
HOUSE BILL 2494

State of Washington 61st Legislature 2010 Regular Session

By Representatives White, Springer, Goodman, Chase, Dickerson, Carlyle, Williams, Miloscia, Nelson, Dunshee, and Darneille

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1 AN ACT Relating to the purchase or construction of public
2 facilities in one hundred year floodplains; reenacting and amending RCW
3 36.70A.110; and adding a new section to chapter 36.70A RCW.

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

5 **Sec. 1.** RCW 36.70A.110 and 2009 c 342 s 1 and 2009 c 121 s 1 are
6 each reenacted and amended to read as follows:

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

18 (2) Based upon the growth management population projection made for
19 the county by the office of financial management, the county and each

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

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

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

1 (3) Urban growth should be located first in areas already
2 characterized by urban growth that have adequate existing public
3 facility and service capacities to serve such development, second in
4 areas already characterized by urban growth that will be served
5 adequately by a combination of both existing public facilities and
6 services and any additional needed public facilities and services that
7 are provided by either public or private sources, and third in the
8 remaining portions of the urban growth areas. Urban growth may also be
9 located in designated new fully contained communities as defined by RCW
10 36.70A.350.

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

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

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

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

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

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

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

10 (ii) Urban growth areas where expansions are precluded outside
11 floodplains because: ~~((A))~~ Urban governmental services cannot be
12 physically provided to serve areas outside the floodplain; or ~~((B)~~
13 ~~Expansions outside the floodplain))~~ accessing the expansion would
14 require a river or estuary crossing ~~((to access the expansion))~~; or

15 (iii) Urban growth area expansions where:

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

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

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

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

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

36 (c) Except as provided in (b) and (d) of this subsection, the
37 purchase or construction of public facilities in a one hundred year
38 floodplain located outside of an urban growth area is prohibited.

1 (d) Nothing in this subsection (8) prohibits or may be construed as
2 prohibiting the purchase or construction of the following public
3 facilities in a one hundred year floodplain located outside of an urban
4 growth area: Roads, streets, and other transportation facilities;
5 public safety facilities; storm water facilities; flood control
6 facilities; or underground conveyances. Purchase and construction
7 activity permitted under this subsection (8)(d) may only be authorized
8 through findings and an affirmative vote of the applicable county or
9 city legislative authority.

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

13 NEW SECTION. Sec. 2. A new section is added to chapter 36.70A RCW
14 to read as follows:

15 (1) The purchase or construction of public facilities in a one
16 hundred year floodplain in an urban growth area designated under RCW
17 36.70A.110 may only be authorized through findings and an affirmative
18 vote of the applicable county or city legislative authority.

19 (2) For the purposes of this section, "one hundred year floodplain"
20 means the same as "special flood hazard area" as set forth in WAC 173-
21 158-040 as it exists on July 26, 2009.

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