
ENGROSSED HOUSE BILL 1967

State of Washington

61st Legislature

2009 Regular Session

By Representatives White, Campbell, Nelson, Simpson, Williams, Wallace, Dunshee, Dickerson, Hunt, Ormsby, and Sullivan

Read first time 02/04/09. Referred to Committee on Local Government & Housing.

1 AN ACT Relating to prohibiting expansions of urban growth areas
2 into one hundred year floodplains; 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 2004 c 206 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 Each urban growth area shall permit urban densities and shall
5 include greenbelt and open space areas. In the case of urban growth
6 areas contained totally within a national historical reserve, the city
7 may restrict densities, intensities, and forms of urban growth as
8 determined to be necessary and appropriate to protect the physical,
9 cultural, or historic integrity of the reserve. An urban growth area
10 determination may include a reasonable land market supply factor and
11 shall permit a range of urban densities and uses. In determining this
12 market factor, cities and counties may consider local circumstances.
13 Cities and counties have discretion in their comprehensive plans to
14 make many choices about accommodating growth.

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

32 (3) Urban growth should be located first in areas already
33 characterized by urban growth that have adequate existing public
34 facility and service capacities to serve such development, second in
35 areas already characterized by urban growth that will be served
36 adequately by a combination of both existing public facilities and
37 services and any additional needed public facilities and services that
38 are provided by either public or private sources, and third in the

1 remaining portions of the urban growth areas. Urban growth may also be
2 located in designated new fully contained communities as defined by RCW
3 36.70A.350.

4 (4) In general, cities are the units of local government most
5 appropriate to provide urban governmental services. In general, it is
6 not appropriate that urban governmental services be extended to or
7 expanded in rural areas except in those limited circumstances shown to
8 be necessary to protect basic public health and safety and the
9 environment and when such services are financially supportable at rural
10 densities and do 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 chapter.
14 Within three years and three months of the date the county legislative
15 authority of a county adopts its resolution of intention or of
16 certification by the office of financial management, all other counties
17 that are required or choose to plan under RCW 36.70A.040 shall adopt
18 development regulations designating interim urban growth areas under
19 this chapter. Adoption of the interim urban growth areas may only
20 occur after public notice; public hearing; and compliance with the
21 state environmental policy act, chapter 43.21C RCW, and ((RCW
22 36.70A.110)) under this section. Such action may be appealed to the
23 appropriate growth management hearings board under RCW 36.70A.280.
24 Final urban growth areas shall be adopted at the time of comprehensive
25 plan adoption under this chapter.

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

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

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

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

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

3 (ii) Urban growth areas where expansions are precluded outside
4 floodplains because:

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

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

9 (iii) Urban growth area expansions where:

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

14 (B) Urban development already exists within a floodplain as of the
15 effective date of this section and is adjacent to, but outside of, the
16 urban growth area, and the expansion of the urban growth area is
17 necessary to include such urban development within the urban growth
18 area;

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

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

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

31 (c) For the purposes of this subsection (8), "one hundred year
32 floodplain" means the same as "special flood hazard area" as set forth
33 in WAC 173-158-040 as it exists on the effective date of this section.

--- END ---