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HOUSE BILL 2646

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State of Washington

54th Legislature

1996 Regular Session

By Representatives Cairnes, Hargrove, Van Luven, Crouse, Morris, Hymes, Mulliken, Elliot, Honeyford, K. Schmidt, Goldsmith, Thompson, Benton and Johnson

Read first time 01/16/96. Referred to Committee on Trade & Economic Development.

1 AN ACT Relating to buildable lands within urban growth areas; and  
2 amending RCW 36.70A.030, 36.70A.110, 36.70A.130, and 43.62.035.

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

4 **Sec. 1.** RCW 36.70A.030 and 1995 c 382 s 9 are each amended to read  
5 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 land  
10 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, hay,  
14 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) "Buildable lands" means lands in urban and urbanizable areas  
19 that are suitable and available for residential and nonresidential

1 uses. "Buildable lands" includes both vacant land and developed land  
2 likely to be redeveloped that can reasonably be expected to be on the  
3 market during the time period of the population projections provided  
4 for in RCW 36.70A.110.

5 (4) "City" means any city or town, including a code city.

6 ~~((+4))~~ (5) "Comprehensive land use plan," "comprehensive plan," or  
7 "plan" means a generalized coordinated land use policy statement of the  
8 governing body of a county or city that is adopted pursuant to this  
9 chapter.

10 ~~((+5))~~ (6) "Critical areas" include the following areas and  
11 ecosystems: (a) Wetlands; (b) areas with a critical recharging effect  
12 on aquifers used for potable water; (c) fish and wildlife habitat  
13 conservation areas; (d) frequently flooded areas; and (e) geologically  
14 hazardous areas.

15 ~~((+6))~~ (7) "Department" means the department of community, trade,  
16 and economic development.

17 ~~((+7))~~ (8) "Development regulations" means the controls placed on  
18 development or land use activities by a county or city, including, but  
19 not limited to, zoning ordinances, critical areas ordinances, shoreline  
20 master programs, official controls, planned unit development  
21 ordinances, subdivision ordinances, and binding site plan ordinances  
22 together with any amendments thereto. A development regulation does  
23 not include a decision to approve a project permit application, as  
24 defined in RCW 36.70B.020, even though the decision may be expressed in  
25 a resolution or ordinance of the legislative body of the county or  
26 city.

27 ~~((+8))~~ (9) "Forest land" means land primarily devoted to growing  
28 trees for long-term commercial timber production on land that can be  
29 economically and practically managed for such production, including  
30 Christmas trees subject to the excise tax imposed under RCW 84.33.100  
31 through 84.33.140, and that has long-term commercial significance. In  
32 determining whether forest land is primarily devoted to growing trees  
33 for long-term commercial timber production on land that can be  
34 economically and practically managed for such production, the following  
35 factors shall be considered: (a) The proximity of the land to urban,  
36 suburban, and rural settlements; (b) surrounding parcel size and the  
37 compatibility and intensity of adjacent and nearby land uses; (c) long-  
38 term local economic conditions that affect the ability to manage for

1 timber production; and (d) the availability of public facilities and  
2 services conducive to conversion of forest land to other uses.

3 ~~((9))~~ (10) "Geologically hazardous areas" means areas that  
4 because of their susceptibility to erosion, sliding, earthquake, or  
5 other geological events, are not suited to the siting of commercial,  
6 residential, or industrial development consistent with public health or  
7 safety concerns.

8 ~~((10))~~ (11) "Long-term commercial significance" includes the  
9 growing capacity, productivity, and soil composition of the land for  
10 long-term commercial production, in consideration with the land's  
11 proximity to population areas, and the possibility of more intense  
12 uses of the land.

13 ~~((11))~~ (12) "Minerals" include gravel, sand, and valuable  
14 metallic substances.

15 ~~((12))~~ (13) "Public facilities" include streets, roads, highways,  
16 sidewalks, street and road lighting systems, traffic signals, domestic  
17 water systems, storm and sanitary sewer systems, parks and recreational  
18 facilities, and schools.

19 ~~((13))~~ (14) "Public services" include fire protection and  
20 suppression, law enforcement, public health, education, recreation,  
21 environmental protection, and other governmental services.

22 ~~((14))~~ (15) "Urban growth" refers to growth that makes intensive  
23 use of land for the location of buildings, structures, and impermeable  
24 surfaces to such a degree as to be incompatible with the primary use of  
25 such land for the production of food, other agricultural products, or  
26 fiber, or the extraction of mineral resources. When allowed to spread  
27 over wide areas, urban growth typically requires urban governmental  
28 services. "Characterized by urban growth" refers to land having urban  
29 growth located on it, or to land located in relationship to an area  
30 with urban growth on it as to be appropriate for urban growth.

31 ~~((15))~~ (16) "Urban growth areas" means those areas designated by  
32 a county pursuant to RCW 36.70A.110.

33 ~~((16))~~ (17) "Urban governmental services" include those  
34 governmental services historically and typically delivered by cities,  
35 and include storm and sanitary sewer systems, domestic water systems,  
36 street cleaning services, fire and police protection services, public  
37 transit services, and other public utilities associated with urban  
38 areas and normally not associated with nonurban areas.

1       (~~(17)~~) (18) "Wetland" or "wetlands" means areas that are  
2 inundated or saturated by surface water or ground water at a frequency  
3 and duration sufficient to support, and that under normal circumstances  
4 do support, a prevalence of vegetation typically adapted for life in  
5 saturated soil conditions. Wetlands generally include swamps, marshes,  
6 bogs, and similar areas. Wetlands do not include those artificial  
7 wetlands intentionally created from nonwetland sites, including, but  
8 not limited to, irrigation and drainage ditches, grass-lined swales,  
9 canals, detention facilities, wastewater treatment facilities, farm  
10 ponds, and landscape amenities, or those wetlands created after July 1,  
11 1990, that were unintentionally created as a result of the construction  
12 of a road, street, or highway. Wetlands may include those artificial  
13 wetlands intentionally created from nonwetland areas created to  
14 mitigate conversion of wetlands.

15       **Sec. 2.** RCW 36.70A.110 and 1995 c 400 s 2 are each amended to read  
16 as follows:

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

28       (2) Based upon the growth management population projection made for  
29 the county by the office of financial management, the urban growth  
30 areas in the county shall provide sufficient buildable lands and  
31 include areas and densities sufficient to permit the urban growth that  
32 is projected to occur in the county for the succeeding twenty-year  
33 period. Each urban growth area shall permit urban densities and shall  
34 include greenbelt and open space areas. An urban growth area  
35 determination may include a reasonable land market supply factor and  
36 shall permit a range of urban densities and uses. In determining this  
37 market factor, cities and counties may consider local circumstances.

1 Cities and counties have discretion in their comprehensive plans to  
2 make many choices about accommodating growth.

3       Within one year of July 1, 1990, each county that as of June 1,  
4 1991, was required or chose to plan under RCW 36.70A.040, shall begin  
5 consulting with each city located within its boundaries and each city  
6 shall propose the location of an urban growth area. Within sixty days  
7 of the date the county legislative authority of a county adopts its  
8 resolution of intention or of certification by the office of financial  
9 management, all other counties that are required or choose to plan  
10 under RCW 36.70A.040 shall begin this consultation with each city  
11 located within its boundaries. The county shall attempt to reach  
12 agreement with each city on the location of an urban growth area within  
13 which the city is located. If such an agreement is not reached with  
14 each city located within the urban growth area, the county shall  
15 justify in writing why it so designated the area an urban growth area.  
16 A city may object formally with the department over the designation of  
17 the urban growth area within which it is located. Where appropriate,  
18 the department shall attempt to resolve the conflicts, including the  
19 use of mediation services.

20       (3) Urban growth should be located first in areas already  
21 characterized by urban growth that have adequate existing public  
22 facility and service capacities to serve such development, second in  
23 areas already characterized by urban growth that will be served  
24 adequately by a combination of both existing public facilities and  
25 services and any additional needed public facilities and services that  
26 are provided by either public or private sources, and third in the  
27 remaining portions of the urban growth areas. Urban growth may also be  
28 located in designated new fully contained communities as defined by RCW  
29 36.70A.350.

30       (4) In general, cities are the units of local government most  
31 appropriate to provide urban governmental services. In general, it is  
32 not appropriate that urban governmental services be extended to or  
33 expanded in rural areas except in those limited circumstances shown to  
34 be necessary to protect basic public health and safety and the  
35 environment and when such services are financially supportable at rural  
36 densities and do not permit urban development.

37       (5) On or before October 1, 1993, each county that was initially  
38 required to plan under RCW 36.70A.040(1) shall adopt development  
39 regulations designating interim urban growth areas under this chapter.

1 Within three years and three months of the date the county legislative  
2 authority of a county adopts its resolution of intention or of  
3 certification by the office of financial management, all other counties  
4 that are required or choose to plan under RCW 36.70A.040 shall adopt  
5 development regulations designating interim urban growth areas under  
6 this chapter. Adoption of the interim urban growth areas may only  
7 occur after public notice; public hearing; and compliance with the  
8 state environmental policy act, chapter 43.21C RCW, and RCW 36.70A.110.  
9 Such action may be appealed to the appropriate growth management  
10 hearings board under RCW 36.70A.280. Final urban growth areas shall be  
11 adopted at the time of comprehensive plan adoption under this chapter.

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

14 (7)(a) Upon periodic review under RCW 36.70A.130 or any other  
15 legislative review of an urban growth area a comprehensive plan shall  
16 provide sufficient buildable lands within the urban growth areas  
17 established pursuant to this section to accommodate estimated needs  
18 including a variety of housing types and densities for twenty years.

19 (b) As part of its next periodic review under RCW 36.70A.130 or any  
20 other legislative review of the urban growth area, a county shall:

21 (i) Inventory the supply of buildable lands within the urban growth  
22 area;

23 (ii) Determine the actual density and the actual average mix of  
24 housing types of residential development that have occurred within the  
25 urban growth area since the last periodic review or five years,  
26 whichever is greater; and

27 (iii) Conduct an analysis of housing need by type and density range  
28 to determine the amount of land needed for each needed housing type for  
29 the next twenty years.

30 (c) If the determination required by (b) of this subsection  
31 indicates that the urban growth area does not contain sufficient  
32 buildable lands to accommodate housing needs for twenty years at the  
33 actual developed density that has occurred since the last periodic  
34 review, the county shall take one of the following actions:

35 (i) Amend its urban growth area to include sufficient buildable  
36 lands to accommodate housing needs for twenty years at the actual  
37 developed density during the period since the last periodic review or  
38 within the last five years, whichever is greater. As part of this

1 process, the amendment shall include sufficient land reasonably  
2 necessary to accommodate the siting of new public school facilities;  
3 (ii) Amend its comprehensive plan or development regulations to  
4 include new, incentive-based measures that demonstrably increase the  
5 likelihood that residential development will occur at densities  
6 sufficient to accommodate housing needs for twenty years without  
7 expansion of the urban growth area. A county that takes this action  
8 shall monitor and record the level of development activity and  
9 development density by housing type following the date of the adoption  
10 of the new measures; or  
11 (iii) Adopt a combination of the actions described in (c)(i) and  
12 (ii) of this subsection.  
13 (d) Using the analysis conducted under (b)(iii) of this subsection,  
14 the county shall determine the overall average density and overall mix  
15 of housing types at which residential development of needed housing  
16 types must occur in order to meet housing needs at a reasonable cost  
17 over the next twenty years. If that density is greater than the actual  
18 density of development determined under (b)(ii) of this subsection, or  
19 if that mix is different from the actual mix of housing types  
20 determined under (b)(ii) of this subsection, the county, as part of its  
21 periodic review, shall adopt development regulations that demonstrably  
22 increase the likelihood that residential development will occur at the  
23 housing types and density and at the mix of housing types required to  
24 meet housing needs over the next twenty years.  
25 (e) A county that takes any actions under (c) or (d) of this  
26 subsection shall demonstrate that the comprehensive plan and  
27 development regulations comply with goals and rules adopted under this  
28 chapter.  
29 (f) In establishing that actions and measures adopted under (c) and  
30 (d) of this subsection demonstrably increase the likelihood of higher  
31 density residential development, the county shall at a minimum ensure  
32 that land zoned for needed housing is in locations appropriate for the  
33 housing types identified under (b) of this subsection and is zoned at  
34 density ranges that are likely to be achieved by the housing market  
35 using the analysis in (b) of this subsection. Actions or incentive-  
36 based measures, or both, shall be adopted as part of development  
37 regulations and be available to all applicable properties within the  
38 zone, shall not be negotiated on a case-by-case basis, and may include  
39 but are not limited to:

1        (i) Financial incentives for higher density housing;  
2        (ii) Removal or easing of approval standards or procedures;  
3        (iii) Minimum density ranges;  
4        (iv) Redevelopment and infill strategies; and  
5        (v) Authorization of housing types not previously allowed by the  
6 plan or regulations.

7        **Sec. 3.** RCW 36.70A.130 and 1995 c 347 s 106 are each amended to  
8 read as follows:

9        (1) Each comprehensive land use plan and development regulations  
10 shall be subject to continuing evaluation and review by the county or  
11 city that adopted them.

12        Any amendment or revision to a comprehensive land use plan shall  
13 conform to this chapter, and any change to development regulations  
14 shall be consistent with and implement the comprehensive plan.

15        (2)(a) Each county and city shall establish and broadly disseminate  
16 to the public a public participation program identifying procedures  
17 whereby proposed amendments or revisions of the comprehensive plan are  
18 considered by the governing body of the county or city no more  
19 frequently than once every year except that amendments may be  
20 considered more frequently under the following circumstances:

21        (i) The initial adoption of a subarea plan; and

22        (ii) The adoption or amendment of a shoreline master program under  
23 the procedures set forth in chapter 90.58 RCW.

24        (b) All proposals shall be considered by the governing body  
25 concurrently so the cumulative effect of the various proposals can be  
26 ascertained. However, after appropriate public participation a county  
27 or city may adopt amendments or revisions to its comprehensive plan  
28 that conform with this chapter whenever an emergency exists or to  
29 resolve an appeal of a comprehensive plan filed with a growth  
30 management hearings board or with the court.

31        (3) Each county that designates urban growth areas under RCW  
32 36.70A.110 shall review, at least every (~~ten~~) five years, its  
33 designated urban growth area or areas, whether there are sufficient  
34 buildable lands, and the densities permitted within both the  
35 incorporated and unincorporated portions of each urban growth area. In  
36 conjunction with this review by the county, each city located within an  
37 urban growth area shall review the buildable lands and densities  
38 permitted within its boundaries, and the extent to which the urban



1 growth occurring within the county has located within each city and the  
2 unincorporated portions of the urban growth areas. The county  
3 comprehensive plan designating urban growth areas, and the buildable  
4 lands and densities permitted in the urban growth areas by the  
5 comprehensive plans of the county and each city located within the  
6 urban growth areas, shall be revised to accommodate the urban growth  
7 projected to occur in the county for the succeeding twenty-year period.

8 **Sec. 4.** RCW 43.62.035 and 1995 c 162 s 1 are each amended to read  
9 as follows:

10 The office of financial management shall determine the population  
11 of each county of the state annually as of April 1st of each year and  
12 on or before July 1st of each year shall file a certificate with the  
13 secretary of state showing its determination of the population for each  
14 county. The office of financial management also shall determine the  
15 percentage increase in population for each county over the preceding  
16 ten-year period, as of April 1st, and shall file a certificate with the  
17 secretary of state by July 1st showing its determination. At least  
18 once every (~~ten~~) five years the office of financial management shall  
19 prepare twenty-year growth management planning population projections  
20 required by RCW 36.70A.110 for each county that adopts a comprehensive  
21 plan under RCW 36.70A.040 and shall review these projections with such  
22 counties and the cities in those counties before final adoption. The  
23 county and its cities may provide to the office such information as  
24 they deem relevant to the office's projection, and the office shall  
25 consider and comment on such information before adoption. Each  
26 projection shall be expressed as a reasonable range developed within  
27 the standard state high and low projection. The middle range shall  
28 represent the office's estimate of the most likely population  
29 projection for the county. If any city or county believes that a  
30 projection will not accurately reflect actual population growth in a  
31 county, it may petition the office to revise the projection  
32 accordingly. The office shall complete the first set of ranges for  
33 every county by December 31, 1995.

34 A comprehensive plan adopted or amended before December 31, 1995,  
35 shall not be considered to be in noncompliance with the twenty-year  
36 growth management planning population projection if the projection used

1 in the comprehensive plan is in compliance with the range later adopted  
2 under this section.

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