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HOUSE BILL 2144

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State of Washington

52nd Legislature

1991 Regular Session

By Representatives Ebersole, Betrozoff, Cooper, Forner, Winsley and Morris.

Read first time February 28, 1991. Referred to Committee on Trade & Economic Development.

1 AN ACT Relating to growth; amending RCW 36.70A.020, 36.70A.030,  
2 36.70A.060, 36.70A.070, 36.70A.080, 36.70A.090, 36.70A.110, 36.70A.120,  
3 36.70A.130, 36.70A.140, 82.46.010, 82.46.035, 43.62.035, 36.70A.190,  
4 and 36.93.180; adding new sections to chapter 36.70A RCW; adding a new  
5 section to chapter 82.02 RCW; adding a new section to chapter 47.80  
6 RCW; adding new sections to chapter 43.21B RCW; adding a new section to  
7 chapter 82.44 RCW; adding a new section to chapter 36.93 RCW; adding a  
8 new section to chapter 36.70 RCW; adding a new section to chapter 35.63  
9 RCW; adding a new section to chapter 35.63A RCW; adding a new section  
10 to chapter 43.21C RCW; adding a new section to chapter 58.17 RCW;  
11 adding a new section to chapter 90.48 RCW; adding a new section to  
12 chapter 90.58 RCW; and adding a new section to chapter 90.70 RCW.

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

PART I - GOALS AND DEFINITIONS

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

PLANNING GOALS. The following goals are adopted to guide the development and adoption of comprehensive plans and development regulations of those counties and cities that are required or choose to plan under RCW 36.70A.040. The following goals are not listed in order of priority and shall be used exclusively for the purpose of guiding the development of comprehensive plans and development regulations and shall not be used to evaluate development proposals:

(1) Urban growth areas. (~~Encourage development~~) Urban growth shall occur in urban growth areas where (~~adequate public facilities and~~) urban government services exist or can be provided in an efficient manner.

Urban growth areas should be compact and provide opportunities for people to live in a variety of housing types close to where they work. Plans must ensure an adequate supply of land within the urban growth area to accommodate at least the twenty-year population, housing, and employment forecast established pursuant to this chapter. Development densities must be sufficient to: (a) Ensure a competitive development market; (b) promote affordable housing; and (c) promote efficient use of public utilities and urban government services.

Consistent with accommodating the established twenty-year growth forecast, diversity of housing types and densities may be encouraged. Urban areas need not be uniformly urban in nature. The character of existing neighborhoods and communities may be recognized. Further, provision shall be made for public open space, recreation lands, and critical areas. With the consent of the landowners, natural resource lands may be designated within the boundaries of an urban growth area.

1 However, any such designation or the recognition of existing community  
2 character shall not reduce the capacity of the urban growth area to  
3 accommodate the twenty-year forecast.

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

6 (3) Transportation. Encourage efficient multimodal transportation  
7 systems that are based on regional priorities and coordinated with  
8 county and city comprehensive plans. Housing should be of sufficient  
9 density and employment centers should be concentrated to enable greater  
10 efficiency and affordability of multimodal transportation systems.

11 (4) Housing. ~~((Encourage the availability of))~~ Ensure that  
12 affordable housing ((to)) is available for all economic segments of the  
13 population of this state((7)). Promote a variety of residential  
14 densities and housing types both inside and outside of urban growth  
15 areas, and where appropriate encourage ((preservation)) maintenance and  
16 rehabilitation of existing housing stock. While these goals should be  
17 implemented, in part, by incentives for provision of low and moderate  
18 income housing, such as density bonuses, they shall not be implemented  
19 with requirements which directly or indirectly condition development  
20 approvals or permits on provision or inclusion of such housing.

21 (5) Economic development. Encourage economic development  
22 throughout the state that is consistent with adopted comprehensive  
23 plans((7)). Promote economic opportunity for all citizens of this  
24 state, especially for unemployed and for disadvantaged persons((7 and  
25 encourage growth in areas experiencing insufficient economic growth,  
26 all within the capacities of the state's natural resources, public  
27 services, and public facilities)). Build a network of strong regional  
28 economies. Identify and focus assistance on priority economic  
29 development areas where there is a need for growth. In particular,  
30 encourage cities and counties in economically distressed areas of the

1 state, especially those experiencing declining economic growth due to  
2 changes in natural resource industries, to diversify and strengthen  
3 their economic base.

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

8 (7) ~~((Permits.))~~ Development regulations. Applications for both  
9 state and local government permits ~~((should))~~ shall be processed in a  
10 timely and fair manner to ensure predictability. Overlapping,  
11 duplicative, and conflicting regulations shall be avoided.

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 potential  
16 mineral resource lands, and discourage incompatible uses of such lands  
17 and adjacent to such lands.

18 (9) Public open space and recreation. ~~((Encourage the retention of~~  
19 ~~open space and development of recreational opportunities, conserve fish~~  
20 ~~and wildlife habitat, increase access to natural resource lands and~~  
21 ~~water, and develop parks.))~~ Ensure that lands both within and outside  
22 urban growth areas that are intended to remain open and undeveloped  
23 permanently are in public ownership or are retained by public  
24 acquisition of less than fee simple interest. Where possible, open  
25 space lands should be linked into regional and state-wide networks.  
26 Permanent open space networks should separate and define distinct urban  
27 growth areas to prevent the merger of urban areas into large contiguous  
28 urban areas. Where permanent long-term protection is desired open  
29 space lands should be used to: Protect fish and wildlife habitat;  
30 protect critical areas; provide park and outdoor recreational

1 opportunities; protect scenic areas and viewsheds; accommodate  
2 nonmotorized recreational corridors and trails; retain natural resource  
3 lands, particularly in urban growth areas; protect views and vistas  
4 within and around cities; and protect wildlife corridors especially  
5 between public parks and refuges.

6 (10) Environment. Protect the environment and enhance the state's  
7 high quality of life, including air and water quality, and the  
8 availability of water. Consideration of the environmental impact of a  
9 comprehensive plan must be integrated into the plan adoption process.  
10 City and county development regulations for critical areas adopted  
11 under this chapter shall be the exclusive means of state regulation of  
12 critical areas and such regulations must be based on documented,  
13 scientifically based standards.

14 (11) Citizen participation and coordination. (~~Encourage~~) Ensure  
15 the involvement of citizens in the planning process and ensure  
16 coordination between communities and jurisdictions to reconcile  
17 conflicts.

18 (12) Public facilities and services. Ensure that those public  
19 facilities and services necessary to support development shall be  
20 adequate to serve the development at the time the development is  
21 available for occupancy and use without decreasing current service  
22 levels below locally established minimum standards.

23 (13) Historic preservation. Identify and encourage the  
24 preservation of lands, sites, and structures, that have historical or  
25 archaeological significance.

26 (14) Public utilities. Provide for adequate public utilities by  
27 assuring that land will be available for location of public utilities,  
28 including but not limited to location within transportation corridors,  
29 so that efficient, reliable, and cost-effective utility service can be  
30 provided.

1       (15) Essential public developments. Ensure that essential public  
2 developments are sited in an efficient and predictable manner. No  
3 comprehensive plan or development regulation may directly or indirectly  
4 preclude the location of an essential public development.

5       (16) Planning process. Ensure that the process and procedures used  
6 to adopt comprehensive plans and development regulations are  
7 predictable and coordinated and that certain standards are adhered to  
8 uniformly by cities and counties. Such plans and regulations shall, at  
9 a minimum, be enacted by the legislative body of the county or city  
10 after reasonable notice, involvement of citizens affected by the  
11 action, recommendation of a representative citizen-based planning  
12 commission, and public hearing.

13       (17) Compliance and enforcement. Flexibility should be available  
14 to allow each city and county to comply with planning and development  
15 regulations requirements of this act in a manner that meets the needs  
16 of the residents of each city and county. Unless otherwise clearly  
17 specified, comprehensive plans and development regulations need not be  
18 uniform or identical.

19       (18) Annexation. Cities are recognized as the preferred location  
20 for urban growth. Expansion of city boundaries must be coordinated  
21 with adjacent counties, special districts, and affected state agencies.  
22 Annexation areas for cities should be no larger than the area the city  
23 is prepared to serve with urban government services.

24       (19) Wetlands. Ensure that there is no net loss of wetlands  
25 functions and values. Wetlands replacement, under certain  
26 circumstances, can provide an environmentally preferable alternative to  
27 a number of small, isolated wetlands surrounded by development. The no  
28 net loss goal can be achieved through the construction, restoration, or  
29 enhancement of wetlands that are at least equal in habitat value to  
30 those wetlands lost.

1       **Sec. 2.** RCW 36.70A.030 and 1990 1st ex.s. c 17 s 3 are each  
2 amended to read as follows:

3       DEFINITIONS. Unless the context clearly requires otherwise, the  
4 definitions in this section apply throughout this chapter.

5       (1) "Adopt a comprehensive land use plan" means to enact a new  
6 comprehensive land use plan or to update an existing comprehensive land  
7 use plan.

8       (2) "Affordable housing" and "housing affordability" mean housing  
9 for working families with income that is one hundred ten percent of the  
10 median family income for the region.

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

17       ~~((+3))~~ (4) "City" means any city or town, including a code city.

18       ~~((+4))~~ (5) "City annexation area" or "annexation area" means the  
19 area adjacent to a city corporate boundary that the city intends to  
20 serve with urban government services during the twenty-year period.

21       (6) "Comprehensive land use plan," "comprehensive plan," or "plan"  
22 means a generalized coordinated land use policy statement of the  
23 governing body of a county or city that is adopted pursuant to this  
24 chapter.

25       ~~((+5))~~ (7) "Council" means a dispute resolution council  
26 established to hear appeals under this chapter.

27       (8) "Critical areas" include the following areas and ecosystems:  
28 (a) Wetlands; (b) areas with a critical recharging effect on aquifers  
29 used for potable water; (c) critical fish and wildlife habitat  
30 ~~((conservation—areas))~~ for protected and endangered species as

1 established in RCW 77.12.040; (d) frequently flooded areas; and (e)  
2 geologically hazardous areas.

3 ~~((+6+))~~ (9) "Department" means the department of community  
4 development.

5 ~~((+7+))~~ (10) "Development ~~((regulations))~~" means any construction  
6 or expansion of a building, structure, or use, any change in use of a  
7 building or structure, or any change in the use of land that creates  
8 additional demand and need for public facilities.

9 (11) "Development regulations" means controls placed on development  
10 or land use activities by a county ~~((or))~~, city, special district, or  
11 state agency, including, but not limited to, development conditions or  
12 limitations, critical area and other environmental regulations, zoning  
13 ordinances, official controls, impact fee regulations, shoreline  
14 regulations, development standards, planned unit development  
15 ordinances, subdivision ordinances, and binding site plan ordinances.

16 ~~((+8+))~~ (12) "Essential public development" means the development  
17 or use of land for one or more of the following purposes: Solid waste  
18 facility; state transportation system facility; state educational  
19 facility; airport; and state or local correctional facility.

20 (13) "Forecast" or "twenty-year forecast" means the population,  
21 employment, and housing forecast adopted by the office of financial  
22 management for cities and counties planning pursuant to this chapter.

23 (14) "Forest land" means land primarily useful for growing trees,  
24 including Christmas trees subject to the excise tax imposed under RCW  
25 84.33.100 through 84.33.140, for commercial purposes, and that has  
26 long-term commercial significance for growing trees commercially.

27 ~~((+9+))~~ (15) "Geologically hazardous areas" means areas that  
28 because of their susceptibility to erosion, sliding, earthquake, or  
29 other geological events, are not suited to the siting of commercial,  
30 residential, or industrial development consistent with public health or

1 safety concerns and cannot be made suitable with current and reasonable  
2 engineering technology.

3 ~~((10))~~ (16) "Long-term commercial significance" ~~((includes))~~  
4 means the growing capacity, productivity, and soil composition of the  
5 land for long-term commercial, agricultural, or timber production, ((in  
6 consideration with)) and the mineral production potential for long-term  
7 commercial, industrial, or construction uses, considering the ((land's  
8 proximity to population areas, and the)) possibility of more intense  
9 uses of the land and for mineral resource lands considering both  
10 proximity to markets and population centers and the maintenance of  
11 renewable and nonrenewable natural resources.

12 ~~((11) "Minerals"))~~ (17) "Mineral resource lands" include ~~((gravel,~~  
13 ~~sand, and valuable metallic substances))~~ those lands devoted to the  
14 extraction of minerals as defined in RCW 78.44.030 or that have known  
15 or potential long-term commercial significance for mineral extraction.

16 (18) "Natural resource lands" means agricultural lands, forest  
17 lands, and mineral resource lands.

18 (19) "New community" means a master planned development providing  
19 for a mixture of land uses that includes opportunities to achieve: (a)  
20 A mix of jobs, housing, and public facilities and public services to  
21 serve the community; (b) preservation of open spaces within and around  
22 the community; (c) an internal and external transportation system  
23 supportive of pedestrian access and mass transit; (d) infrastructure  
24 needed to serve the proposed community; and (e) the mitigation of  
25 off-site impacts attributable to the new community.

26 (20) "Open space lands" are public lands dedicated to such use and  
27 private lands for which less than fee simple interest has been acquired  
28 for such use.

29 ~~((12))~~ (21) "Public facilities" include public streets, roads,  
30 highways, and sidewalks((7)); public street and road lighting

1 systems((~~7~~)); public traffic signals((~~7~~)); public domestic water  
2 systems((~~7~~)); public storm and sanitary sewer systems((~~7~~)); public  
3 parks and recreational facilities((~~7~~)); and public schools.

4 ((~~13~~)) (22) "Public services" include fire protection and  
5 suppression, law enforcement, public health, education, recreation,  
6 environmental protection, and other governmental services.

7 ((~~14~~)) (23) "Public utilities" means the facilities of a public  
8 service company or radio communications service company, as those terms  
9 are defined in RCW 80.04.010, and the facilities of a municipal  
10 corporation, mutual, or cooperative that are used to provide the same  
11 kinds of services as provided by a public service company.

12 (24) "Region" means one or more counties and the cities within the  
13 county or counties, including, as a local option, multicounty regions.

14 (25) "Regional growth management organization" means the  
15 organization formed by interlocal agreement to carry out the  
16 responsibilities set forth in sections 16 through 18 of this act.

17 (26) "Rural areas" refers to those areas not included within the  
18 boundaries of designated urban growth areas.

19 (27) "Rural economic development" refers to certain uses of land  
20 that strengthen and diversify the local economic base which either  
21 benefit from or require a rural location or are appropriately located  
22 in a rural area. Such uses are more specifically described in  
23 RCW 36.70A.070.

24 (28) "Special district" means every municipal and quasi-municipal  
25 corporation other than a county or city. Special districts shall  
26 include, but are not limited to: Water districts, sewer districts,  
27 public transportation benefit areas, fire protection districts, port  
28 districts, library districts, school districts, public utility  
29 districts, county park and recreation service areas, flood control zone

1 districts, irrigation districts, diking districts, and drainage  
2 improvement districts.

3 (29) "State agencies" means all departments, boards, commissions,  
4 institutions of higher education, and offices of state government,  
5 except those in the legislative or judicial branches.

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

15 ~~((15))~~ (31) "Urban growth areas" means those areas designated by  
16 a county pursuant to RCW 36.70A.110.

17 ~~((16))~~ (32) "Urban governmental services" include those  
18 governmental services historically and typically delivered by cities,  
19 and include storm and sanitary sewer systems, domestic water systems,  
20 ~~((street cleaning services,))~~ fire and police protection services,  
21 public transit services, and other public utilities associated with  
22 urban areas and normally not associated with nonurban areas.

23 ~~((17))~~ (33) "Wetland" or "wetlands" means areas that are  
24 inundated or saturated by surface water or ground water at a frequency  
25 and duration sufficient to support, and that under normal circumstances  
26 do support, a prevalence of vegetation typically adapted for life in  
27 saturated soil conditions. Wetlands generally include swamps, marshes,  
28 bogs, and similar areas. Wetlands do not include those artificial  
29 wetlands intentionally created from nonwetland sites, including, but  
30 not limited to, irrigation and drainage ditches, grass-lined swales,

1 canals, detention facilities, wastewater treatment facilities, farm  
2 ponds, and landscape amenities. However, wetlands ((~~may~~)) shall  
3 include those artificial wetlands intentionally created from nonwetland  
4 areas ((~~created~~)) to mitigate authorized conversion of wetlands((~~, if~~  
5 ~~permitted by the county or city~~)). This definition shall be used for  
6 designation pursuant to RCW 36.70A.170 and adoption of development  
7 regulations under this chapter.

8 PART II - ROLE OF LOCAL GOVERNMENT

9 **Sec. 3.** RCW 36.70A.060 and 1990 1st ex.s. c 17 s 6 are each  
10 amended to read as follows:

11 NATURAL RESOURCE LANDS AND CRITICAL AREAS--DEVELOPMENT REGULATIONS.

12 (1) Each county that is required or chooses to plan under RCW  
13 36.70A.040, and each city within such county, shall adopt development  
14 regulations on or before September 1, 1991, to assure the conservation  
15 of ((~~agricultural, forest, and mineral~~)) natural resource lands  
16 designated under RCW 36.70A.170. Regulations adopted under this  
17 section may not prohibit the expansion, modification, or  
18 intensification of existing uses or prohibit or condition uses  
19 permitted prior to their adoption and shall remain in effect until  
20 ((~~a~~)) the county or city adopts development regulations pursuant to RCW  
21 36.70A.120. ((~~Such regulations shall~~)) To assure that the use of lands  
22 adjacent to ((~~agricultural, forest, or mineral~~)) designated natural  
23 resource lands shall not interfere with the continued use, in the  
24 accustomed manner, of these designated lands for the production of  
25 food, agricultural products, or timber, or for the extraction of  
26 minerals((~~-~~)), the county or city shall:

27 (a) Require that all plats, and all building permits issued for  
28 construction in rural areas within three hundred feet of lands

1 designated natural resource lands, contain a notice that the subject  
2 property is within or near designated natural resource lands and  
3 therefore is subject to a variety of activities that may not be  
4 compatible with residential development for certain periods of limited  
5 duration; that, in addition to other activities these may include  
6 noise, dust, smoke, visual impacts, and odors resulting from  
7 harvesting, planting, application of fertilizers, herbicides, mineral  
8 extraction, and associated management activities; that, when performed  
9 in accordance with county, state, and federal law, these activities are  
10 not subject to legal action as a public nuisance. Further, new  
11 residences in rural areas that are adjacent to designated natural  
12 resource lands should be set back, where practical, from the boundary  
13 of natural resource lands.

14 (b) Adopt development regulations recognizing the right to conduct  
15 agriculture, forest, or mineral extraction activities in the accustomed  
16 manner on designated natural resource lands. These regulations must  
17 also provide for a process to allow conversion of these lands to  
18 nonresource uses.

19 (2) Until needed for urban growth, designated natural resource  
20 lands within urban growth areas shall be protected as natural resource  
21 lands. Designation of such lands within urban growth areas shall occur  
22 only upon consent of the resource owner and shall be reconsidered upon  
23 request of the landowner and at least every five years pursuant to  
24 RCW 36.70A.130.

25 (3) Consistent with the requirements of this section for designated  
26 natural resource lands, each county that is required or chooses to plan  
27 under RCW 36.70A.040, and each city within such county, shall adopt  
28 development regulations on or before September 1, 1991, precluding land  
29 uses or development that is incompatible with the critical areas that  
30 are required to be designated under RCW 36.70A.170. Density from the

1 critical area may be transferred on-site and may not be subtracted from  
2 the site's overall permitted density. As it relates to wetlands, the  
3 term "incompatible" is limited to excavation or placement of material.  
4 Counties and cities shall authorize wetland replacement as an  
5 alternative for accomplishing mitigation for permitted wetland losses  
6 and shall adopt development regulations that establish standards and  
7 criteria for such replacement.

8 ((+2)) (4) Such counties and cities shall review these  
9 designations and development regulations required by this section when  
10 adopting their comprehensive plans under RCW 36.70A.040 and  
11 implementing development regulations under RCW 36.70A.120 and may alter  
12 such designations and development regulations to insure consistency  
13 with the comprehensive plan and with the requirements of this section.

14 (5) The regulations required by this section shall not apply to  
15 maintenance, repair, relocation, installation, or construction of  
16 public utilities.

17 **Sec. 4.** RCW 36.70A.070 and 1990 1st ex.s. c 17 s 7 are each  
18 amended to read as follows:

19 COMPREHENSIVE PLANS--MANDATORY ELEMENTS. The comprehensive plan of  
20 a county or city that is required or chooses to plan under RCW  
21 36.70A.040 shall consist of ~~((a map or maps, and))~~ descriptive text  
22 ~~((covering))~~ addressing goals, objectives, ((principles,)) and  
23 standards ~~((used to develop))~~ for each element of the comprehensive  
24 plan and depicted in a map or maps. The plan shall be an internally  
25 consistent document and all elements shall be consistent with the  
26 future land use map. A comprehensive plan shall be adopted and amended  
27 with public participation as provided in RCW 36.70A.140. No  
28 comprehensive plan may directly or indirectly prohibit essential public  
29 development or public utilities.

1 Each comprehensive plan shall include ((a plan, scheme, or design  
2 for)) each of the following elements:

3 (1) ((A land use element designating the proposed general  
4 distribution and general location and extent of the uses of land, where  
5 appropriate, for agriculture, timber production, housing, commerce,  
6 industry, recreation, open spaces, public utilities, public facilities,  
7 and other land uses. The land use element shall include population  
8 densities, building intensities, and estimates of future population  
9 growth. The land use element shall provide for protection of the  
10 quality and quantity of ground water used for public water supplies.  
11 Where applicable, the land use element shall review drainage, flooding,  
12 and storm water run-off in the area and nearby jurisdictions and  
13 provide guidance for corrective actions to mitigate or cleanse those  
14 discharges that pollute waters of the state, including Puget Sound or  
15 waters entering Puget Sound.

16 (2)) A housing element ((recognizing)) that recognizes the  
17 vitality and character of established residential neighborhoods and new  
18 housing to meet the twenty-year forecast for housing that: (a)  
19 Includes an inventory and analysis of existing and ((projected))  
20 forecasted housing needs; (b) includes a statement of goals, policies,  
21 and objectives for the preservation, improvement, and development of  
22 housing; (c) identifies sufficient land and densities for a variety of  
23 housing types, including, but not limited to, single-family housing,  
24 government-assisted housing, housing for low-income families,  
25 manufactured housing, duplex, triplex, and multifamily housing, ((and))  
26 "mother-in-law" apartments, group homes, and foster care facilities;  
27 ((and)) (d) makes adequate provisions for existing and projected needs  
28 of all economic segments of the community; (e) promotes housing that is  
29 affordable; (f) minimizes the displacement of residents from housing;  
30 and (g) assures that new housing constructed for sale to the general

1 public shall not be required to subsidize the construction or rents of  
2 low-income or public housing. In furtherance of affordable housing  
3 objectives, manufactured housing shall be regulated only as site-built  
4 single-family housing is regulated.

5 ~~((3))~~ (2) A ~~((capital))~~ public facilities plan element for public  
6 facilities owned by a city or county consisting of: (a) An inventory  
7 of existing ~~((capital))~~ public facilities ~~((owned by public entities))~~,  
8 showing the locations and capacities of the ~~((capital))~~ public  
9 facilities; (b) a forecast of the future needs for such ~~((capital))~~  
10 public facilities; (c) the proposed locations and capacities of  
11 expanded or new ~~((capital))~~ public facilities; and (d) at least a six-  
12 year plan that will finance such ~~((capital))~~ public facilities within  
13 projected funding capacities and clearly identifies sources of public  
14 money for such purposes ~~((; and (e) a requirement to reassess the land~~  
15 ~~use element if probable funding falls short of meeting existing needs~~  
16 ~~and to ensure that the land use element, capital facilities plan~~  
17 ~~element, and financing plan within the capital facilities plan element~~  
18 ~~are coordinated and consistent))~~.

19 ~~((4))~~ (3) A public utilities element consisting of the general  
20 location, proposed location, and capacity of ~~((all))~~ existing and  
21 proposed utilities, including, but not limited to, electrical lines,  
22 telecommunication lines, and natural gas lines. The public utilities  
23 element shall include: (a) Provision for the location of public  
24 utilities to serve no less than the twenty-year forecast of population,  
25 employment, and housing; and (b) provision for the use of public rights  
26 of way for location of public utilities and provision for coordination  
27 to allow for common scheduling of public utility and transportation  
28 system repairs, modifications, and improvements.

29 ~~((5))~~ (4) Counties shall include a rural element including lands  
30 that are not designated for urban growth, ~~((agriculture, forest, or~~

1 ~~mineral resources~~) open space, or natural resource. The rural element  
2 shall permit land uses that are compatible with the rural character of  
3 such lands and provide for a variety of rural densities. The rural  
4 element may also provide for rural economic development as specified in  
5 the economic development element of the comprehensive plan.

6 ((+6)) (5) A transportation element that implements, and is  
7 consistent with, the land use element. The transportation element  
8 shall include the following subelements:

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

10 (b) Facilities and services needs, including:

11 (i) An inventory of air, water, and land transportation facilities  
12 and services, including transit alignments, to define existing  
13 ~~(capital)~~ facilities and travel levels as a basis for future  
14 planning;

15 (ii) Reasonable and achievable level of service standards for all  
16 arterials and transit routes to serve as a gauge to judge performance  
17 of the system. These standards should be regionally coordinated and  
18 shall be consistent with the standards established by the adjacent  
19 county or city. Such standards shall recognize the fact that a  
20 reasonable amount of congestion will occur as new facilities are  
21 planned, financed, and constructed;

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

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

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

4 (c) Finance, including:

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

7 (ii) A multiyear financing plan based on the needs identified in  
8 the comprehensive plan, the appropriate parts of which shall serve as  
9 the basis for the six-year street, road, or transit program required by  
10 RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW  
11 35.58.2795 for public transportation systems;

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

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

19 (e) Demand-management strategies.

20 After adoption of the comprehensive plan by jurisdictions required  
21 to plan or who choose to plan under RCW 36.70A.040, local jurisdictions  
22 must adopt and enforce ordinances which prohibit development approval  
23 if the development causes the level of service on a transportation  
24 facility to decline below the standards adopted in the transportation  
25 element of the comprehensive plan, unless transportation improvements  
26 or strategies to accommodate the impacts of development are made  
27 concurrent with the development. These strategies may include  
28 increased public transportation service, ride sharing programs, demand  
29 management, and other transportation systems management strategies.  
30 For the purposes of this subsection (~~(+6)~~) (5) "concurrent with the

1 development" shall mean that improvements or strategies are in place at  
2 the time of development, or that a financial commitment is in place to  
3 complete the improvements or strategies within six years.

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

8 (6) A public open space element that provides for local and  
9 regional parks, outdoor recreation facilities, trails, resource  
10 conservation areas, natural vistas, and greenbelts to separate  
11 designated urban growth areas. To the extent possible, open space  
12 lands should be linked in a coordinated regional and state-wide network  
13 and shall be designated public space only if funds or other  
14 compensatory techniques are available for acquisition.

15 The public open space element may include:

16 (a) Scenic or viewshed land, particularly along transportation  
17 corridors;

18 (b) Lands that function to provide community identity within and  
19 between urban growth areas;

20 (c) Lands that serve as greenbelts to separate cities;

21 (d) Lands that provide access to lakes, rivers, streams, and  
22 saltwater shorelines;

23 (e) Lands that buffer and conserve critical areas, natural resource  
24 lands, soils, geologically hazardous areas, or tidal marshes, beaches,  
25 or other shoreline areas;

26 (f) Lands that enhance the recreation and habitat value of abutting  
27 or neighboring parks, forests, or conservation areas;

28 (g) Lands that protect natural areas and environmental features  
29 with significant educational, scientific, wildlife habitat, historic,  
30 or scenic value; and

1       (h) Undeveloped lands of not less than five acres situated in urban  
2 growth areas.

3       Only those state lands identified pursuant to section 20 of this  
4 act shall be included in the public open space plan element.

5       (7) An economic development element that includes:

6       (a) An analysis of the economic base of the city or county, an  
7 inventory of existing commercial and industrial lands, and  
8 identification of the commercial and industrial lands needed to serve  
9 at least the twenty-year forecast;

10       (b) A statement of goals and policies for economic growth and  
11 diversifying the economic base and objectives for locating commercial  
12 and industrial land uses;

13       (c) Identification of an adequate supply of land to be designated  
14 in the land use element for commercial and industrial uses;

15       (d) The following types of rural economic development should also  
16 be incorporated in the economic development element:

17       (i) "Destination resorts," are developments that provide  
18 accommodations and active or passive recreational opportunities for  
19 guests. Such developments are ordinarily located in areas of high  
20 scenic or recreational value and may be combined with a recreational  
21 community as defined in this section;

22       (ii) "Recreational communities" are developments that provide for  
23 long-term residential use in areas providing active or passive  
24 recreational opportunities and which include significant man-made  
25 recreational features. Such developments are distinguished from urban  
26 residential development by their spatial separation from designated  
27 urban growth areas and the major employment opportunities, commercial  
28 and retail services, and public facilities located within such urban  
29 growth areas. Such developments should provide their own

1 infrastructure and should not be dependent on the extension of  
2 municipal sewer and water services from designated urban growth areas;

3 (iii) "Rural commercial facilities and services" are commercial  
4 developments of a size and scale designed to serve the ordinary needs  
5 of the population in the surrounding rural area; and

6 (iv) "Large-scale industrial or manufacturing facilities" are  
7 manufacturing and industrial uses that require parcels of land so large  
8 as to be ordinarily unavailable within an urban growth area, or that  
9 because of the characteristics or requirements of such uses should  
10 appropriately be located in areas of relatively low population density,  
11 or that require a location in proximity to rural resources.

12 These more intensive land uses, which may be authorized in rural  
13 areas, shall be designed to prevent encouragement of urban growth in  
14 the vicinity. In planning for rural economic development, counties  
15 should rely on policies and performance standards to guide such  
16 development rather than attempting to define the location of such  
17 development in the comprehensive plan map.

18 (8) For a city, an annexation element which establishes at least  
19 the twenty-year boundaries for growth of the city. The element shall  
20 include:

21 (a) The identification of future land uses, densities, and  
22 intensities;

23 (b) A plan for public facilities and urban government services to  
24 be provided by the city, county, or special districts located within  
25 the annexation area;

26 (c) At the option of a city, a schedule for the sequence and timing  
27 of annexation within the annexation area; and

28 (d) At the option of a city, the annexation element may also  
29 incorporate the additional requirements of RCW 35.13.177 and 35.13.178.

1       (9) An environmental management element that demonstrates that the  
2 comprehensive plan of a county or city that is required or chooses to  
3 plan under RCW 36.70A.040 has been reviewed pursuant to chapter 43.21C  
4 RCW, by such county or city prior to final adoption. After adoption of  
5 such comprehensive plan, development regulations shall not be used to  
6 prohibit or condition development, land uses, densities, or intensities  
7 permitted in such plan, except to the extent that site-specific impacts  
8 of development were not disclosed in the environmental management  
9 element.

10       The environmental management element must comply with chapter  
11 43.21C RCW and:

12       (a) Include an evaluation of alternatives, including the proposed  
13 plan or plan amendment, at a level of detail sufficient to document  
14 clearly the comparative social, economic, and environmental advantages  
15 and disadvantages of each alternative as well as a description of  
16 actions that could be taken to mitigate or moderate the disadvantages;  
17 and

18       (b) Disclose fully the cumulative impact of the proposed plan or  
19 plan amendment on air quality; water quality, including surface water,  
20 ground water, and storm water; climate; plants and animals including  
21 loss of existing vegetation and wildlife habitat; energy and natural  
22 resources; transportation systems and other public facilities; urban  
23 government services; public utilities; open space; the availability of  
24 land for commercial and industrial growth; and the availability of land  
25 for housing and the impact of the plan on housing affordability.

26       The level of detail of the analysis should correspond to the  
27 geographic area covered by the plan. If the plan includes policies,  
28 conditions, standards, or use classifications that are area-wide in  
29 nature, then the level of detail must be sufficient to disclose the  
30 environmental impact of these proposals.

1       (10) A land use element, consisting of one or more land use maps  
2 designating the proposed general distribution and general location and  
3 extent of the uses of land for housing, public facilities, public  
4 utilities, rural areas, the transportation system, open spaces,  
5 recreational areas, and commercial and industrial uses. The land use  
6 map shall reflect, and be consistent with, the policies, objectives,  
7 principles, and standards stated in the descriptive text of the plan  
8 for each of the other plan elements. The land use map shall designate  
9 natural resource lands and critical areas as provided in RCW  
10 36.70A.060. Each county shall also include in its land use element  
11 urban growth areas as provided in RCW 36.70A.110 and each city shall  
12 include its adopted annexation area.

13       **Sec. 5.** RCW 36.70A.080 and 1990 1st ex.s. c 17 s 8 are each  
14 amended to read as follows:

15       COMPREHENSIVE PLANS--OPTIONAL ELEMENTS. (1) A comprehensive plan  
16 may include additional elements(~~(, items, or studies)~~) dealing with  
17 other subjects relating to ~~((the))~~ physical development within its  
18 jurisdiction, including, but not limited to:

- 19       (a) Conservation;
- 20       (b) Solar energy; ~~((and))~~
- 21       (c) Recreation; and
- 22       (d) Historic preservation.

23       (2) A comprehensive plan may include, where appropriate, subarea  
24 plans, each of which is consistent with the comprehensive plan.

25       (3) Optional elements may be incorporated only after adoption of  
26 all mandatory elements.

27       **Sec. 6.** RCW 36.70A.090 and 1990 1st ex.s. c 17 s 9 are each  
28 amended to read as follows:

1           COMPREHENSIVE PLANS--INNOVATIVE TECHNIQUES. A comprehensive plan  
2   (~~should~~) shall provide for the use of innovative land use management  
3 techniques, including, but not limited to, density bonuses, cluster  
4 housing, planned unit developments, (~~and~~) wetlands mitigation  
5 banking, the transfer of development rights, and new communities. In  
6 particular, fee simple and less than fee simple purchase, development  
7 rights transfer, and conservation easements shall be the methods used  
8 to implement the open space element of the comprehensive plan.

9           **Sec. 7.** RCW 36.70A.110 and 1990 1st ex.s. c 17 s 11 are each  
10 amended to read as follows:

11           COMPREHENSIVE PLANS--URBAN GROWTH AREAS. (1) Based on the twenty-  
12 year population, housing, and employment forecast adopted pursuant to  
13 RCW 43.62.035, each county that is required or chooses to adopt a  
14 comprehensive land use plan under RCW 36.70A.040 shall designate (~~an~~)  
15 in its comprehensive plan a twenty-year urban growth area or areas  
16 within which urban growth shall be encouraged and outside of which  
17 growth can occur only if it is not urban in nature. Each city and a  
18 city's annexation area that is located in such a county shall be  
19 included within an urban growth area. An urban growth area may include  
20 more than a single city. An urban growth area may include  
21 (~~territory~~) land that is located outside of a city and its annexation  
22 area only if such (~~territory~~) land is already (~~is~~) characterized by  
23 urban growth or is adjacent to (~~territory~~) land already characterized  
24 by urban growth, or is designated for or meets the conditions for  
25 establishing new communities under this chapter.

26           (2) Based upon the population, employment, and housing forecast  
27 (~~made~~) established for the county and cities within the county by the  
28 office of financial management pursuant to RCW 43.62.035, each county  
29 shall demonstrate that the designated urban growth areas in the county

1 shall include ~~((areas and densities sufficient to permit the urban~~  
2 ~~growth that is projected to occur in the county for the succeeding~~  
3 ~~twenty-year period. Each urban growth area shall permit urban~~  
4 ~~densities and shall include greenbelt and open space areas))~~ adequate  
5 geographic areas; appropriate minimum densities and intensities; and  
6 vacant land suitable and available for development to ensure a  
7 competitive development market sufficient to accommodate, at a minimum,  
8 the established twenty-year forecast.

9       (3) Within one year of July 1, 1990, each county required to  
10 designate urban growth areas shall begin consulting with each city  
11 located within its boundaries and each city shall propose the location  
12 of ~~((an))~~ a twenty-year annexation area to be included in the urban  
13 growth area. The county and cities shall attempt to reach agreement  
14 with each city on the location and boundaries of ((an)) urban growth  
15 areas ((within which the city is located)). If ((such an)) agreement  
16 is not reached ((with each city located within the urban growth area)),  
17 the county shall justify to the department or, if created pursuant to  
18 this chapter, a regional growth management organization, in writing why  
19 it so designated or failed to designate the area an urban growth area.  
20 A city may object formally ~~((with))~~ to the department ~~((over))~~ or  
21 regional organization as to the ((designation of the)) designated urban  
22 growth area ((within which it is located)). Where appropriate, the  
23 department or regional organization shall attempt to resolve the  
24 conflict((s)), including the use of mediation services.

25       ~~((+3))~~ (4) Urban growth should be located first in areas already  
26 characterized by urban growth that have existing public facility and  
27 service capacities to serve such development, ~~((and))~~ second in areas  
28 already characterized by urban growth that will be served by a  
29 combination of both existing public facilities and services and any  
30 additional needed public facilities and services that are provided by

1 either public or private sources, and third as otherwise provided for  
2 in this chapter for new communities. Urban government services for  
3 each urban growth area must be planned to serve at least the  
4 twenty-year forecast for population, housing, and employment  
5 established pursuant to RCW 43.62.035. Further, it is ((appropriate))  
6 preferred that urban government services be provided by cities, and the  
7 full range of urban government services should not be provided in rural  
8 areas.

9 (5) In demonstrating that the capacity of the designated urban  
10 growth area is sufficient to accommodate the twenty-year forecast,  
11 public lands, including institutional uses, critical areas, lands  
12 restricted by other development regulations and conditions, and natural  
13 resource lands inside the urban growth area that have been designated  
14 with the consent of the landowner, shall be excluded. Further, each  
15 county and city must ensure that permitted land uses located adjacent  
16 to urban growth areas allow for the orderly expansion of said areas.

17 **Sec. 8.** RCW 36.70A.120 and 1990 1st ex.s. c 17 s 12 are each  
18 amended to read as follows:

19 DEVELOPMENT REGULATIONS AND CAPITAL PLANS--IMPLEMENTATION IN  
20 CONFORMITY WITH COMPREHENSIVE PLAN. (1) Within one year of the  
21 adoption of its comprehensive plan, each county and city that is  
22 required or chooses to plan under RCW 36.70A.040 shall enact  
23 development regulations that are consistent with and implement the  
24 comprehensive plan. These counties and cities shall perform their  
25 activities and make capital budget decisions in conformity with their  
26 comprehensive plans.

27 (2) Development regulations may be different in urban and rural  
28 areas. Consistent with existing statutory time periods, development  
29 regulations shall provide for specific time limits for approval, and

1 compliance with these time limits shall be strictly construed.  
2 Development regulations shall avoid redundancy and shall be consistent  
3 with similar regulations of adjacent cities and counties. Multiple  
4 permits for the same project shall be avoided. Development regulations  
5 that condition approvals or permits on the adequacy of public  
6 facilities and services shall be limited to transportation improvements  
7 and strategies as authorized by RCW 36.70A.070. Where impact fees have  
8 been paid pursuant to chapter 82.02 RCW to mitigate the development's  
9 fair share of public facility impacts, the development regulations  
10 shall not condition approvals or permits on the adequacy of public  
11 facilities. Development regulations shall use standards based on the  
12 best available scientific information.

13 Development regulations must permit the development, repair, and  
14 maintenance of public utilities that are consistent with and implement  
15 the public utilities element of the comprehensive plan and must permit  
16 the expansion, modification, and intensification of nonconforming uses  
17 or structures.

18 (3) Any county or city shall have the authority to enter into a  
19 development agreement with any person having ownership or control of  
20 real property within its jurisdiction or, by cities, for property  
21 outside its boundaries as part of a proposed annexation. Entering into  
22 a development agreement shall not constitute an unlawful or improper  
23 delegation of police power.

24 (a) The development agreement shall govern the development and use  
25 of the property in accordance with its terms for the duration specified  
26 in the agreement, and may include without limitation provisions  
27 governing the following: Permitted uses; residential densities;  
28 nonresidential intensities or building sizes; payment of impact fees,  
29 inspection fees, dedications, or other financial contributions by the  
30 property owner; compliance with chapter 43.21C RCW; mitigation measures

1 and development conditions; design standards such as maximum heights,  
2 setbacks, drainage and water quality requirements, landscaping, and  
3 other development features; affordable housing; phasing; and any other  
4 appropriate development requirement having a direct relationship to the  
5 development.

6 (b) Unless amended or terminated, the development agreement shall  
7 be enforceable by any party thereto notwithstanding any amendment to a  
8 comprehensive plan or development regulations. Any permits or  
9 approvals issued subsequent to execution of the development agreement  
10 shall be consistent with the provisions of the development agreement.  
11 The county or city shall record with the real property records of the  
12 county in which the property is located a copy of the development  
13 agreement. During the term of the development agreement, it shall be  
14 binding upon and inure to the benefit of the parties and their  
15 successors including any city that assumes jurisdiction through  
16 incorporation or annexation of area that includes the property covered  
17 by the development agreement.

18 (c) The county or city approval of a development agreement shall be  
19 by ordinance or resolution after a public hearing by the legislative  
20 body, which may delegate the hearing to a planning commission or  
21 hearing examiner.

22 (4) Interim development regulations and emergency measures may be  
23 authorized only to protect the public health and safety and only in  
24 advance of the adoption of the comprehensive plan required by this  
25 chapter. For adoption of any such interim development regulation, not  
26 less than a four-fifths vote of the legislative body shall be required.  
27 With public notice such measure may be effective for up to, but no  
28 longer than, twelve months, and may not be renewed or extended.  
29 Otherwise, the interim development regulation shall have no force or  
30 effect.

1       (5) For development that complies with the comprehensive plan  
2 adopted pursuant to this chapter, reduction in permitted density,  
3 height, bulk, or scale may be required by a city or county only when  
4 there is no feasible alternative condition that may be imposed to  
5 address the specific identified impact attributable to the development  
6 for which such a condition is required.

7       (6) On July 1, 1992, and annually thereafter, each county and city  
8 planning pursuant to this chapter shall issue a report on the  
9 cumulative effect of development regulations and fees on the  
10 availability and affordability of residential, commercial, and  
11 industrial land.

12       **Sec. 9.** RCW 36.70A.130 and 1990 1st ex.s. c 17 s 13 are each  
13 amended to read as follows:

14       COMPREHENSIVE PLANS--AMENDMENTS. (1) Each comprehensive land use  
15 plan and all development regulations shall be (~~subject to continuing~~  
16 ~~evaluation and review~~) reviewed and evaluated annually by the county  
17 or city that adopted them.

18       Any amendment or revision to a comprehensive land use plan shall  
19 conform to this chapter, and any change to development regulations  
20 shall be consistent with and implement the comprehensive plan.

21       (2) Each county and city shall establish procedures whereby  
22 proposed amendments or revisions of the comprehensive plan are  
23 considered by the governing body of the county or city no more  
24 frequently than once every year. All proposals shall be considered by  
25 the governing body concurrently so the cumulative effect of the various  
26 proposals can be ascertained. However, a county or city may adopt  
27 amendments or revisions to its comprehensive plan that conform with  
28 this chapter whenever an emergency exists.

1       (3) On an annual basis, each city and county shall inventory and  
2 compile statistics on absorption and use of land, including permitted  
3 densities and availability of land suitable for development. Each  
4 county that designates urban growth areas under RCW 36.70A.110 shall  
5 review, at least every ~~((ten))~~ five years, its designated urban growth  
6 area or areas, and the densities permitted within both the incorporated  
7 and unincorporated portions of each urban growth area. In conjunction  
8 with this review by the county, each city located within an urban  
9 growth area shall review the land use intensities and densities  
10 permitted within its boundaries and its annexation area, and the extent  
11 to which the urban growth occurring within the county has located  
12 within each city and ~~((the unincorporated portions of the urban growth~~  
13 ~~areas))~~ its annexation area. The county comprehensive plan designating  
14 urban growth areas, and the densities permitted in the urban growth  
15 areas by the comprehensive plans of the county and each city ~~((located~~  
16 ~~within the urban growth areas))~~ and its annexation area, shall be  
17 revised to accommodate the urban growth projected to occur in the  
18 county for the succeeding twenty-year period.

19       (4) In conjunction with the review of urban growth areas, cities  
20 and counties shall also review designated natural resource lands both  
21 within and outside urban growth areas and adjust designations as  
22 appropriate to ensure consistency with changes in urban growth areas  
23 and the requirements of this chapter.

24       **Sec. 10.** RCW 36.70A.140 and 1990 1st ex.s. c 17 s 14 are each  
25 amended to read as follows:

26       COMPREHENSIVE PLANS--DEVELOPMENT REGULATIONS--ADOPTION TO ENSURE  
27 PUBLIC PARTICIPATION. (1) The comprehensive plan, plan amendments, and  
28 development regulations required by this chapter shall be adopted  
29 pursuant to the provisions of chapter 35.63, 35A.63, or 36.70 RCW for

1 cities, code cities, and counties, respectively planning pursuant to  
2 this chapter.

3 (2) Each county and city that is required or chooses to plan under  
4 RCW 36.70A.040 shall establish procedures providing for public notice  
5 and early and continuous public participation in the development and  
6 amendment of comprehensive land use plans and development regulations  
7 implementing such plans. The procedures shall provide for broad  
8 dissemination of proposals and alternatives, opportunity for written  
9 comments, public meetings and public hearings after effective notice,  
10 provision for open discussion, communication programs, information  
11 services, and consideration of and response to public comments. Each  
12 plan, development regulation, or amendment shall be enacted by the  
13 legislative body of a city or county. Errors in exact compliance with  
14 the established procedures shall not render the comprehensive land use  
15 plan or development regulations invalid if the spirit of the procedures  
16 is observed.

17 NEW SECTION. Sec. 11. NEW COMMUNITIES. A county or city required  
18 or choosing to plan pursuant to the provisions of RCW 36.70A.040 shall  
19 establish a process for reviewing proposals for new communities which  
20 shall, at a minimum, include development standards for providing:

21 (1) All infrastructure consistent with the requirements of this  
22 chapter and RCW 82.02.050;

23 (2) Buffers between the new community and adjacent areas designed  
24 to minimize impacts on designated natural resource lands and other land  
25 uses;

26 (3) Transportation planning within the new community that maximizes  
27 pedestrian and transit circulation and mitigates traffic impacts to  
28 adjacent areas;

1 (4) A mixture of land uses, including housing, commercial, and/or  
2 industrial facilities;

3 (5) Consistency with development regulations established for the  
4 protection of critical areas by the county pursuant to RCW 36.70A.170;  
5 and

6 (6) Flexibility to allow various types of new communities including  
7 those intended for recreation or retirement.

8 Upon meeting all applicable development regulations, final approval  
9 of an application for a new community shall be considered an adopted  
10 amendment to the comprehensive plan prepared pursuant to RCW 36.70A.040  
11 designating the new community as an urban growth area.

12 NEW SECTION. **Sec. 12.** SPECIAL DISTRICT CONSISTENCY REQUIRED. (1)  
13 Special districts shall: (a) Plan in conformance with the planning  
14 goals contained in RCW 36.70A.020; (b) comply with local comprehensive  
15 plans and development regulations adopted pursuant to RCW 36.70A.040  
16 and 36.70A.120; (c) comply with amendments to comprehensive land use  
17 plans as provided for in RCW 36.70A.130; and (d) comply with  
18 development regulations adopted pursuant to RCW 36.70A.060.

19 (2) Not later than one year after the adoption of development  
20 regulations by a county or city pursuant to RCW 36.70A.120, each  
21 special district located within such a county or city that provides one  
22 or more of the public facilities or public services listed in this  
23 subsection shall adopt or amend a public facilities plan for its  
24 facilities that is consistent with the comprehensive plan and  
25 development regulations and indicates the existing and projected public  
26 facilities that are necessary to serve the projected growth for the  
27 area that is served by the special district. These public facilities  
28 or public services are: (a) Sanitary sewers; (b) potable water  
29 facilities; (c) park and recreation facilities; (d) fire suppression;

1 (e) libraries; (f) schools; (g) ground transportation, including mass  
2 transit; and (h) flood control.

3 **Sec. 13.** RCW 82.46.010 and 1990 1st ex.s. c 17 s 36 are each  
4 amended to read as follows:

5 TAX ON SALE OF REAL PROPERTY AUTHORIZED--LIMITATIONS ON USE--  
6 ADDITIONAL TAX AUTHORIZED--MAXIMUM RATES. (1) The governing body of  
7 any county or any city may impose an excise tax on each sale of real  
8 property in the unincorporated areas of the county for the county tax  
9 and in the corporate limits of the city for the city tax at a rate not  
10 exceeding one-quarter of one percent of the selling price. The  
11 revenues from this tax shall be used by the respective jurisdictions  
12 for local capital improvements, including those listed in RCW  
13 35.43.040.

14 After July 1, 1990, revenues generated from the tax imposed under  
15 this subsection in counties and cities that are required or choose to  
16 plan under RCW 36.70A.040 shall be used (~~((primarily))~~) only for  
17 financing capital projects specified in a (~~((capital))~~) public facilities  
18 plan element of a comprehensive plan adopted pursuant to chapter 36.70A  
19 RCW and housing relocation assistance under RCW 59.18.440 and  
20 59.18.450. However, revenues (a) pledged by such counties and cities  
21 to debt retirement prior to July 1, 1990, may continue to be used for  
22 that purpose until all outstanding debt is retired, or (b) committed  
23 prior to July 1, 1990, by such counties or cities to a capital project  
24 may continue to be used for that purpose until the project is  
25 completed.

26 (2) For counties and cities that are required or choose to plan  
27 under RCW 36.70A.040 and that, prior to July 1, 1991, have not imposed  
28 the tax authorized by subsection (1) of this section, such tax may be

1 imposed only after said city or county has enacted a comprehensive plan  
2 and development regulations pursuant to chapter 36.70A RCW.

3 (3) In lieu of imposing the tax authorized in RCW 82.14.030(2), the  
4 governing body of any county or any city may impose an additional  
5 excise tax on each sale of real property in the unincorporated areas of  
6 the county for the county tax and in the corporate limits of the city  
7 for the city tax at a rate not exceeding one-half of one percent of the  
8 selling price.

9 ~~((+3))~~ (4) Taxes imposed under this section shall be collected  
10 from persons who are taxable by the state under chapter 82.45 RCW upon  
11 the occurrence of any taxable event within the unincorporated areas of  
12 the county or within the corporate limits of the city, as the case may  
13 be.

14 ~~((+4))~~ (5) Taxes imposed under this section shall comply with all  
15 applicable rules, regulations, laws, and court decisions regarding real  
16 estate excise taxes as imposed by the state under chapter 82.45 RCW.

17 ~~((+5))~~ (6) Authority for the imposition of the excise taxes  
18 authorized in this section may be suspended by the governor for  
19 noncompliance with chapter 36.70A RCW.

20 (7) As used in this section, "city" means any city or town and  
21 "capital project" means those public works projects defined in RCW  
22 43.155.020.

23 **Sec. 14.** RCW 82.46.035 and 1990 1st ex.s. c 17 s 38 are each  
24 amended to read as follows:

25 ADDITIONAL TAX--CERTAIN COUNTIES--BALLOT PROPOSITION--USE LIMITED  
26 TO CAPITAL PROJECTS. (1) The governing body of any county or any city  
27 that plans under RCW 36.70A.040(1) may impose an additional excise tax  
28 on each sale of real property in the unincorporated areas of the county  
29 for the county tax and in the corporate limits of the city for the city

1 tax at a rate not exceeding one-quarter of one percent of the selling  
2 price. Any county choosing to plan under RCW 36.70A.040(2) and any  
3 city within such a county may only adopt an ordinance imposing the  
4 excise tax authorized by this section if the ordinance is first  
5 authorized by a proposition approved by a majority of the voters of the  
6 taxing district voting on the proposition at a general election held  
7 within the district or at a special election within the taxing district  
8 called by the district for the purpose of submitting such proposition  
9 to the voters.

10 (2) The additional excise tax authorized by subsection (1) of this  
11 section may be imposed only after adoption of a comprehensive plan and  
12 development regulations pursuant to chapter 36.70A RCW. Revenues  
13 generated from the tax imposed under subsection (1) of this section  
14 shall be used by such counties and cities solely for financing capital  
15 projects specified in a ~~((capital))~~ public facilities plan element of  
16 ~~((a))~~ the comprehensive plan.

17 (3) Revenues generated by the tax imposed by this section shall be  
18 deposited in a separate account.

19 (4) Authority for the imposition of the excise taxes authorized in  
20 this section may be suspended by the governor for noncompliance with  
21 chapter 36.70A RCW.

22 (5) As used in this section, "city" means any city or town and  
23 "capital project" means those public works projects defined in RCW  
24 43.155.020.

25 NEW SECTION. Sec. 15. A new section is added to chapter 82.02  
26 RCW, to be codified between RCW 82.02.050 and 82.02.090, to read as  
27 follows:

28 IMPACT FEES. (1) If the county, city, or town determines,  
29 consistent with an ordinance adopted pursuant to RCW 36.70A.070(5),

1 that a transportation system improvement or strategy should be  
2 constructed or implemented prior to full occupancy of a development,  
3 the developer may elect to construct the improvement or implement the  
4 strategy pursuant to a written agreement with the county, city, or  
5 town. Under the terms of such an agreement, construction or  
6 implementation may be phased consistent with the occupancy of the  
7 development. The developer shall receive a credit for the costs of  
8 construction or implementation that exceed the impact fee which  
9 otherwise would have applied.

10 (2) In the event that a developer enters into an agreement with a  
11 county, city, or town to construct, fund, or contribute system  
12 improvements such that the amount of the credit created by such  
13 construction, funding, or contribution is in excess of the impact fees  
14 that would otherwise have been paid for the development project, the  
15 developer shall be reimbursed for such excess construction, funding, or  
16 contribution from impact fees paid by other developments located in the  
17 service area which is benefited by such improvements.

18 (3) Fees shall be collected upon the issuance of a building permit.  
19 When the fee is to be used for a system improvement to be undertaken  
20 within one year of the final approval of a subdivision, the fee may be  
21 collected upon recording of final subdivision approval.

22 (4) Prior to adopting an ordinance imposing impact fees, each  
23 county, city, or town shall establish an advisory committee composed of  
24 not less than six persons, plus a nonvoting chairperson selected by the  
25 advisory committee, to advise the governing body on possible features  
26 to be included in an impact fees ordinance and to periodically review  
27 the ordinance. Half of the members of the advisory committee shall  
28 represent the development industry, the building industry, and the real  
29 estate industry, while the other half shall represent the environmental  
30 community and community groups.

1 (5) If impact fees are imposed to finance system improvements to be  
2 undertaken by a different city, county, special district, or state  
3 agency than the one collecting the fee, the collecting entity shall  
4 enter into an interlocal agreement with the city, county, special  
5 district, or state agency that will make the service improvements to  
6 ensure compliance with the requirements established for impact fees.

7 PART III - REGIONAL GROWTH MANAGEMENT

8 NEW SECTION. **Sec. 16.** REGIONAL GROWTH MANAGEMENT ORGANIZATIONS  
9 AUTHORIZED. The legislature hereby authorizes the creation of regional  
10 growth management organizations within the state. Each regional growth  
11 management organization shall be formed by interlocal agreement through  
12 the voluntary association of cities and special districts within a  
13 county, or within geographically contiguous counties. At the time of  
14 formation, each organization shall:

15 (1) Encompass at least one county; and

16 (2) Have as members all counties within the region, and at least  
17 sixty percent of the cities and towns within the region representing a  
18 minimum of seventy-five percent of the cities' and towns' population.

19 The department of community development shall verify that each  
20 regional growth management organization conforms with the requirements  
21 of this section.

22 NEW SECTION. **Sec. 17.** REGIONAL GROWTH MANAGEMENT ORGANIZATION--  
23 DUTIES. (1) Each regional growth management organization shall:  
24 (a) Coordinate the preparation of comprehensive plans and  
25 development regulations of counties and cities within the region to  
26 ensure compliance with the consistency requirements of this chapter;

1 (b) Monitor compliance of the county or counties and cities with  
2 the requirements of this chapter including deadlines and other matters  
3 relating to implementation; and

4 (c) Impose fees on its members to cover the cost of operations  
5 where such fee is proportionate to the twenty-year population forecast  
6 for said member.

7 (2) In addition to the duties set forth in subsection (1) of this  
8 section, each regional growth management organization may:

9 (a) If qualified pursuant to RCW 47.80.020, assume the duties and  
10 responsibilities of a regional transportation planning organization  
11 authorized pursuant to chapter 47.80 RCW and thereafter be referred to  
12 as the regional planning organization;

13 (b) Within the region perform the technical assistance, grant, and  
14 mediation services performed by the department of community development  
15 pursuant to RCW 36.70A.190;

16 (c) If all member cities and counties consent, prepare regional  
17 open space and/or economic development plans, which at a minimum  
18 satisfy the requirements of RCW 36.70A.070. Once adopted by the  
19 regional organization, the open space and economic development elements  
20 of city and county comprehensive plans must be consistent with the  
21 adopted regional plans; and

22 (d) Perform such other functions as its member cities and counties  
23 may unanimously delegate by interlocal agreement, including preparing  
24 and updating a twenty-year population, employment, and housing  
25 forecast.

26 NEW SECTION. **Sec. 18.** A new section is added to chapter 47.80 RCW  
27 to read as follows:

28 REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS--OPTIONAL DUTIES. If  
29 a regional growth management organization has not been formed pursuant

1 to chapter 36.70A RCW, regional transportation planning organizations  
2 may be assigned the duties of such an organization upon the consent of  
3 not less than two-thirds of the member cities and counties of the  
4 regional transportation planning organization. Upon assuming such  
5 duties, the organization shall be thereafter referred to as the  
6 regional planning organization.

7 PART IV - ROLE OF STATE AGENCIES

8 NEW SECTION. **Sec. 19.** STATE AGENCY CONSISTENCY REQUIRED. State  
9 agencies shall: (1) Plan in conformance with the planning goals  
10 contained in RCW 36.70A.020; (2) comply with local comprehensive plans  
11 and development regulations adopted pursuant to RCW 36.70A.040 and  
12 36.70A.120; (3) comply with amendments to comprehensive land use plans  
13 as provided for in RCW 36.70A.130; and (4) comply with development  
14 regulations adopted pursuant to RCW 36.70A.060. Further, each state  
15 agency shall coordinate with cities and counties its plans for the  
16 provision of urban government services, public utilities, and public  
17 facilities to serve designated urban growth areas. Whenever an urban  
18 growth area is designated in a comprehensive plan, the Washington  
19 utilities and transportation commission shall determine whether a  
20 certificate of public convenience and necessity has been issued for the  
21 area pursuant to RCW 80.28.190 and, if a certificate has not been  
22 issued, shall amend an existing certificate or issue a new certificate  
23 to include all of the urban growth area within the area covered by such  
24 a certificate. In any review of an action or proposed action by a  
25 public service company, including but not limited to tariff and rate  
26 changes, expenditures, issuance of securities, and capital budgets, the  
27 Washington utilities and transportation commission shall rely upon the  
28 twenty-year population, housing, and employment forecasts prepared

1 pursuant to RCW 43.62.035, designation of land uses, and all other  
2 provisions of each applicable comprehensive plan, including but not  
3 limited to the public utility elements of such plans, for the matters  
4 included therein.

5 NEW SECTION. **Sec. 20.** OPEN SPACE PLAN--STATE AGENCIES SHALL  
6 COOPERATE. To foster the efforts of counties and cities to identify  
7 and protect open space networks in their comprehensive plans and  
8 development regulations as required in this chapter, by January 1,  
9 1992, all state agencies shall report to the interagency committee for  
10 outdoor recreation any state lands within their management jurisdiction  
11 that should be designated public open space lands. The interagency  
12 committee shall then compile this information into a state plan and  
13 provide the plan to each city and county planning pursuant to this  
14 chapter.

15 **Sec. 21.** RCW 43.62.035 and 1990 1st ex.s. c 17 s 32 are each  
16 amended to read as follows:

17 DETERMINATION OF POPULATION--COUNTIES--CERTIFICATE--POPULATION,  
18 EMPLOYMENT, AND HOUSING FORECAST. (1) The office of financial  
19 management shall determine the population of each county and city of  
20 the state annually as of April 1st of each year and on or before July  
21 1st of each year shall file a certificate with the secretary of state  
22 showing its determination of the population for each county and city.  
23 The office of financial management also shall determine the percentage  
24 increase in population for each county and city over the preceding ten-  
25 year period, as of April 1st, and shall file a certificate with the  
26 secretary of state by July 1st showing its determination. At least  
27 once every ~~((ten))~~ five years the office of financial management shall  
28 prepare a twenty-year population, employment, and housing forecast

1 required by RCW 36.70A.110 for each county that adopts a comprehensive  
2 plan under RCW 36.70A.040.

3 (2) Proceedings to establish the twenty-year population, employment  
4 and housing forecast required by subsection (1) of this section shall  
5 be governed by the rule-making procedures of chapter 34.05 RCW. Prior  
6 to adopting the forecast, the office of financial management shall  
7 consult with the economic and revenue forecast council, the department  
8 of trade and economic development, the department of community  
9 development, and affected counties and cities. State and local  
10 statistical data developed for redistricting and private sector  
11 forecasts shall also be considered. By January 1, 1992, and every five  
12 years thereafter, the forecast shall be updated and filed with the  
13 secretary of state accompanied by comments of consulted agencies and an  
14 explanation of how the comments of consulted agencies have been  
15 incorporated. When the forecast varies significantly from a comparable  
16 forecast prepared by an affected county, city, or regional  
17 organization, the office shall offer specific reasons for the  
18 variation.

19 **Sec. 22.** RCW 36.70A.190 and 1990 1st ex.s. c 17 s 20 are each  
20 amended to read as follows:

21 TECHNICAL ASSISTANCE, GRANTS, AND MEDIATION SERVICES. (1) The  
22 department shall establish a program of technical and financial  
23 assistance and incentives to counties and cities to encourage and  
24 facilitate the adoption and implementation of comprehensive plans and  
25 development regulations throughout the state.

26 (2) The department shall develop a priority list and establish  
27 funding levels for planning and technical assistance grants both for  
28 counties and cities that plan under RCW 36.70A.040. Priority for  
29 assistance shall be based on a county's or city's population growth

1 rates, commercial and industrial development rates, the existence and  
2 quality of a comprehensive plan and development regulations, and other  
3 relevant factors.

4 (3) The department shall develop and administer a grant program to  
5 provide direct financial assistance to counties ~~((and)),~~ cities, and  
6 regional growth management organizations for ~~((the preparation of~~  
7 ~~comprehensive plans))~~ activities under this chapter. The department  
8 may establish provisions for county and city matching funds to conduct  
9 activities under this subsection. Grants may be expended for any  
10 purpose directly related to the preparation of a county or city  
11 comprehensive plan, development regulations, and designation of natural  
12 resource lands and critical areas as the county or city and the  
13 department may agree, including, without limitation, the conducting of  
14 surveys, inventories and other data gathering and management  
15 activities, the retention of planning consultants, contracts with  
16 regional councils for planning and related services, and other related  
17 purposes.

18 (4) The department shall give special funding priority in  
19 particular to cities and counties that are members of a regional growth  
20 management organization, when such organization has been assigned  
21 responsibility to prepare regional open space and economic development  
22 plans.

23 (5) The department shall establish a program of technical  
24 assistance utilizing department staff, the staff of other state  
25 agencies, and the technical resources of counties and cities to help in  
26 the development of comprehensive plans required under this chapter.  
27 The technical assistance may include, but not be limited to, model land  
28 use ordinances, regional education and training programs, and  
29 information for local and regional inventories.

1       (~~(5)~~) (6) The department shall provide mediation services to  
2 resolve disputes between counties and cities regarding, among other  
3 things, coordination of regional issues and designation of urban growth  
4 areas.

5       (~~(6)~~) (7) The department shall provide planning grants to enhance  
6 citizen participation under RCW 36.70A.140.

7       (8) Upon the request of a regional growth management organization  
8 the department shall assign to the organization its responsibilities  
9 under subsections (5) and (6) of this section.

10       (9) Grants awarded under this section may be suspended by the  
11 governor for noncompliance with this chapter.

12                                   PART V - DISPUTE RESOLUTION COUNCILS

13       NEW SECTION.     **Sec. 23.**     DISPUTE RESOLUTION COUNCILS CREATED--  
14 PURPOSE.     (1) There are hereby created three dispute resolution  
15 councils for the state of Washington. Each council shall commence its  
16 operations on January 1, 1992. The councils shall be established as  
17 follows:

18       (a) An Eastern Washington council with jurisdictional boundaries  
19 including all counties which are required to or choose to plan under  
20 RCW 36.70A.040 and are located east of the crest of the Cascade  
21 mountains;

22       (b) A Northwest Washington council with jurisdictional boundaries  
23 including Whatcom, Skagit, San Juan, Island, Snohomish, King, Pierce,  
24 Kitsap, and Thurston counties; and

25       (c) A Southwest Washington council with jurisdictional boundaries  
26 including all counties which are required to or choose to plan under  
27 RCW 36.70A.040 and are located west of the crest of the Cascade  
28 mountains and are not included within the Northwest Washington council

1 jurisdictional boundaries. Skamania county, should it be required or  
2 choose to plan under RCW 36.70A.040, may elect to be included within  
3 the jurisdictional boundaries of either the Southwest or Eastern  
4 council.

5 (2) Each council shall only hear matters pertaining to the cities  
6 and counties located within its jurisdictional boundaries. The purpose  
7 of dispute resolution councils is to provide for expeditious and  
8 efficient disposition of appeals with respect to the comprehensive  
9 plans and development regulations required by chapter 36.70A RCW;  
10 ensure that compliance is achieved with the requirements of chapter  
11 36.70A RCW; and ensure that the goals of chapter 36.70A RCW are  
12 reflected in the twenty-year population, housing, and employment  
13 forecasts adopted by the office of financial management.

14 NEW SECTION. **Sec. 24.** COUNCIL MEMBERS--QUALIFICATIONS--  
15 APPOINTMENT. (1) Each dispute resolution council shall consist of  
16 three members qualified by experience or training in matters pertaining  
17 to land use planning and growth management and residing within the  
18 jurisdictional boundaries of the council. At least one member of each  
19 council must be admitted to practice law in this state and at least one  
20 member shall have been a city or county elected official. Each council  
21 shall be appointed by the governor with the advice and consent of the  
22 senate, and not more than two of whom at the time of appointment or  
23 during their term shall be members of the same political party.

24 (2) Members of a council shall be appointed for a term of six years  
25 and until the successors are appointed and have qualified. In case of  
26 a vacancy, it shall be filled by appointment by the governor for the  
27 unexpired portion of the term in which said vacancy occurs. The terms  
28 of the first three members of a council shall be staggered so that one

1 member shall be appointed to serve until July 1, 1994, one member until  
2 July 1, 1996, and one member until July 1, 1998.

3 NEW SECTION. **Sec. 25.** COUNCIL COMPENSATION, CONDUCT, REMOVAL--  
4 OPERATING PROCEDURES. (1) Each council shall be governed by the rules  
5 of conduct, compensation, and procedure established for the pollution  
6 control hearings board as set forth in RCW 43.21B.040 through  
7 43.21B.100 and the office of each council shall be located by the  
8 governor within the jurisdictional boundaries of each council.

9 (2) Each council may use hearings officers in the same manner as  
10 other boards within the environmental hearings office. The hearings  
11 officers appointed by each council shall have demonstrated knowledge of  
12 land use planning and law. The power, duties, and qualifications of an  
13 officer shall be the same as those set forth in RCW 43.21B.005 for  
14 appeals judges.

15 (3) Formal and informal proceedings by a council shall be governed  
16 by RCW 43.21B.140 through 43.21B.160. Unless otherwise specified in  
17 this chapter, council proceedings shall be governed by chapter  
18 34.05 RCW and specifically where applicable, RCW 34.05.558  
19 through 34.05.574. Each council shall adopt such supplemental rules as  
20 it deems necessary to govern council practices and procedures,  
21 including rules regarding expeditious and summary disposition of  
22 appeals.

23 NEW SECTION. **Sec. 26.** DISPUTE RESOLUTION COUNCIL--JURISDICTION.  
24 (1) Each council shall only have jurisdiction to hear and decide the  
25 following:

26 (a) Appeals regarding compliance of a city or county with the  
27 requirements and deadlines of chapter 36.70A RCW;

1 (b) Appeals regarding the twenty-year forecasts adopted by the  
2 office of financial management pursuant to RCW 43.62.035; and

3 (c) Appeals or decisions regarding essential public development and  
4 public utilities as provided for in section 29 of this act.

5 (2) Council decisions on an appeal shall be published within  
6 forty-five days following the close of the appeal hearing. In its  
7 action on an appeal a council may affirm, set aside, or remand all or  
8 part of the appealed decision for further proceedings in accordance  
9 with instructions and a schedule for action.

10 (3) Each council shall limit its review of appealed decisions to  
11 determining whether the city, county, special district or state agency  
12 has exercised its discretion in accordance with the planning goals set  
13 forth in RCW 36.70A.020; such other requirements of chapter 36.70A RCW  
14 or RCW 43.62.035 that may be applicable; and the requirements of  
15 chapter 43.21C RCW. Under no circumstances, unless specifically  
16 provided for by chapter 34.05 RCW, shall a council undertake de novo  
17 review of an appealed decision or exercise the discretion that the  
18 legislature has delegated to the city, county, special district, or  
19 state agency. To affirm all or part of an appealed decision, a council  
20 must determine that the decision is supported by substantial evidence  
21 in the record before a council.

22 (4) There will be no judicial appeal of council orders regarding  
23 the twenty-year forecasts. Other final orders of a council shall be  
24 subject to judicial review pursuant to RCW 34.05.510 through 34.05.598.  
25 A petition for judicial review by a party to a council proceeding who  
26 is aggrieved by the final order of a council shall be filed in Thurston  
27 county superior court and served on the indispensable parties within  
28 thirty days of the date of the final order of a council.

1        NEW SECTION.    **Sec. 27.**    APPEALS--PRESUMPTION OF VALIDITY--BURDEN OF  
2    PROOF--PLANS AND REGULATIONS.    (1) Any affected city, county, special  
3    district, state agency, or any organization or property owner directly  
4    aggrieved and qualified pursuant to RCW 34.05.530 may appeal to the  
5    appropriate dispute resolution council matters within the jurisdiction  
6    of the council. Appeals shall be by a verified petition setting forth  
7    a detailed statement of appeal issues. All petitions must be filed  
8    with a council within thirty days of the date the appealed decision is  
9    final.

10        (2) Comprehensive plans, development regulations, and amendments  
11    thereto adopted under this chapter are presumed valid upon adoption.  
12    In any appeal to a dispute resolution council, the requestor shall have  
13    the burden of demonstrating that the comprehensive plan, development  
14    regulation, or amendment is not consistent with the planning goals or  
15    requirements of chapter 36.70A RCW. In reviews of development  
16    regulations, when consistency of the development regulation with the  
17    comprehensive plan of a city or county is at issue, the requesting  
18    party must also bear the burden of demonstrating that the development  
19    regulation or amendment is not consistent with the applicable  
20    comprehensive plan.

21        NEW SECTION.    **Sec. 28.**    APPEAL CERTIFICATION.    (1) Concurrently  
22    with the filing of an appeal petition with a council, the requestor  
23    shall file a copy of the petition with the attorney general. If it  
24    appears to the attorney general that the requestor qualifies under  
25    RCW 34.05.530, and has valid reasons to seek review, the attorney  
26    general shall certify the request within thirty days after its receipt  
27    to the appropriate council. A council shall then, but not otherwise,  
28    review the matter presented by the requestor. The failure to obtain  
29    such certification shall not preclude the requestor from obtaining

1 judicial review under any right to review otherwise available to the  
2 requestor.

3 (2) A council shall initially schedule review proceedings on an  
4 appeal without regard to whether such request has been certified. If  
5 at the end of the thirty-day period for certification the attorney  
6 general has not certified a petition, the council shall remove the  
7 appeal from its review schedule.

8 NEW SECTION. **Sec. 29.** COUNCIL--ESSENTIAL PUBLIC DEVELOPMENT AND  
9 PUBLIC UTILITIES. An applicant may appeal to a council a city or  
10 county decision on an essential public development or public utility as  
11 defined in RCW 36.70A.030. Council action on such an appeal shall be  
12 based on the record before the city or county, supplemented with new  
13 evidence only if the council determines specifically that such new  
14 information would be of substantial assistance to the council in  
15 reaching its decision. The appeal shall be processed in the same  
16 manner as other appeals to a council, subject to those requirements of  
17 this chapter applicable to council proceedings.

18 NEW SECTION. **Sec. 30.** COUNCIL--ORDER OF NONCOMPLIANCE. (1) In  
19 rendering a decision on an appeal a council may find a county or city  
20 in noncompliance with chapter 36.70A RCW if:

21 (a) A county or city that is required or chooses to plan under RCW  
22 36.70A.040 does not enact its comprehensive plan or development  
23 regulations by the deadlines specified in RCW 36.70A.040 and  
24 36.70A.120; or

25 (b) If a council has heard an appeal and its order is final, and  
26 the county or city has not complied with the order within the time  
27 period specified by the council.

1 (2) An order of noncompliance shall be issued only after public  
2 notice, notice to the affected agency, and public hearing. An order of  
3 noncompliance shall be delivered to the governor with a request that  
4 sanctions be imposed pursuant to chapter 36.70A RCW. A council shall  
5 retain jurisdiction after issuing an order of noncompliance and  
6 continue to advise the governor on the imposition of sanctions until  
7 the county or city is found by the council to be in compliance.

8 NEW SECTION. **Sec. 31.** SANCTIONS FOR NONCOMPLIANCE. The governor  
9 may impose sanctions for noncompliance with this chapter only after a  
10 dispute resolution council renders an order of noncompliance.

11 (1) For a first order of noncompliance the governor may:

12 (a) Suspend any technical assistance grants provided pursuant to  
13 RCW 36.70A.190; or

14 (b) Suspend the real estate excise tax authorized by RCW 82.46.010  
15 and/or 82.46.035.

16 (2) For a second order of noncompliance the governor may:

17 (a) Continue the sanction previously imposed; and

18 (b) Impose additional sanctions authorized by subsection (1) of  
19 this section.

20 (3) For a third order of noncompliance the governor may:

21 (a) Continue the sanctions previously imposed;

22 (b) Impose additional sanctions authorized by subsection (1) of  
23 this section; and

24 (c) Notify and direct the state treasurer to withhold the portion  
25 of motor vehicle excise tax revenues to which the city or county is  
26 entitled as provided in RCW 82.44.150.

27 (4) Upon notice from the appropriate council that the city or  
28 county is in compliance with this chapter the governor shall terminate

1 any sanctions that have been imposed and direct dispersal of any funds  
2 withheld from the city or county.

3 NEW SECTION. **Sec. 32.** A new section is added to chapter 82.44 RCW  
4 to read as follows:

5 WITHHOLDING REVENUE--NONCOMPLIANCE. The governor may notify and  
6 direct the state treasurer to withhold the revenues to which the county  
7 or city is entitled under this chapter if a county or city is found by  
8 a dispute resolution council to be in noncompliance with chapter 36.70A  
9 RCW.

10 PART VI - OTHER PROVISIONS

11 **Sec. 33.** RCW 36.93.180 and 1989 c 84 s 6 are each amended to read  
12 as follows:

13 The decisions of the boundary review board shall attempt to achieve  
14 the following objectives:

- 15 (1) Preservation of natural neighborhoods and communities;
- 16 (2) Use of physical boundaries, including but not limited to bodies  
17 of water, highways, and land contours;
- 18 (3) Creation and preservation of logical service areas;
- 19 (4) Prevention of abnormally irregular boundaries;
- 20 (5) Discouragement of multiple incorporations of small cities and  
21 encouragement of incorporation of cities in excess of ten thousand  
22 population in heavily populated urban areas;
- 23 (6) Dissolution of inactive special purpose districts;
- 24 (7) Adjustment of impractical boundaries;
- 25 (8) Incorporation as cities or towns or annexation to cities or  
26 towns of unincorporated areas which are urban in character; ((and))

1 (9) Protection of agricultural and rural lands which are designated  
2 for long term productive agricultural and resource use by a  
3 comprehensive plan adopted by the county legislative authority; and

4 (10) Evaluation of whether annexation is consistent with the  
5 annexation element of an applicable city comprehensive plan. However,  
6 annexation or incorporation shall not occur outside of an urban growth  
7 area designated by a county pursuant to chapter 36.70A RCW.

8 NEW SECTION. Sec. 34. A new section is added to chapter 36.93 RCW  
9 to read as follows:

10 POWER TO DISBAND BOUNDARY REVIEW BOARD. When a county, and all  
11 cities within the county, have adopted a comprehensive plan and  
12 development regulations pursuant to chapter 36.70A RCW, the county may,  
13 at the discretion of the county legislative authority, disband the  
14 boundary review board in that county.

15 NEW SECTION. Sec. 35. TREATY RIGHTS. Nothing in this chapter is  
16 intended to, or may be construed to, directly or indirectly, alter,  
17 create, confer, or imply new rights, nor to reduce, enlarge, or expand  
18 existing rights, except as expressly stated in this chapter. An  
19 obligation on the party of a county to consult with other governmental  
20 agencies or federally recognized tribal governments shall not be  
21 construed to create a right of consultation or participation. Failure  
22 or refusal of a consulted party to participate, negotiate, or agree to  
23 any proposal shall not create a claim or cause of action, and the  
24 consulting party is entitled to proceed in the best interests of the  
25 jurisdiction.

26 NEW SECTION. Sec. 36. A new section is added to chapter 36.70 RCW  
27 to read as follows:

1 CONFORMANCE WITH CHAPTER 36.70A RCW REQUIRED. For counties subject  
2 to chapter 36.70A RCW, the exercise of any power or authority by a  
3 county or city pursuant to this chapter shall be subject to and in  
4 conformity with the requirements of chapter 36.70A RCW.

5 NEW SECTION. **Sec. 37.** A new section is added to chapter 35.63 RCW  
6 to read as follows:

7 CONFORMANCE WITH CHAPTER 36.70A RCW REQUIRED. For counties and  
8 cities subject to chapter 36.70A RCW, the exercise of any power or  
9 authority by a county or city pursuant to this chapter shall be subject  
10 to and in conformity with the requirements of chapter 36.70A RCW.

11 NEW SECTION. **Sec. 38.** A new section is added to chapter 35.63A  
12 RCW to read as follows:

13 CONFORMANCE WITH CHAPTER 36.70A RCW REQUIRED. For cities subject  
14 to chapter 36.70A RCW, the exercise of any power or authority by a city  
15 pursuant to this chapter shall be subject to and in conformity with the  
16 requirements of chapter 36.70A RCW.

17 NEW SECTION. **Sec. 39.** A new section is added to chapter 43.21C  
18 RCW to read as follows:

19 CONFORMANCE WITH CHAPTER 36.70A RCW REQUIRED. (1) The exercise of  
20 any power or authority under this chapter shall be subject to and in  
21 conformity with the requirements of chapter 36.70A RCW.

22 (2) Each comprehensive plan required by chapter 36.70A RCW shall  
23 include an environmental management element that demonstrates that the  
24 comprehensive plan of a county or city that is required or chooses to  
25 plan under RCW 36.70A.040 has been reviewed, pursuant to this chapter  
26 by such county or city prior to final adoption. Such element shall  
27 also constitute the nonproject environmental impact statement. A

1 dispute resolution council established by chapter 43.21B RCW shall have  
2 the authority to consolidate an appeal on compliance with this chapter  
3 with the appeal on a comprehensive plan, development regulation, or  
4 amendment thereto. After adoption of such comprehensive plan, this  
5 chapter may not be used to reconsider matters evaluated in the  
6 environmental management element of a comprehensive plan adopted  
7 pursuant to chapter 36.70A RCW.

8 NEW SECTION. **Sec. 40.** A new section is added to chapter 58.17 RCW  
9 to read as follows:

10 CONFORMANCE WITH CHAPTER 36.70A RCW REQUIRED. The exercise of any  
11 power or authority pursuant to this chapter including technical  
12 assistance, and funding to cities and counties shall be subject to and  
13 in conformity with the requirements of chapter 36.70A RCW.

14 NEW SECTION. **Sec. 41.** A new section is added to chapter 90.48 RCW  
15 to read as follows:

16 CONFORMANCE WITH CHAPTER 36.70A RCW REQUIRED. The exercise of any  
17 power or authority pursuant to this chapter including technical  
18 assistance, and funding to cities and counties shall be subject to and  
19 in conformity with the requirements of chapter 36.70A RCW.

20 NEW SECTION. **Sec. 42.** A new section is added to chapter 90.58 RCW  
21 to read as follows:

22 CONFORMANCE WITH CHAPTER 36.70A RCW REQUIRED. The exercise of any  
23 power or authority pursuant to this chapter including technical  
24 assistance, and funding to cities and counties shall be subject to and  
25 in conformity with the requirements of chapter 36.70A RCW.

1        NEW SECTION.   **Sec. 43.**   A new section is added to chapter 90.70 RCW  
2   to read as follows:

3        CONFORMANCE WITH CHAPTER 36.70A RCW REQUIRED.   The exercise of any  
4   power or authority pursuant to this chapter including technical  
5   assistance, and funding to cities and counties shall be subject to and  
6   in conformity with the requirements of chapter 36.70A RCW.

7        NEW SECTION.   **Sec. 44.**   CONFORMANCE WITH CHAPTERS 80.50, 76.09, AND  
8   70.105 RCW REQUIRED.   Nothing in this chapter alters, diminishes,  
9   modifies, or otherwise affects any provision of chapters 80.50, 76.09,  
10   and 70.105 RCW.

11       NEW SECTION.   **Sec. 45.**   CONFORMANCE WITH CHAPTERS 80.50, 76.09, AND  
12   70.105 RCW REQUIRED.   Nothing in this chapter alters, diminishes,  
13   modifies, or otherwise affects any provision of chapters 80.50, 76.09,  
14   and 70.105 RCW.

15       NEW SECTION.   **Sec. 46.**   SEVERABILITY.   If any provision of this act  
16   or its application to any person or circumstance is held invalid, the  
17   remainder of the act or the application of the provision to other  
18   persons or circumstances is not affected.

19       NEW SECTION.   **Sec. 47.**   HEADINGS.   Part and section headings and  
20   the table of sections as used in this act do not constitute any part of  
21   the law.

22       NEW SECTION.   **Sec. 48.**   CODIFICATION.   (1) Sections 11, 12, 16, 17,  
23   19, 20, 31, 35, 44, 46, and 47 of this act are each added to chapter  
24   36.70A RCW.

1 (2) Sections 23 through 30 and 45 of this act are each added to  
 2 chapter 43.21B RCW.

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