

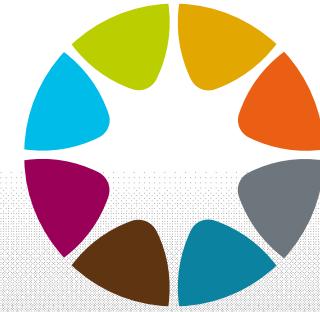
Urban Growth Area Swaps

Engrossed Substitute Senate Bill 5593

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SENIOR PLANNER GROWTH MANAGEMENT SERVICES

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Washington State
Department of
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Engrossed Substitute Senate Bill (ESSB) 5593 – 2022

Growth Management and Urban Growth Areas

RCW 36.70A.110(1)

- Each county that is required or chooses to plan under RCW 36.70A.040 shall designate an urban growth area or areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature

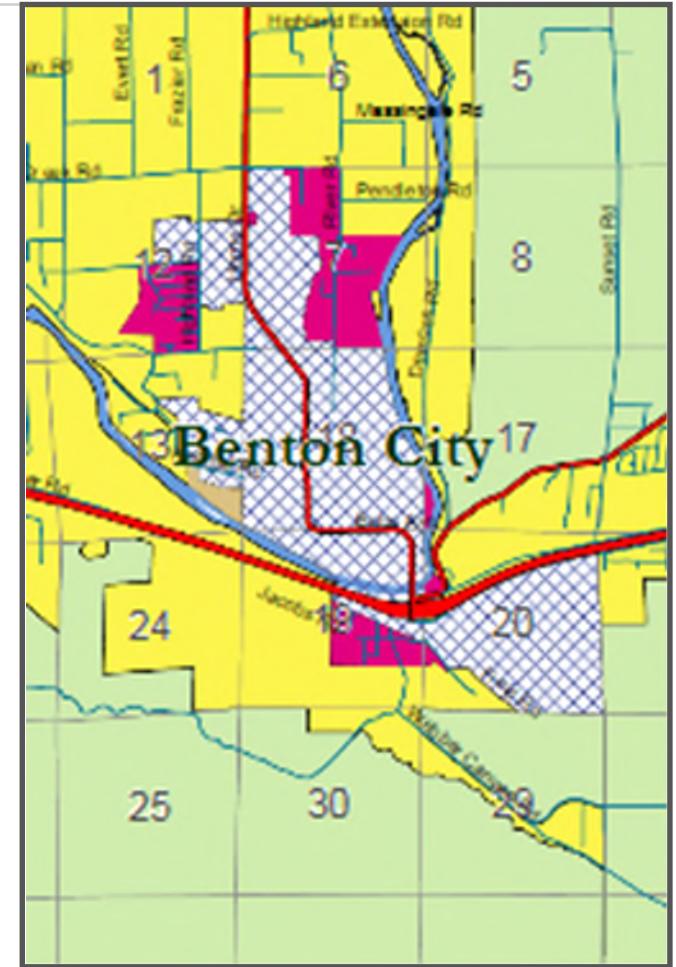
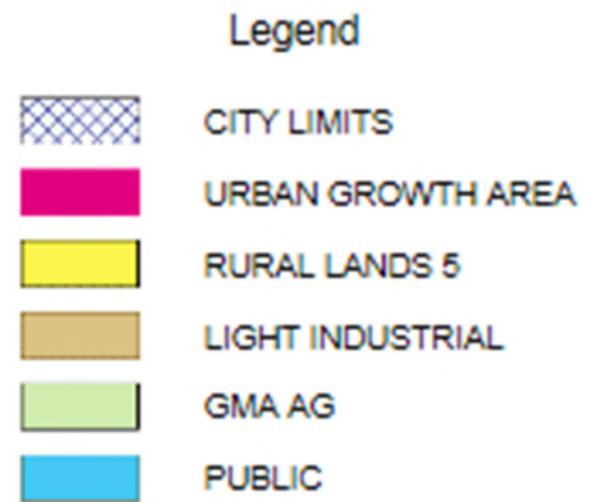
Urban growth areas (UGAs) to contain most of new growth

- UGA size based on 20-year countywide population projections from OFM
- Greater housing /employment densities
- Efficient use of facilities/public dollars
- UGAs also prevent sprawl and leapfrog development

Urban Growth Area Swaps

Engrossed Substitute Senate Bill (ESSB) 5593 – 2022

What is an Urban Growth Area Swap?



Urban Growth Area Swaps

Engrossed Substitute Senate Bill (ESSB) 5593 – 2022

Background

You could remove and add urban growth areas prior to adoption of the ESSB 5593. The changes required compliance with the requirements for amending a UGA including:

- Capital facilities planning including identification of funding sources
- Population forecasts and allocation of population to cities
- Land capacity analysis (LCA)
- **Right sizing of UGA based on the LCA analysis?**

Some Counties were doing UGA swaps prior to adoption of ESSB 5593

Urban Growth Area Swaps

Engrossed Substitute Senate Bill (ESSB) 5593 – 2022

ESSB 5593 Overview

- UGA swaps under ESSB 5593 are to occur only during the periodic update. The periodic update is a mandatory update that is required every ten years. 5593 does not apply to the optional annual amendments that may be considered by counties.
- ESSB 5593 requires a review of “patterns of development” occurring within the urban growth area
- ESSB 5593 requires a proposal to be consistent with eight criteria in order to use the swap provisions
- These criteria are in addition to other requirements for a periodic review

Urban Growth Area Swaps

Engrossed Substitute Senate Bill (ESSB) 5593 – 2022

ESSB 5593 Amendment Details

The bill amends RCW 36.70A.130 which provides the requirements for a periodic update. Within 130, two subsections are revised. The subsections are (3)(a) and (3)(c)

Urban Growth Area Swaps

Engrossed Substitute Senate Bill (ESSB) 5593 – 2022

RCW 36.70A.130(3)(a) **Amended to include “patterns of development”**

(3)(a) Each county that designates urban growth areas under RCW 36.70A.110 shall review, according to the schedules established in subsections (4) and (5) of this section, its designated urban growth area or areas, patterns of development occurring within the urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area...

Urban Growth Area Swaps

Engrossed Substitute Senate Bill (ESSB) 5593 – 2022

RCW 36.70A.130(3)(a) **Amended to include “patterns of development”**

Patterns of development was not defined within the legislation. The final legislative bill report though provides a reference to “patterns of development”:

If, during the jurisdiction's regularly scheduled review, the county determines the patterns of development have created pressure in areas that exceed the available and developable lands within the UGA, the county may revise the UGA to accommodate identified patterns of development and future development pressure for the succeeding 20-year period.

Growth Management Services will be conducting rulemaking in the near future to better define the term “patterns of development” and what it means in updates to the UGA.

Urban Growth Area Swaps

Engrossed Substitute Senate Bill (ESSB) 5593 – 2022

ESSB 5593 Original Bill- RCW 36.70A.130(3)(c) new subsection

If, during the county's review under (a) of this subsection, the county determines revision of the urban growth area is not required to accommodate the urban growth projected to occur in the county for the succeeding 20-year period, but does determine that patterns of development have created pressure in areas that exceed available, developable lands within the urban growth area, the urban growth area or areas may be revised to accommodate identified patterns of development and likely future development pressure for the succeeding 20-year period, **but may not result in an increase in the total surface areas of the urban growth area or areas.**

ESSB 5593 as Adopted - RCW 36.70A.130(3)(c) new subsection

If, during the county's review under (a) of this subsection, the county determines revision of the urban growth area is not required to accommodate the urban growth projected to occur in the county for the succeeding 20-year period, but does determine that patterns of development have created pressure in areas that exceed available, developable lands within the urban growth area, the urban growth area or areas may be revised to accommodate identified patterns of development and likely future development pressure for the succeeding 20-year period **if the following requirements are met:**

Urban Growth Area Swaps

Engrossed Substitute Senate Bill (ESSB) 5593 – 2022

Criteria for a UGA Swap under RCW 36.70A.130

1. The revised urban growth area may not result in an increase in the total surface areas of the urban growth area or areas

Commonly referred to as a “net zero swap”. This was the only criteria under the original bill.

2. The areas added to the urban growth area are not or have not been designated as agricultural, forest, or mineral resource lands of long-term commercial significance

This criteria is more restrictive than the requirements under the WAC for UGA amendments which allows mineral lands to be located in the UGA. Additionally the WAC does not restrict land that had been previously designated as resource lands from being included in the UGA

Urban Growth Area Swaps

Engrossed Substitute Senate Bill (ESSB) 5593 – 2022

Criteria for a UGA Swap under RCW 36.70A.130

3. Less than 15 percent of the areas added to the urban growth area are critical areas

The WAC for UGA amendments does not include this requirement

4. The areas added to the urban growth area are suitable for urban growth

This is a general statement. Details on areas suitable for urban growth are included in other areas of Growth Management Act

Urban Growth Area Swaps

Engrossed Substitute Senate Bill (ESSB) 5593 – 2022

Criteria for a UGA Swap under RCW 36.70A.130

5. The transportation element and capital facility plan element have identified the transportation facilities, and public facilities and services needed to serve the urban growth area and the funding to provide the transportation facilities and public facilities and services

Repeats requirements in WAC for general amendments

6. The urban growth area is not larger than needed to accommodate the growth planned for the succeeding 20-year planning period and a reasonable land market supply factor

Reflects the requirements under the WAC for UGA amendments. Most fully planning counties can not currently meet this criteria

Urban Growth Area Swaps

Engrossed Substitute Senate Bill (ESSB) 5593 – 2022

Criteria for a UGA Swap under RCW 36.70A.130

7. The areas removed from the urban growth area do not include urban growth or urban densities

This provision is consistent with the locational requirement for general UGA amendments under the WAC

8. The revised urban growth area is contiguous, does not include holes or gaps, and will not increase pressures to urbanize rural or natural resource lands

New provision and was not required under the WAC for general UGA amendments

Urban Growth Area Swaps

Engrossed Substitute Senate Bill (ESSB) 5593 – 2022

What about annual amendments?

Commerce interprets, based on the plain language of the statute, that the UGA swap provisions apply only to the periodic update

Additionally, Commerce recommends that any UGA amendment should only be considered during the periodic update and not be done through the annual amendment process

Amending a UGA requires a comprehensive review of city and county growth management needs. It requires extensive studies and coordination of jurisdictions within the county. Some of the requirements for the periodic update include county-wide and local population projections, land capacity analysis, allocation of population, regional transportation analysis and capital facility planning. These studies are necessary and play an integral part in determining UGA needs

Urban Growth Area Swaps

Engrossed Substitute Senate Bill (ESSB) 5593 – 2022

What about annual amendments?

While Commerce recommends against UGA amendments outside the periodic review, counties are not explicitly prohibited from considering them in their annual amendment cycle.

Should a county propose a UGA swap during the annual amendment cycle, Commerce recommends, based on the plain language of the text, using the eight criteria under RCW 36.70A.130(3)(c)

Urban Growth Area Swaps

Engrossed Substitute Senate Bill (ESSB) 5593 – 2022

Conclusions

- The original bill submitted to the legislature is significantly different than the bill adopted. The adopted bill is more restrictive and is less likely to be used based on the criteria
- The criteria that a county not have an oversized UGA limits swapping provisions for most counties
- The provisions of the bill may be useful in the future as counties population projections and land capacity come in to balance. A county with a right-sized UGA would make a swap more likely to acceptable during an annual amendment
- ESSB 5593 is currently untested with the Growth Management Hearings Board and the courts. Future case law may better define the meaning and intent of the legislation

Urban Growth Area Swaps

Engrossed Substitute Senate Bill (ESSB) 5593 – 2022

Next Steps

- Commerce will be developing guidance in the near future to better define what patterns of development means and how it applies to the swap provisions and other UGA amendments
- Once that guidance is completed, counties and cities may want to consider amending their county-wide planning policies to reflect the county's approach to the provisions within ESSB 5593.

Commerce is here to help with those efforts.

Resources

[UGA-Swap-Factsheet](#)

[RCW 36.70A.130 Comprehensive plans—Review procedures and schedules](#)

[ESSB 5593-S.SL.pdf \(wa.gov\)](#)

GROWTH MANAGEMENT SERVICES

FACT SHEET

Urban Growth Area Swaps

Introduction

This document provides guidance for local governments in the application of new legislation adopted in 2022 as Engrossed Substitute Senate Bill (ESSB) 5593. The bill amends the Revised Code of Washington (RCW) 36.70A.130 to add the requirement that each county review its urban growth area (UGA), patterns of development, and densities as part of each periodic update of the comprehensive plan. Reviewing patterns of development is a new requirement enacted by ESSB 5593.

More importantly, ESSB 5593 allows changes to the UGA even if it is determined that a revision is not required to accommodate the growth projected to occur in the 20 year planning period. To implement this provision, eight criteria must be met. The first of these criteria is that the revision may not result in an increase in the net area of the UGA. This is sometimes called a "net zero swap".

The criteria for approving a net zero swap is included in RCW 36.70A.130(3)(c) as follows:

(c) If, during the county's review under (a) of this subsection, the county determines revision of the urban growth area is not required to accommodate the urban growth projected to occur in the county for the succeeding 20-year period, but does determine that patterns of development have created pressure in areas that exceed available, developable lands within the urban growth area, the urban growth area or areas may be revised to accommodate identified patterns of development and likely future development pressure for the succeeding 20-year period if the following requirements are met:

(i) The revised urban growth area may not result in an increase in the total surface areas of the urban growth area or areas;

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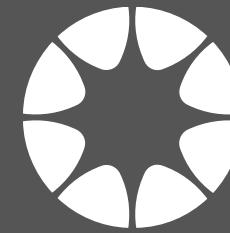
"As with nearly all proposed development standards, the goal is to encourage efficient land use, flexibility and a wide variety of housing types while reducing the potential for negative impacts."

Bill Vaughan

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