
SUBSTITUTE SENATE BILL 5070

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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