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**SENATE BILL 5026**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Honeyford and Fortunato

Prefiled 01/04/19. Read first time 01/14/19. Referred to Committee on Local Government.

1 AN ACT Relating to the placement of planning boundaries in  
2 conjunction with parcel boundaries; 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 2017 c 305 s 1 are each amended to  
5 read 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  
9 occur only if it is not urban in nature. Each city that is located in  
10 such 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  
15 already characterized by urban growth, or is a designated new fully  
16 contained community as defined by RCW 36.70A.350.

17 (2) Based upon the growth management population projection made  
18 for the county by the office of financial management, the county and  
19 each city within the county shall include areas and densities  
20 sufficient to permit the urban growth that is projected to occur in  
21 the county or city for the succeeding twenty-year period, except for

1 those urban growth areas contained totally within a national  
2 historical reserve. As part of this planning process, each city  
3 within the county must include areas sufficient to accommodate the  
4 broad range of needs and uses that will accompany the projected urban  
5 growth including, as appropriate, medical, governmental,  
6 institutional, commercial, service, retail, and other nonresidential  
7 uses.

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

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

36 (3) Urban growth should be located first in areas already  
37 characterized by urban growth that have adequate existing public  
38 facility and service capacities to serve such development, second in  
39 areas already characterized by urban growth that will be served  
40 adequately by a combination of both existing public facilities and

1 services and any additional needed public facilities and services  
2 that are provided by either public or private sources, and third in  
3 the remaining portions of the urban growth areas. Urban growth may  
4 also be located in designated new fully contained communities as  
5 defined by RCW 36.70A.350.

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

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

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

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

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

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

1 (i) Urban growth areas that are fully contained within a  
2 floodplain 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; or

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

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

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

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

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

33 (9) If a county, city, or utility has adopted a capital facility  
34 plan or utilities element to provide sewer service within the urban  
35 growth areas during the twenty-year planning period, nothing in this  
36 chapter obligates counties, cities, or utilities to install sanitary  
37 sewer systems to properties within urban growth areas designated  
38 under subsection (2) of this section by the end of the twenty-year  
39 planning period when those properties:

1 (a)(i) Have existing, functioning, nonpolluting on-site sewage  
2 systems;

3 (ii) Have a periodic inspection program by a public agency to  
4 verify the on-site sewage systems function properly and do not  
5 pollute surface or groundwater; and

6 (iii) Have no redevelopment capacity; or

7 (b) Do not require sewer service because development densities  
8 are limited due to wetlands, flood plains, fish and wildlife  
9 habitats, or geological hazards.

10 (10) Urban growth area boundaries shall follow existing parcel  
11 boundary lines and reasonable efforts should be made to avoid  
12 unnecessary divisions. Any changes required by this subsection shall  
13 be made as part of the next comprehensive plan periodic update and  
14 shall not result in a finding of noncompliance before that time.

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