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**SUBSTITUTE SENATE BILL 5070**

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**State of Washington**

**55th Legislature**

**1997 Regular Session**

**By** Senate Committee on Government Operations (originally sponsored by Senators Haugen and McCaslin)

Read first time 02/17/97.

1 AN ACT Relating to development regulations for reasonable use  
2 exceptions; amending RCW 36.70B.080 and 36.70B.080; adding a new  
3 section to chapter 35.22 RCW; adding a new section to chapter 35.63  
4 RCW; adding a new section to chapter 35A.63 RCW; adding a new section  
5 to chapter 36.70 RCW; creating a new section; providing an effective  
6 date; and providing an expiration date.

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

8 **Sec. 1.** RCW 36.70B.080 and 1995 c 347 s 409 are each amended to  
9 read as follows:

10 (1) Development regulations adopted pursuant to RCW 36.70A.040  
11 shall establish time periods consistent with RCW 36.70B.090 for local  
12 government actions on specific project permit applications and provide  
13 timely and predictable procedures to determine whether a completed  
14 project permit application meets the requirements of those development  
15 regulations. Such development regulations shall specify the contents  
16 of a completed project permit application necessary for the application  
17 of such time periods and procedures.

18 (2) Development regulations adopted under RCW 36.70A.040 for the  
19 protection of critical areas and agricultural, forest, and mineral

1 resource lands shall provide for the use of a reasonable use exception  
2 that is substantially in accordance with this subsection.

3 (a) A reasonable use exception is intended as a tool for use in the  
4 discretion of the permitting authority to address those cases in which  
5 the application of development regulations unreasonably and  
6 substantially restricts economic use of a parcel of land and the  
7 restriction cannot be remedied by other authorized techniques or  
8 conditions.

9 (b) A reasonable use exception for a specific use of a parcel may  
10 be granted only under the following circumstances:

11 (i) The inability to derive reasonable economic use is not the  
12 result of the applicant's action;

13 (ii) The use sought will pose no threat to the public safety and  
14 health; and

15 (iii) There is no other reasonable use of the land that would have  
16 a lesser impact than the use for which the permit is sought.

17 (c) The relief granted by a reasonable use exception shall be the  
18 minimum necessary to permit the reasonable use of the parcel and to  
19 ensure that the interests promoted by the development regulations are  
20 not harmed.

21 **Sec. 2.** RCW 36.70B.080 and 1995 c 347 s 410 are each amended to  
22 read as follows:

23 (1) Development regulations adopted pursuant to RCW 36.70A.040  
24 shall establish time periods for local government actions on specific  
25 project permit applications and provide timely and predictable  
26 procedures to determine whether a completed project permit application  
27 meets the requirements of those development regulations. Such  
28 development regulations shall specify the contents of a completed  
29 project permit application necessary for the application of such time  
30 periods and procedures.

31 (2) Development regulations adopted under RCW 36.70A.040 for the  
32 protection of critical areas and agricultural, forest, and mineral  
33 resource lands shall provide for the use of a reasonable use exception  
34 that is substantially in accordance with this subsection.

35 (a) A reasonable use exception is intended as a tool for use in the  
36 discretion of the permitting authority to address those cases in which  
37 the application of development regulations unreasonably and  
38 substantially restricts economic use of a parcel of land and the

1 restriction cannot be remedied by other authorized techniques or  
2 conditions.

3 (b) A reasonable use exception for a specific use of a parcel may  
4 be granted only under the following circumstances:

5 (i) The inability to derive reasonable economic use is not the  
6 result of the applicant's action;

7 (ii) The use sought will pose no threat to the public safety and  
8 health; and

9 (iii) There is no other reasonable use of the land that would have  
10 a lesser impact than the use for which the permit is sought.

11 (c) The relief granted by a reasonable use exception shall be the  
12 minimum necessary to permit the reasonable use of the parcel and to  
13 ensure that the interests promoted by the development regulations are  
14 not harmed.

15 NEW SECTION. Sec. 3. A new section is added to chapter 35.22 RCW  
16 to read as follows:

17 (1) In jurisdictions planning under this chapter that have adopted  
18 regulations for the protection of critical areas under RCW  
19 36.70A.060(2), those regulations shall provide for the use of a  
20 reasonable use exception that is substantially in accordance with this  
21 section.

22 (2) A reasonable use exception is intended as a tool for use in the  
23 discretion of the permitting authority to address those cases in which  
24 the application of development regulations unreasonably and  
25 substantially restricts economic use of a parcel of land and the  
26 restriction cannot be remedied by other authorized techniques or  
27 conditions.

28 (3) A reasonable use exception for a specific use of a parcel may  
29 be granted only under the following circumstances:

30 (a) The inability to derive reasonable economic use is not the  
31 result of the applicant's action;

32 (b) The use sought will pose no threat to the public safety and  
33 health; and

34 (c) There is no other reasonable use of the land that would have  
35 a lesser impact than the use for which the permit is sought.

36 (4) The relief granted by a reasonable use exception shall be the  
37 minimum necessary to permit the reasonable use of the parcel and to

1 ensure that the interests promoted by the development regulations are  
2 not harmed.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 35.63 RCW  
4 to read as follows:

5 (1) In jurisdictions planning under this chapter that have adopted  
6 regulations for the protection of critical areas under RCW  
7 36.70A.060(2), those regulations shall provide for the use of a  
8 reasonable use exception that is substantially in accordance with this  
9 section.

10 (2) A reasonable use exception is intended as a tool for use in the  
11 discretion of the permitting authority to address those cases in which  
12 the application of development regulations unreasonably and  
13 substantially restricts economic use of a parcel of land and the  
14 restriction cannot be remedied by other authorized techniques or  
15 conditions.

16 (3) A reasonable use exception for a specific use of a parcel may  
17 be granted only under the following circumstances:

18 (a) The inability to derive reasonable economic use is not the  
19 result of the applicant's action;

20 (b) The use sought will pose no threat to the public safety and  
21 health; and

22 (c) There is no other reasonable use of the land that would have  
23 a lesser impact than the use for which the permit is sought.

24 (4) The relief granted by a reasonable use exception shall be the  
25 minimum necessary to permit the reasonable use of the parcel and to  
26 ensure that the interests promoted by the development regulations are  
27 not harmed.

28 NEW SECTION. **Sec. 5.** A new section is added to chapter 35A.63 RCW  
29 to read as follows:

30 (1) In jurisdictions planning under this chapter that have adopted  
31 regulations for the protection of critical areas under RCW  
32 36.70A.060(2), those regulations shall provide for the use of a  
33 reasonable use exception that is substantially in accordance with this  
34 section.

35 (2) A reasonable use exception is intended as a tool for use in the  
36 discretion of the permitting authority to address those cases in which  
37 the application of development regulations unreasonably and

1 substantially restricts economic use of a parcel of land and the  
2 restriction cannot be remedied by other authorized techniques or  
3 conditions.

4 (3) A reasonable use exception for a specific use of a parcel may  
5 be granted only under the following circumstances:

6 (a) The inability to derive reasonable economic use is not the  
7 result of the applicant's action;

8 (b) The use sought will pose no threat to the public safety and  
9 health; and

10 (c) There is no other reasonable use of the land that would have  
11 a lesser impact than the use for which the permit is sought.

12 (4) The relief granted by a reasonable use exception shall be the  
13 minimum necessary to permit the reasonable use of the parcel and to  
14 ensure that the interests promoted by the development regulations are  
15 not harmed.

16 NEW SECTION. **Sec. 6.** A new section is added to chapter 36.70 RCW  
17 to read as follows:

18 (1) In jurisdictions planning under this chapter that have adopted  
19 regulations for the protection of critical areas under RCW  
20 36.70A.060(2), those regulations shall provide for the use of a  
21 reasonable use exception that is substantially in accordance with this  
22 section.

23 (2) A reasonable use exception is intended as a tool for use in the  
24 discretion of the permitting authority to address those cases in which  
25 the application of development regulations unreasonably and  
26 substantially restricts economic use of a parcel of land and the  
27 restriction cannot be remedied by other authorized techniques or  
28 conditions.

29 (3) A reasonable use exception for a specific use of a parcel may  
30 be granted only under the following circumstances:

31 (a) The inability to derive reasonable economic use is not the  
32 result of the applicant's action;

33 (b) The use sought will pose no threat to the public safety and  
34 health; and

35 (c) There is no other reasonable use of the land that would have  
36 a lesser impact than the use for which the permit is sought.

37 (4) The relief granted by a reasonable use exception shall be the  
38 minimum necessary to permit the reasonable use of the parcel and to

1 ensure that the interests promoted by the development regulations are  
2 not harmed.

3 NEW SECTION. **Sec. 7.** Development regulations providing for a  
4 reasonable use exception under this act shall be adopted by the  
5 appropriate county or city no later than January 1, 1998.

6 NEW SECTION. **Sec. 8.** Section 1 of this act expires July 1, 1998.

7 NEW SECTION. **Sec. 9.** Section 2 of this act takes effect July 1,  
8 1998.

9 NEW SECTION. **Sec. 10.** If any provision of this act or its  
10 application to any person or circumstance is held invalid, the  
11 remainder of the act or the application of the provision to other  
12 persons or circumstances is not affected.

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