
SENATE BILL 5421

State of Washington

62nd Legislature

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By Senators Chase, Shin, and McAuliffe

Read first time 01/25/11. Referred to Committee on Government Operations, Tribal Relations & Elections.

1 AN ACT Relating to land use planning in qualifying unincorporated
2 portions of urban growth areas; and amending RCW 36.70A.110.

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

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

6 (1) Each county that is required or chooses to plan under RCW
7 36.70A.040 shall designate an urban growth area or areas within which
8 urban growth shall be encouraged and outside of which growth can occur
9 only if it is not urban in nature. Each city that is located in such
10 a county shall be included within an urban growth area. An urban
11 growth area may include more than a single city. An urban growth area
12 may include territory that is located outside of a city only if such
13 territory already is characterized by urban growth whether or not the
14 urban growth area includes a city, or is adjacent to territory already
15 characterized by urban growth, or is a designated new fully contained
16 community as defined by RCW 36.70A.350.

17 (2) Based upon the growth management population projection made for
18 the county by the office of financial management, the county and each
19 city within the county shall include areas and densities sufficient to

1 permit the urban growth that is projected to occur in the county or
2 city for the succeeding twenty-year period, except for those urban
3 growth areas contained totally within a national historical reserve.
4 As part of this planning process, each city within the county must
5 include areas sufficient to accommodate the broad range of needs and
6 uses that will accompany the projected urban growth including, as
7 appropriate, medical, governmental, institutional, commercial, service,
8 retail, and other nonresidential uses.

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

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

37 (3) Urban growth should be located first in areas already
38 characterized by urban growth that have adequate existing public

1 facility and service capacities to serve such development, second in
2 areas already characterized by urban growth that will be served
3 adequately by a combination of both existing public facilities and
4 services and any additional needed public facilities and services that
5 are provided by either public or private sources, and third in the
6 remaining portions of the urban growth areas. Urban growth may also be
7 located in designated new fully contained communities as defined by RCW
8 36.70A.350.

9 (4) In general, cities are the units of local government most
10 appropriate to provide urban governmental services. In general, it is
11 not appropriate that urban governmental services be extended to or
12 expanded in rural areas except in those limited circumstances shown to
13 be necessary to protect basic public health and safety and the
14 environment and when such services are financially supportable at rural
15 densities and do not permit urban development.

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

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

32 (7) An urban growth area designated in accordance with this section
33 may include within its boundaries urban service areas or potential
34 annexation areas designated for specific cities or towns within the
35 county.

36 (8)(a) Except as provided in (b) of this subsection, the expansion
37 of an urban growth area is prohibited into the one hundred year
38 floodplain of any river or river segment that: (i) Is located west of

1 the crest of the Cascade mountains; and (ii) has a mean annual flow of
2 one thousand or more cubic feet per second as determined by the
3 department of ecology.

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

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

7 (ii) Urban growth areas where expansions are precluded outside
8 floodplains because:

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

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

13 (iii) Urban growth area expansions where:

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

18 (B) Urban development already exists within a floodplain as of July
19 26, 2009, and is adjacent to, but outside of, the urban growth area,
20 and the expansion of the urban growth area is necessary to include such
21 urban development within the urban growth area; or

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

25 (I) The permissible use of the land is limited to one of the
26 following: Outdoor recreation; environmentally beneficial projects,
27 including but not limited to habitat enhancement or environmental
28 restoration; storm water facilities; flood control facilities; or
29 underground conveyances; and

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

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

37 (9)(a) Except as provided in (c) of this subsection, the maximum

1 residential density of an unincorporated portion of an urban growth
2 area may not exceed that of the immediately adjacent areas of the
3 abutting city or cities.

4 (b) Subsection (a) of this section applies only to unincorporated
5 portions of urban growth areas that:

- 6 (i) Border the Puget Sound;
- 7 (ii) Are surrounded on the landward side entirely by one or more
8 cities;
- 9 (iii) Are one or more miles from any other portion of an urban
10 growth area that is in unincorporated territory; and
- 11 (iv) Are fifty or more acres in size.

12 (c) This subsection (9) does not apply to otherwise qualifying
13 areas if the county has entered into an interlocal agreement under
14 chapter 39.34 RCW with the city or cities surrounding the urban growth
15 area that stipulates: (i) Urban governmental services will be provided
16 by the surrounding city or cities; and (ii) limitations on and
17 mitigation of transportation impacts on the roads and impacts on the
18 park facilities of the surrounding city or cities.

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