
HOUSE BILL 1097

State of Washington

69th Legislature

2025 Regular Session

By Representatives Low, Ryu, Jacobsen, Tharinger, and Bernbaum

Prefiled 12/19/24. Read first time 01/13/25. Referred to Committee on Local Government.

1 AN ACT Relating to extending governmental services beyond the
2 urban growth area in specific circumstances; amending RCW 36.70A.110;
3 and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature is providing clarifying
6 language as to what authority governmental service providers have
7 related to extending sewer services to properties beyond urban growth
8 areas in limited circumstances. There are public benefits to having
9 certain properties be able to use services that are available in a
10 community and local authorities are the best able to determine what
11 makes sense for their communities. Extensions of such services in
12 compliance with the provisions of this act should be liberally
13 construed as being in full compliance with this chapter.

14 **Sec. 2.** RCW 36.70A.110 and 2024 c 26 s 1 are each amended to
15 read as follows:

16 (1) Each county that is required or chooses to plan under RCW
17 36.70A.040 shall designate an urban growth area or areas within which
18 urban growth shall be encouraged and outside of which growth can
19 occur only if it is not urban in nature. Each city that is located in
20 such a county shall be included within an urban growth area. An urban

1 growth area may include more than a single city. An urban growth area
2 may include territory that is located outside of a city only if such
3 territory already is characterized by urban growth whether or not the
4 urban growth area includes a city, or is adjacent to territory
5 already characterized by urban growth, or is a designated new fully
6 contained community as defined by RCW 36.70A.350. When a federally
7 recognized Indian tribe whose reservation or ceded lands lie within
8 the county or city has voluntarily chosen to participate in the
9 planning process pursuant to RCW 36.70A.040, the county or city and
10 the tribe shall coordinate their planning efforts for any areas
11 planned for urban growth consistent with the terms outlined in the
12 memorandum of agreement provided for in RCW 36.70A.040(8).

13 (2) Based upon the growth management population projection made
14 for the county by the office of financial management, the county and
15 each city within the county shall include areas and densities
16 sufficient to permit the urban growth that is projected to occur in
17 the county or city for the succeeding twenty-year period, except for
18 those urban growth areas contained totally within a national
19 historical reserve. As part of this planning process, each city
20 within the county must include areas sufficient to accommodate the
21 broad range of needs and uses that will accompany the projected urban
22 growth including, as appropriate, medical, governmental,
23 institutional, commercial, service, retail, and other nonresidential
24 uses.

25 Each urban growth area shall permit urban densities and shall
26 include greenbelt and open space areas. In the case of urban growth
27 areas contained totally within a national historical reserve, the
28 city may restrict densities, intensities, and forms of urban growth
29 as determined to be necessary and appropriate to protect the
30 physical, cultural, or historic integrity of the reserve. An urban
31 growth area determination may include a reasonable land market supply
32 factor and shall permit a range of urban densities and uses. In
33 determining this market factor, cities and counties may consider
34 local circumstances. Cities and counties have discretion in their
35 comprehensive plans to make many choices about accommodating growth.

36 Within one year of July 1, 1990, each county that as of June 1,
37 1991, was required or chose to plan under RCW 36.70A.040, shall begin
38 consulting with each city located within its boundaries and each city
39 shall propose the location of an urban growth area. Within sixty days
40 of the date the county legislative authority of a county adopts its

1 resolution of intention or of certification by the office of
2 financial management, all other counties that are required or choose
3 to plan under RCW 36.70A.040 shall begin this consultation with each
4 city located within its boundaries. The county shall attempt to reach
5 agreement with each city on the location of an urban growth area
6 within which the city is located. If such an agreement is not reached
7 with each city located within the urban growth area, the county shall
8 justify in writing why it so designated the area an urban growth
9 area. A city may object formally with the department over the
10 designation of the urban growth area within which it is located.
11 Where appropriate, the department shall attempt to resolve the
12 conflicts, including the use of mediation services.

13 (3) Urban growth should be located first in areas already
14 characterized by urban growth that have adequate existing public
15 facility and service capacities to serve such development, second in
16 areas already characterized by urban growth that will be served
17 adequately by a combination of both existing public facilities and
18 services and any additional needed public facilities and services
19 that are provided by either public or private sources, and third in
20 the remaining portions of the urban growth areas. Urban growth may
21 also be located in designated new fully contained communities as
22 defined by RCW 36.70A.350.

23 (4) In general, cities are the units of local government most
24 appropriate to provide urban governmental services. In general, it is
25 not appropriate that urban governmental services be extended to or
26 expanded in rural areas except ((~~in~~)):

27 (a) In those limited circumstances shown to be necessary to
28 protect basic public health and safety and the environment and when
29 such services are financially supportable at rural densities and do
30 not permit urban development;

31 (b) To connect a landfill or solid waste disposal facility to the
32 system of sewerage that connects to a wastewater treatment plant;

33 (c) To connect to the system of sewerage if an on-site sewage
34 disposal system is at its end of life or is failing;

35 (d) To connect a property located outside of the urban growth
36 area when an existing system of sewerage is within an estimated
37 quarter mile of a property; or

38 (e) To connect a property outside of the urban growth area to an
39 existing system of sewerage that is located in the street, road,
40 highway, right-of-way, or sidewalk which is adjacent to the property.

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

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

18 (7) An urban growth area designated in accordance with this
19 section may include within its boundaries urban service areas or
20 potential annexation areas designated for specific cities or towns
21 within the county.

22 (8) If, during the county's annual review under RCW
23 36.70A.130(2)(a), the county determines revision of the urban growth
24 area is not required to accommodate the population projection for the
25 county made by the office of financial management for the succeeding
26 20-year period, but does determine that patterns of development have
27 created pressure for development in areas exceeding the amount of
28 available developable lands within the urban growth area, then the
29 county may revise the urban growth area or areas based on identified
30 patterns of development and likely future development pressure if the
31 following requirements are met:

32 (a) The revised urban growth area would not result in a net
33 increase in the total acreage or development capacity of the urban
34 growth area or areas;

35 (b) The areas added to the urban growth area are not designated
36 by the county as agricultural, forest, or mineral resource lands of
37 long-term commercial significance;

38 (c) If the areas added to the urban growth area have previously
39 been designated as agricultural, forest, or mineral resource lands of
40 long-term commercial significance, either an equivalent amount of

1 agricultural, forest, or mineral resource lands of long-term
2 commercial significance must be added to the area outside of the
3 urban growth area, or the county must wait a minimum of two years
4 before another swap may occur;

5 (d) Less than 15 percent of the areas added to the urban growth
6 area are critical areas other than critical aquifer recharge areas.
7 Critical aquifer recharge areas must have been previously designated
8 by the county and be maintained per county development regulations
9 within the expanded urban growth area and the revised urban growth
10 area must not result in a net increase in critical aquifer recharge
11 areas within the urban growth area;

12 (e) The areas added to the urban growth areas are suitable for
13 urban growth;

14 (f) The transportation element and capital facility plan element
15 of the county's comprehensive plan have identified the transportation
16 facilities and public facilities and services needed to serve the
17 urban growth area and the funding to provide the transportation
18 facilities and public facilities and services;

19 (g) The areas removed from the urban growth area are not
20 characterized by urban growth or urban densities;

21 (h) The revised urban growth area is contiguous, does not include
22 holes or gaps, and will not increase pressures to urbanize rural or
23 natural resource lands;

24 (i) The county's proposed urban growth area revision has been
25 reviewed according to the process and procedure in the countywide
26 planning policies adopted and approved according to RCW 36.70A.210;
27 and

28 (j) The revised urban growth area meets all other requirements of
29 this section.

30 (9) (a) At the earliest possible date prior to the revision of the
31 county's urban growth area authorized under subsection (8) of this
32 section, the county must engage in meaningful consultation with any
33 federally recognized Indian tribe that may be potentially affected by
34 the proposed revision. Meaningful consultation must include
35 discussion of the potential impacts to cultural resources and tribal
36 treaty rights.

37 (b) A county must notify the affected federally recognized Indian
38 tribe of the proposed revision using at least two methods, including
39 by mail. Upon receiving a notice, the federally recognized Indian
40 tribe may request a consultation to determine whether an agreement

1 can be reached related to the revision of the county's urban growth
2 area. If an agreement is not reached, the parties must enter
3 mediation pursuant to RCW 36.70A.040.

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

10 (b) Subsection (10)(a) of this section does not apply to:

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

13 (ii) Urban growth areas where expansions are precluded outside
14 floodplains because:

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

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

19 (iii) Urban growth area expansions where:

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

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

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

31 (I) The permissible use of the land is limited to one of the
32 following: Outdoor recreation; environmentally beneficial projects,
33 including but not limited to habitat enhancement or environmental
34 restoration; stormwater facilities; flood control facilities; or
35 underground conveyances; and

36 (II) The development and use of such facilities or projects will
37 not decrease flood storage, increase stormwater runoff, discharge
38 pollutants to fresh or salt waters during normal operations or
39 floods, or increase hazards to people and property.

1 (c) For the purposes of this subsection (10), "one hundred year
2 floodplain" means the same as "special flood hazard area" as set
3 forth in WAC 173-158-040 as it exists on July 26, 2009.

4 (11) If a county, city, or utility has adopted a capital facility
5 plan or utilities element to provide sewer service within the urban
6 growth areas during the twenty-year planning period, nothing in this
7 chapter obligates counties, cities, or utilities to install sanitary
8 sewer systems to properties within urban growth areas designated
9 under subsection (2) of this section by the end of the twenty-year
10 planning period when those properties:

11 (a)(i) Have existing, functioning, nonpolluting on-site sewage
12 systems;

13 (ii) Have a periodic inspection program by a public agency to
14 verify the on-site sewage systems function properly and do not
15 pollute surface or groundwater; and

16 (iii) Have no redevelopment capacity; or

17 (b) Do not require sewer service because development densities
18 are limited due to wetlands, floodplains, fish and wildlife habitats,
19 or geological hazards.

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