that is adopted pursuant to
2 this chapter.

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

4 (a) Wetlands; (b) areas with a critical recharging effect on aquifers
5 used for potable water; (c) fish and wildlife habitat conservation
6 areas; (d) frequently flooded areas; and (e) geologically hazardous
7 areas. "Fish and wildlife habitat conservation areas" does not
8 include such artificial features or constructs as irrigation delivery
9 systems, irrigation infrastructure, irrigation canals, or drainage
10 ditches that lie within the boundaries of and are maintained by a
11 port district or an irrigation district or company.

12 (6) "Department" means the department of commerce.

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

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

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

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

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

8 (11) "Minerals" include gravel, sand, and valuable metallic
9 substances.

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

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

17 (14) "Recreational land" means land so designated under RCW
18 36.70A.1701 and that, immediately prior to this designation, was
19 designated as agricultural land of long-term commercial significance
20 under RCW 36.70A.170. Recreational land must have playing fields and
21 supporting facilities existing before July 1, 2004, for sports played
22 on grass playing fields.

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

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

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

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

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

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

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

38 (g) That are consistent with the protection of natural surface
39 water flows and groundwater and surface water recharge and discharge
40 areas.

1 (16) "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 (17) "Rural governmental services" or "rural services" include
10 those public services and public facilities historically and
11 typically delivered at an intensity usually found in rural areas, and
12 may include domestic water systems, fire and police protection
13 services, transportation and public transit services, and other
14 public utilities associated with rural development and normally not
15 associated with urban areas. Rural services do not include storm or
16 sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

17 (18) "Urban governmental services" or "urban services" include
18 those public services and public facilities at an intensity
19 historically and typically provided in cities, specifically including
20 storm and sanitary sewer systems, certain alternative sewer and
21 existing on-site septic systems, domestic water systems, street
22 cleaning services, fire and police protection services, public
23 transit services, and other public utilities associated with urban
24 areas and normally not associated with rural areas.

25 (19) "Urban growth" refers to growth that makes intensive use of
26 land for the location of buildings, structures, and impermeable
27 surfaces to such a degree as to be incompatible with the primary use
28 of land for the production of food, other agricultural products, or
29 fiber, or the extraction of mineral resources, rural uses, rural
30 development, and natural resource lands designated pursuant to RCW
31 36.70A.170. A pattern of more intensive rural development, as
32 provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed
33 to spread over wide areas, urban growth typically requires urban
34 governmental services. "Characterized by urban growth" refers to land
35 having urban growth located on it, or to land located in relationship
36 to an area with urban growth on it as to be appropriate for urban
37 growth.

38 (20) "Urban growth areas" means those areas designated by a
39 county pursuant to RCW 36.70A.110.

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

16 **Sec. 2.** RCW 36.70A.110 and 2010 c 211 s 1 are each amended to
17 read as follows:

18 (1) Each county that is required or chooses to plan under RCW
19 36.70A.040 shall designate an urban growth area or areas within which
20 urban growth shall be encouraged and outside of which growth can
21 occur only if it is not urban in nature. Each city that is located in
22 such a county shall be included within an urban growth area. An urban
23 growth area may include more than a single city. An urban growth area
24 may include territory that is located outside of a city only if such
25 territory already is characterized by urban growth whether or not the
26 urban growth area includes a city, or is adjacent to territory
27 already characterized by urban growth, or is a designated new fully
28 contained community as defined by RCW 36.70A.350.

29 (2) Based upon the growth management population projection made
30 for the county by the office of financial management, the county and
31 each city within the county shall include areas and densities
32 sufficient to permit the urban growth that is projected to occur in
33 the county or city for the succeeding twenty-year period, except for
34 those urban growth areas contained totally within a national
35 historical reserve. As part of this planning process, each city
36 within the county must include areas sufficient to accommodate the
37 broad range of needs and uses that will accompany the projected urban
38 growth including, as appropriate, medical, governmental,

1 institutional, commercial, service, retail, and other nonresidential
2 uses.

3 Each urban growth area shall permit urban densities and shall
4 include greenbelt and open space areas. In the case of urban growth
5 areas contained totally within a national historical reserve, the
6 city may restrict densities, intensities, and forms of urban growth
7 as determined to be necessary and appropriate to protect the
8 physical, cultural, or historic integrity of the reserve. An urban
9 growth area determination may include a reasonable land market supply
10 factor and shall permit a range of urban densities and uses. In
11 determining this market factor, cities and counties may consider
12 local circumstances. Cities and counties have discretion in their
13 comprehensive plans to make many choices about accommodating growth.

14 Within one year of July 1, 1990, each county that as of June 1,
15 1991, was required or chose to plan under RCW 36.70A.040, shall begin
16 consulting with each city located within its boundaries and each city
17 shall propose the location of an urban growth area. Within sixty days
18 of the date the county legislative authority of a county adopts its
19 resolution of intention or of certification by the office of
20 financial management, all other counties that are required or choose
21 to plan under RCW 36.70A.040 shall begin this consultation with each
22 city located within its boundaries. The county shall attempt to reach
23 agreement with each city on the location of an urban growth area
24 within which the city is located. If such an agreement is not reached
25 with each city located within the urban growth area, the county shall
26 justify in writing why it so designated the area an urban growth
27 area. A city may object formally with the department over the
28 designation of the urban growth area within which it is located.
29 Where appropriate, the department shall attempt to resolve the
30 conflicts, including the use of mediation services.

31 (3) Urban growth should be located first in areas already
32 characterized by urban growth that have adequate existing public
33 facility and service capacities to serve such development, second in
34 areas already characterized by urban growth that will be served
35 adequately by a combination of both existing public facilities and
36 services and any additional needed public facilities and services
37 that are provided by either public or private sources, and third in
38 the remaining portions of the urban growth areas. Urban growth may
39 also be located in designated new fully contained communities as
40 defined by RCW 36.70A.350.

1 (4) In general, cities are the units of local government most
2 appropriate to provide urban governmental services. When providing
3 urban sewer services, counties and cities may consider alternative
4 sewer options as well as existing, functioning on-site septic systems
5 as urban services. In general, it is not appropriate that urban
6 governmental services be extended to or expanded in rural areas
7 except in those limited circumstances shown to be necessary to
8 protect basic public health and safety and the environment and when
9 such services are financially supportable at rural densities and do
10 not permit urban development.

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

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

28 (7) An urban growth area designated in accordance with this
29 section may include within its boundaries urban service areas or
30 potential annexation areas designated for specific cities or towns
31 within the county.

32 (8)(a) Except as provided in (b) of this subsection, the
33 expansion of an urban growth area is prohibited into the one hundred
34 year floodplain of any river or river segment that: (i) Is located
35 west of the crest of the Cascade mountains; and (ii) has a mean
36 annual flow of one thousand or more cubic feet per second as
37 determined by the department of ecology.

38 (b) Subsection (8)(a) of this section does not apply to:

39 (i) Urban growth areas that are fully contained within a
40 floodplain and lack adjacent buildable areas outside the floodplain;

1 (ii) Urban growth areas where expansions are precluded outside
2 floodplains because:

3 (A) Urban governmental services cannot be physically provided to
4 serve areas outside the floodplain; or

5 (B) Expansions outside the floodplain would require a river or
6 estuary crossing to access the expansion; or

7 (iii) Urban growth area expansions where:

8 (A) Public facilities already exist within the floodplain and the
9 expansion of an existing public facility is only possible on the land
10 to be included in the urban growth area and located within the
11 floodplain; or

12 (B) Urban development already exists within a floodplain as of
13 July 26, 2009, and is adjacent to, but outside of, the urban growth
14 area, and the expansion of the urban growth area is necessary to
15 include such urban development within the urban growth area; or

16 (C) The land is owned by a jurisdiction planning under this
17 chapter or the rights to the development of the land have been
18 permanently extinguished, and the following criteria are met:

19 (I) The permissible use of the land is limited to one of the
20 following: Outdoor recreation; environmentally beneficial projects,
21 including but not limited to habitat enhancement or environmental
22 restoration; storm water facilities; flood control facilities; or
23 underground conveyances; and

24 (II) The development and use of such facilities or projects will
25 not decrease flood storage, increase storm water runoff, discharge
26 pollutants to fresh or salt waters during normal operations or
27 floods, or increase hazards to people and property.

28 (c) For the purposes of this subsection (8), "one hundred year
29 floodplain" means the same as "special flood hazard area" as set
30 forth in WAC 173-158-040 as it exists on July 26, 2009.

31 (9) Nothing in this section obligates counties or cities to
32 install sanitary sewer systems to all properties within urban growth
33 areas designated under subsection (2) of this section by the end of
34 the twenty-year planning period.

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