
SENATE BILL 6168

State of Washington

64th Legislature

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By Senators Angel, Becker, Warnick, and Benton

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1 AN ACT Relating to removing drainage ditches from the definition
2 of fish and wildlife habitat conservation areas in chapter 36.70A
3 RCW; and amending RCW 36.70A.030.

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

5 **Sec. 1.** RCW 36.70A.030 and 2012 c 21 s 1 are each amended to
6 read as follows:

7 ((Unless the context clearly requires otherwise,)) The
8 definitions in this section apply throughout this chapter unless the
9 context clearly requires otherwise.

10 (1) "Adopt a comprehensive land use plan" means to enact a new
11 comprehensive land use plan or to update an existing comprehensive
12 land use plan.

13 (2) "Agricultural land" means land primarily devoted to the
14 commercial production of horticultural, viticultural, floricultural,
15 dairy, apiary, vegetable, or animal products or of berries, grain,
16 hay, straw, turf, seed, Christmas trees not subject to the excise tax
17 imposed by RCW 84.33.100 through 84.33.140, finfish in upland
18 hatcheries, or livestock, and that has long-term commercial
19 significance for agricultural production.

20 (3) "City" means any city or town, including a code city.

1 (4) "Comprehensive land use plan," "comprehensive plan," or
2 "plan" means a generalized coordinated land use policy statement of
3 the governing body of a county or city that is adopted pursuant to
4 this chapter.

5 (5) "Critical areas" include the following areas and ecosystems:
6 (a) Wetlands; (b) areas with a critical recharging effect on aquifers
7 used for potable water; (c) fish and wildlife habitat conservation
8 areas; (d) frequently flooded areas; and (e) geologically hazardous
9 areas. "Fish and wildlife habitat conservation areas" does not
10 include such artificial features or constructs as irrigation delivery
11 systems, irrigation infrastructure, irrigation canals, or drainage
12 ditches (~~that lie within the boundaries of and are maintained by a~~
13 ~~port district or an irrigation district or company~~)).

14 (6) "Department" means the department of commerce.

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

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

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

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

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

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

17 (13) "Public services" include fire protection and suppression,
18 law enforcement, public health, education, recreation, environmental
19 protection, and other governmental services.

20 (14) "Recreational land" means land so designated under RCW
21 36.70A.1701 and that, immediately prior to this designation, was
22 designated as agricultural land of long-term commercial significance
23 under RCW 36.70A.170. Recreational land must have playing fields and
24 supporting facilities existing before July 1, 2004, for sports played
25 on grass playing fields.

26 (15) "Rural character" refers to the patterns of land use and
27 development established by a county in the rural element of its
28 comprehensive plan:

29 (a) In which open space, the natural landscape, and vegetation
30 predominate over the built environment;

31 (b) That foster traditional rural lifestyles, rural-based
32 economies, and opportunities to both live and work in rural areas;

33 (c) That provide visual landscapes that are traditionally found
34 in rural areas and communities;

35 (d) That are compatible with the use of the land by wildlife and
36 for fish and wildlife habitat;

37 (e) That reduce the inappropriate conversion of undeveloped land
38 into sprawling, low-density development;

39 (f) That generally do not require the extension of urban
40 governmental services; and

1 (g) That are consistent with the protection of natural surface
2 water flows and groundwater and surface water recharge and discharge
3 areas.

4 (16) "Rural development" refers to development outside the urban
5 growth area and outside agricultural, forest, and mineral resource
6 lands designated pursuant to RCW 36.70A.170. Rural development can
7 consist of a variety of uses and residential densities, including
8 clustered residential development, at levels that are consistent with
9 the preservation of rural character and the requirements of the rural
10 element. Rural development does not refer to agriculture or forestry
11 activities that may be conducted in rural areas.

12 (17) "Rural governmental services" or "rural services" include
13 those public services and public facilities historically and
14 typically delivered at an intensity usually found in rural areas, and
15 may include domestic water systems, fire and police protection
16 services, transportation and public transit services, and other
17 public utilities associated with rural development and normally not
18 associated with urban areas. Rural services do not include storm or
19 sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

20 (18) "Urban governmental services" or "urban services" include
21 those public services and public facilities at an intensity
22 historically and typically provided in cities, specifically including
23 storm and sanitary sewer systems, domestic water systems, street
24 cleaning services, fire and police protection services, public
25 transit services, and other public utilities associated with urban
26 areas and normally not associated with rural areas.

27 (19) "Urban growth" refers to growth that makes intensive use of
28 land for the location of buildings, structures, and impermeable
29 surfaces to such a degree as to be incompatible with the primary use
30 of land for the production of food, other agricultural products, or
31 fiber, or the extraction of mineral resources, rural uses, rural
32 development, and natural resource lands designated pursuant to RCW
33 36.70A.170. A pattern of more intensive rural development, as
34 provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed
35 to spread over wide areas, urban growth typically requires urban
36 governmental services. "Characterized by urban growth" refers to land
37 having urban growth located on it, or to land located in relationship
38 to an area with urban growth on it as to be appropriate for urban
39 growth.

1 (20) "Urban growth areas" means those areas designated by a
2 county pursuant to RCW 36.70A.110.

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

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