
HOUSE BILL 2962

State of Washington

52nd Legislature

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By Representative Nelson

Read first time 02/05/92. Referred to Committee on Housing.

1 AN ACT Relating to housing; amending RCW 36.70A.030, 36.70A.020,
2 36.70A.070, 35.21.685, 36.32.415, and 82.02.050; adding a new section
3 to chapter 36.70A RCW; and adding a new section to chapter 8.26 RCW.

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

5 **Sec. 1.** RCW 36.70A.030 and 1990 1st ex.s. c 17 s 3 are each
6 amended to read as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

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

12 (2) "Affordable housing" has the same meaning as in section 103,
13 chapter ---, Laws of 1992 (HB 2484).

1 (3) "Agricultural land" means land primarily devoted to the
2 commercial production of horticultural, viticultural, floricultural,
3 dairy, apiary, vegetable, or animal products or of berries, grain, hay,
4 straw, turf, seed, Christmas trees not subject to the excise tax
5 imposed by RCW 84.33.100 through 84.33.140, or livestock, and that has
6 long-term commercial significance for agricultural production.

7 ~~((+3))~~ (4) "City" means any city or town, including a code city.

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

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

17 ~~((+6))~~ (7) "Department" means the department of community
18 development.

19 ~~((+7))~~ (8) "Development regulations" means any controls placed on
20 development or land use activities by a county or city, including, but
21 not limited to, zoning ordinances, official controls, planned unit
22 development ordinances, subdivision ordinances, and binding site plan
23 ordinances.

24 ~~((+8))~~ (9) "Fair share housing" means housing of various types and
25 densities located within a city or county that is affordable and
26 available to very low-income and low-income households, as defined in
27 section 103, chapter ---, Laws of 1992 (HB 2484), and persons with
28 special needs, to address the county or regional need.

29 (10) "Forest land" means land primarily useful for growing trees,
30 including Christmas trees subject to the excise tax imposed under RCW

1 84.33.100 through 84.33.140, for commercial purposes, and that has
2 long-term commercial significance for growing trees commercially.

3 ~~((9))~~ (11) "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))~~ (12) "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 uses
12 of the land.

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

15 ~~((12))~~ (14) "New fully contained community" means a comprehensive
16 development providing for a mixture of land uses which includes the
17 following: (a) A mix of jobs, housing, and public facilities needed
18 for a self-contained community including a fair share of affordable
19 housing, as defined in section 103, chapter ---, Laws of 1992 (HB
20 2484); (b) preservation of open spaces within and around the community;
21 (c) an internal and external transportation system supportive of
22 pedestrian access and public transit; (d) the new infrastructure needed
23 to serve the proposed community; and (e) the mitigation of off-site
24 impacts.

25 (15) "Public facilities" include streets, roads, highways,
26 sidewalks, street and road lighting systems, traffic signals, domestic
27 water systems, storm and sanitary sewer systems, parks and recreational
28 facilities, and schools.

1 (~~(13)~~) (16) "Public services" include fire protection and
2 suppression, law enforcement, public health, education, recreation,
3 environmental protection, and other governmental services.

4 (~~(14)~~) (17) "Urban growth" refers to growth that makes intensive
5 use of land for the location of buildings, structures, and impermeable
6 surfaces to such a degree as to be incompatible with the primary use of
7 such land for the production of food, other agricultural products, or
8 fiber, or the extraction of mineral resources. When allowed to spread
9 over wide areas, urban growth typically requires urban governmental
10 services. "Characterized by urban growth" refers to land having urban
11 growth located on it, or to land located in relationship to an area
12 with urban growth on it as to be appropriate for urban growth.

13 (~~(15)~~) (18) "Urban growth areas" means those areas designated by
14 a county pursuant to RCW 36.70A.110.

15 (~~(16)~~) (19) "Urban governmental services" include those
16 governmental services historically and typically delivered by cities,
17 and include storm and sanitary sewer systems, domestic water systems,
18 street cleaning services, fire and police protection services, public
19 transit services, and other public utilities associated with urban
20 areas and normally not associated with nonurban areas.

21 (~~(17)~~) (20) "Wetland" or "wetlands" means areas that are
22 inundated or saturated by surface water or ground water at a frequency
23 and duration sufficient to support, and that under normal circumstances
24 do support, a prevalence of vegetation typically adapted for life in
25 saturated soil conditions. Wetlands generally include swamps, marshes,
26 bogs, and similar areas. Wetlands do not include those artificial
27 wetlands intentionally created from nonwetland sites, including, but
28 not limited to, irrigation and drainage ditches, grass-lined swales,
29 canals, detention facilities, wastewater treatment facilities, farm
30 ponds, and landscape amenities. However, wetlands may include those

1 artificial wetlands intentionally created from nonwetland areas created
2 to mitigate conversion of wetlands, if permitted by the county or city.

3 **Sec. 2.** RCW 36.70A.020 and 1990 1st ex.s. c 17 s 2 are each
4 amended to read as follows:

5 The following goals are adopted to guide the development and
6 adoption of comprehensive plans and development regulations of those
7 counties and cities that are required or choose to plan under RCW
8 36.70A.040. The following goals are not listed in order of priority
9 and shall be used ~~((exclusively))~~ for the purpose of guiding the
10 development of comprehensive plans and development regulations:

11 (1) Urban growth. Encourage development in urban areas where
12 adequate public facilities and services exist or can be provided in an
13 efficient manner.

14 (2) Reduce sprawl. Reduce the inappropriate conversion of
15 undeveloped land into sprawling, low-density development.

16 (3) Transportation. Encourage efficient multimodal transportation
17 systems that are based on regional priorities and coordinated with
18 county and city comprehensive plans.

19 (4) Housing. Encourage ~~((the availability of affordable))~~ housing
20 ~~((to))~~ for all economic segments of the population of this state,
21 participate in making available a fair share of affordable housing,
22 including affordable housing for people with special needs, promote a
23 variety of residential densities and housing types, ~~((and))~~ encourage
24 preservation of existing housing stock, and assure that housing
25 complies with applicable federal, state, and local health and safety
26 laws.

27 (5) Economic development. Encourage economic development
28 throughout the state that is consistent with adopted comprehensive
29 plans, promote economic opportunity for all citizens of this state,

1 especially for unemployed and for disadvantaged persons, and encourage
2 growth in areas experiencing insufficient economic growth, all within
3 the capacities of the state's natural resources, public services, and
4 public facilities.

5 (6) Property rights. Private property shall not be taken for
6 public use without just compensation having been made. The property
7 rights of landowners shall be protected from arbitrary and
8 discriminatory actions.

9 (7) Permits. Applications for both state and local government
10 permits should be processed in a timely and fair manner to ensure
11 predictability.

12 (8) Natural resource industries. Maintain and enhance natural
13 resource-based industries, including productive timber, agricultural,
14 and fisheries industries. Encourage the conservation of productive
15 forest lands and productive agricultural lands, and discourage
16 incompatible uses.

17 (9) Open space and recreation. Encourage the retention of open
18 space and development of recreational opportunities, conserve fish and
19 wildlife habitat, increase access to natural resource lands and water,
20 and develop parks.

21 (10) Environment. Protect the environment and enhance the state's
22 high quality of life, including air and water quality, and the
23 availability of water.

24 (11) Citizen participation and coordination. Encourage the
25 involvement of citizens in the planning process and ensure coordination
26 between communities and jurisdictions to reconcile conflicts.

27 (12) Public facilities and services. Ensure that those public
28 facilities and services necessary to support development shall be
29 adequate to serve the development at the time the development is

1 available for occupancy and use without decreasing current service
2 levels below locally established minimum standards.

3 (13) Historic preservation. Identify and encourage the
4 preservation of lands, sites, and structures, that have historical or
5 archaeological significance.

6 **Sec. 3.** RCW 36.70A.070 and 1990 1st ex.s. c 17 s 7 are each
7 amended to read as follows:

8 The comprehensive plan of a county or city that is required or
9 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
10 and descriptive text covering objectives, principles, and standards
11 used to develop the comprehensive plan. The plan shall be an
12 internally consistent document and all elements shall be consistent
13 with the future land use map. A comprehensive plan shall be adopted
14 and amended with public participation as provided in RCW 36.70A.140.

15 Each comprehensive plan shall include a plan, scheme, or design for
16 each of the following:

17 (1) A land use element designating the proposed general
18 distribution and general location and extent of the uses of land, where
19 appropriate, for agriculture, timber production, housing, commerce,
20 industry, recreation, open spaces, public utilities, public facilities,
21 and other land uses. The land use element shall provide for sufficient
22 developable land and densities for a range of housing types. The land
23 use element shall include population densities, building intensities,
24 and estimates of future population growth. Each county shall include
25 urban growth areas as established in RCW 36.70A.110 in its
26 comprehensive land use plan. The land use element shall provide for
27 protection of the quality and quantity of ground water used for public
28 water supplies. Where applicable, the land use element shall review
29 drainage, flooding, and storm water run-off in the area and nearby

1 jurisdictions and provide guidance for corrective actions to mitigate
2 or cleanse those discharges that pollute waters of the state, including
3 Puget Sound or waters entering Puget Sound.

4 (2) A housing element recognizing the vitality and character of
5 established residential neighborhoods that: (a) Includes an inventory
6 and analysis of existing and projected housing needs including a jobs-
7 housing balance consisting of at least a comparison between the supply
8 of housing and the number of jobs projected in the next ten years in
9 the county or sub-county area, as well as an assessment of whether the
10 housing is affordable to the workers; (b) includes a statement of
11 goals, policies, ~~((and))~~ objectives, and a five-year financing plan for
12 the preservation, improvement, and development of housing and for
13 ensuring that a community's fair share housing responsibility is met
14 within either the county or the jurisdictions; (c) identifies
15 sufficient land for housing, including, but not limited to, government-
16 assisted housing, housing for very low-income and low-income
17 ~~((families))~~ households, manufactured housing, multifamily housing, and
18 group homes and foster care facilities; ~~((and))~~ (d) makes adequate
19 provisions for existing and projected needs of all economic segments of
20 the community; and (e) identifies regulatory barriers to the
21 development and placement of affordable housing.

22 (3) A capital facilities plan element consisting of: (a) An
23 inventory of existing capital facilities owned by public entities,
24 showing the locations and capacities of the capital facilities; (b) a
25 forecast of the future needs for such capital facilities; (c) the
26 proposed locations and capacities of expanded or new capital
27 facilities; (d) at least a six-year plan that will finance such capital
28 facilities within projected funding capacities and clearly identifies
29 sources of public money for such purposes; and (e) a requirement to
30 reassess the land use element if probable funding falls short of

1 meeting existing needs and to ensure that the land use element, capital
2 facilities plan element, and financing plan within the capital
3 facilities plan element are coordinated and consistent.

4 (4) A utilities element consisting of the general location,
5 proposed location, and capacity of all existing and proposed utilities,
6 including, but not limited to, electrical lines, telecommunication
7 lines, and natural gas lines.

8 (5) Counties shall include a rural element including lands that are
9 not designated for urban growth, agriculture, forest, or mineral
10 resources. The rural element shall permit land uses that are
11 compatible with the rural character of such lands and provide for a
12 variety of rural densities.

13 (6) A transportation element that implements, and is consistent
14 with, the land use element. The transportation element shall include
15 the following subelements:

16 (a) Land use assumptions used in estimating travel;

17 (b) Facilities and services needs, including:

18 (i) An inventory of air, water, and land transportation facilities
19 and services, including transit alignments, to define existing capital
20 facilities and travel levels as a basis for future planning;

21 (ii) Level of service standards for all arterials and transit
22 routes to serve as a gauge to judge performance of the system. These
23 standards should be regionally coordinated;

24 (iii) Specific actions and requirements for bringing into
25 compliance any facilities or services that are below an established
26 level of service standard;

27 (iv) Forecasts of traffic for at least ten years based on the
28 adopted land use plan to provide information on the location, timing,
29 and capacity needs of future growth;

1 (v) Identification of system expansion needs and transportation
2 system management needs to meet current and future demands;

3 (c) Finance, including:

4 (i) An analysis of funding capability to judge needs against
5 probable funding resources;

6 (ii) A multiyear financing plan based on the needs identified in
7 the comprehensive plan, the appropriate parts of which shall serve as
8 the basis for the six-year street, road, or transit program required by
9 RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
10 35.58.2795 for public transportation systems;

11 (iii) If probable funding falls short of meeting identified needs,
12 a discussion of how additional funding will be raised, or how land use
13 assumptions will be reassessed to ensure that level of service
14 standards will be met;

15 (d) Intergovernmental coordination efforts, including an assessment
16 of the impacts of the transportation plan and land use assumptions on
17 the transportation systems of adjacent jurisdictions;

18 (e) Demand-management strategies.

19 After adoption of the comprehensive plan by jurisdictions required
20 to plan or who choose to plan under RCW 36.70A.040, local jurisdictions
21 must adopt and enforce ordinances which prohibit development approval
22 if the development causes the level of service on a transportation
23 facility to decline below the standards adopted in the transportation
24 element of the comprehensive plan, unless transportation improvements
25 or strategies to accommodate the impacts of development are made
26 concurrent with the development. These strategies may include
27 increased public transportation service, ride sharing programs, demand
28 management, and other transportation systems management strategies.
29 For the purposes of this subsection (6) "concurrent with the
30 development" shall mean that improvements or strategies are in place at

1 the time of development, or that a financial commitment is in place to
2 complete the improvements or strategies within six years.

3 The transportation element described in this subsection, and the
4 six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for
5 counties, and RCW 35.58.2795 for public transportation systems, must be
6 consistent.

7 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A RCW
8 to read as follows:

9 (1) The department shall establish by rule in consultation with
10 local governments the process for determining a fair share housing
11 responsibility for each city and unincorporated area within a county.
12 The process shall use county-wide data provided by the office of
13 financial management and the department, except that the department may
14 aggregate data from more than one county where it deems appropriate.
15 The process shall include, but is not limited to, an assessment of the
16 existing housing stock, the projected needs for affordable housing in
17 the local community and county wide, the population density, the amount
18 of developable land in the urban growth area, and the projected number
19 of jobs to be created in the community in the next ten years. Each
20 community's fair share affordable housing responsibility shall include
21 housing that is affordable to very low-income and low-income
22 households, and persons with special housing needs.

23 (2) The department shall require each city and county to submit an
24 annual report that describes the progress being made to meet its fair
25 share affordable housing responsibility. Cities and counties that
26 exceed their fair share affordable housing responsibility shall receive
27 preference points in applications for loan or grant assistance through
28 the public works trust fund under chapter 43.155 RCW, the housing
29 assistance program under chapter 43.185 RCW, and the affordable housing

1 program under chapter 43.185A RCW. In determining whether a city or
2 county is making a good faith effort to meet its fair share affordable
3 housing responsibility, the department may consider a city's or
4 county's effort in reducing minimum lot and frontage sizes, the amount
5 of local effort compared to tax capacity, the submission of any bond
6 and levy measures to the voters for affordable housing, the
7 identification and elimination of regulatory barriers that restrict the
8 development and placement of affordable housing, the enactment of laws
9 controlling demolition, abandonment, and conversion of existing very
10 low-income and low-income housing, the enactment of density bonuses and
11 land use techniques such as cluster housing and planned unit
12 developments, the adoption of a current use classification for
13 assessing low-income housing, and efforts to preserve federally
14 assisted housing developments.

15 NEW SECTION. **Sec. 5.** A new section is added to chapter 8.26 RCW
16 to read as follows:

17 Whenever the state or local public agency demolishes or otherwise
18 eliminates affordable housing as defined in section 103, chapter ---,
19 Laws of 1992 (HB 2484) for a public works project, it shall deposit
20 moneys in a local jurisdiction housing replacement fund in an amount
21 equal to the cost of providing an equal number of new affordable
22 housing units for very low-income and low-income households in the same
23 area. The moneys shall be used for acquiring, constructing, or
24 rehabilitating housing units for very low-income and low-income
25 households. Nothing in this section shall require a state or local
26 public agency to pay an impact fee for demolishing housing that
27 constitutes a nuisance or a health or safety hazard to the community.

1 **Sec. 6.** RCW 35.21.685 and 1986 c 248 s 1 are each amended to read
2 as follows:

3 A city or town may assist in the development or preservation of
4 publicly or privately owned housing for persons of low income by
5 providing loans or grants (~~((of general municipal funds))~~) to the owners
6 or developers of the housing. The loans or grants shall be made
7 pursuant to a plan or program authorized by the legislative authority
8 of the city or town(~~((. They may be made))~~) to finance all or a portion
9 of the cost of construction, reconstruction, acquisition, or
10 rehabilitation of housing that will be occupied by ~~((a))~~ one or more
11 persons or ~~((family))~~ families of low income or relocation assistance
12 for such persons or families. As used in this section, "low income"
13 ~~((means income that does not exceed eighty percent of the median income~~
14 ~~for the standard metropolitan statistical area in which the city or~~
15 ~~town is located))~~ has the same meaning as in section 103, chapter ---,
16 Laws of 1992 (HB 2484). For the purposes of this section, "owner"
17 includes a lessee under a ground lease or master lease. Housing
18 constructed, acquired, or rehabilitated with loans or grants made under
19 this section shall not be considered public works or improvements
20 subject to competitive bidding or a purchase of services subject to the
21 prohibition against advance payment for services: PROVIDED, That
22 whenever feasible the borrower or grantee shall make every reasonable
23 and practicable effort to utilize a competitive public bidding process.

24 **Sec. 7.** RCW 36.32.415 and 1986 c 248 s 2 are each amended to read
25 as follows:

26 A county may assist in the development or preservation of publicly
27 or privately owned housing for persons of low income by providing loans
28 or grants (~~((of general county funds))~~) to the owners or developers of
29 the housing. The loans or grants shall be made pursuant to a plan or

1 program authorized by the legislative authority of a county(~~(.---They~~
2 ~~may be made~~)) to finance all or a portion of the cost of construction,
3 reconstruction, acquisition, or rehabilitation of housing that will be
4 occupied by ~~((a))~~ one or more persons or ~~((family))~~ families of low
5 income or relocation assistance for such persons or families. As used
6 in this section, "low income" ~~((means income that does not exceed~~
7 ~~eighty percent of the median income for the standard metropolitan~~
8 ~~statistical area in which the county is located))~~ has the same meaning
9 as in section 103, chapter ---, Laws of 1992 (HB 2484). For the
10 purposes of this section, "owner" includes a lessee under a ground
11 lease or master lease. Housing constructed, acquired, or rehabilitated
12 with loans or grants made under this section shall not be considered
13 public works or improvements subject to competitive bidding or a
14 purchase of services subject to the prohibition against advance payment
15 for services: PROVIDED, That whenever feasible the borrower or grantee
16 shall make every reasonable and practicable effort to utilize a
17 competitive public bidding process.

18 **Sec. 8.** RCW 82.02.050 and 1990 1st ex.s. c 17 s 43 are each
19 amended to read as follows:

20 (1) It is the intent of the legislature:

21 (a) To ensure that adequate facilities are available to serve new
22 growth and development;

23 (b) To promote orderly growth and development by establishing
24 standards by which counties, cities, and towns may require, by
25 ordinance, that new growth and development pay a proportionate share of
26 the cost of new facilities needed to serve new growth and development
27 and that new development that reduces the supply of housing for very
28 low-income and low-income households contribute to the cost to the

1 community of developing replacement housing for low-income households;
2 and

3 (c) To ensure that impact fees are imposed through established
4 procedures and criteria so that specific developments do not pay
5 arbitrary fees or duplicative fees for the same impact.

6 (2) Counties, cities, and towns that are required or choose to plan
7 under RCW 36.70A.040 are authorized to impose impact fees on
8 development activity as part of the financing for public facilities,
9 provided that the financing for system improvements to serve new
10 development must provide for a balance between impact fees and other
11 sources of public funds and cannot rely solely on impact fees.

12 (3) The impact fees:

13 (a) Shall only be imposed for system improvements that are
14 reasonably related to the new development;

15 (b) Shall not exceed a proportionate share of the costs of system
16 improvements that are reasonably related to the new development; and

17 (c) Shall be used for system improvements that will reasonably
18 benefit the new development.

19 (4) Impact fees may be collected and spent only for the public
20 facilities defined in RCW 82.02.090 which are addressed by a capital
21 facilities plan element of a comprehensive land use plan adopted
22 pursuant to the provisions of RCW 36.70A.070 or the provisions for
23 comprehensive plan adoption contained in chapter 36.70, 35.63, or
24 35A.63 RCW or for replacement housing. After July 1, 1993, continued
25 authorization to collect and expend impact fees shall be contingent on
26 the county, city, or town adopting or revising a comprehensive plan in
27 compliance with RCW 36.70A.070, and on the capital facilities plan
28 identifying:

1 (a) Deficiencies in public facilities serving existing development
2 and the means by which existing deficiencies will be eliminated within
3 a reasonable period of time;

4 (b) Additional demands placed on existing public facilities by new
5 development; and

6 (c) Additional public facility improvements required to serve new
7 development.

8 If the capital facilities plan of the county, city, or town is
9 complete other than for the inclusion of those elements which are the
10 responsibility of a special district, the county, city, or town may
11 impose impact fees to address those public facility needs for which the
12 county, city, or town is responsible.

13 (5) Any jurisdiction authorized to impose impact fees under this
14 section may also impose, on any development activity that involves the
15 demolition of a structure previously used as low-income housing, or the
16 conversion of any such structure to use other than low-income housing,
17 a housing replacement fee. The housing replacement fee may not exceed
18 the estimated cost to the jurisdiction of offsetting the impact of the
19 development activity on the supply of low-income housing in the area in
20 which the development is located. Any housing replacement fee shall be
21 calculated by the jurisdiction in accordance with standards adopted by
22 ordinance or regulation. All replacement housing fees shall be used to
23 provide or finance low-income housing in the manner authorized by RCW
24 35.21.685 or 36.32.415.

25 After July 1, 1993, continued authorization to collect housing
26 replacement fees shall be contingent on the jurisdiction adopting or
27 revising a comprehensive plan in compliance with RCW 36.70A.070, and in
28 compliance with the local jurisdiction's fair share affordable housing
29 goal pursuant to chapter 36.70A RCW.