
HOUSE BILL 1498

State of Washington

56th Legislature

1999 Regular Session

By Representative Cairnes

Read first time . Referred to Committee on .

1 AN ACT Relating to growth management; amending RCW 36.70A.010,
2 36.70A.020, 36.70A.030, 36.70A.050, 36.70A.060, 36.70A.070, 36.70A.110,
3 36.70A.130, 36.70A.140, 36.70A.160, 36.70A.210, 36.70A.350, 36.70A.370,
4 36.70A.390, 36.09.050, 36.70B.010, 36.70B.020, 36.70B.040, 36.70B.060,
5 36.70B.070, 36.70B.090, 36.70B.120, 36.70B.130, 36.70B.140, 36.70B.160,
6 and 36.70B.170; reenacting and amending RCW 36.70B.110; adding new
7 sections to chapter 36.70A RCW; creating a new section; repealing RCW
8 36.70B.030 and 36.70B.080; repealing 1998 c 286 s 9 and 1995 c 347 s
9 411 (uncodified); providing an expiration date; and declaring an
10 emergency.

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

12 **Sec. 1.** RCW 36.70A.010 and 1990 1st ex.s. c 17 s 1 are each
13 amended to read as follows:

14 The legislature finds that uncoordinated and unplanned growth,
15 together with a lack of common goals expressing the public's interest
16 in the conservation and the wise use of our lands, pose a threat to the
17 environment, sustainable economic development, and the health, safety,
18 and high quality of life enjoyed by residents of this state. The
19 legislature also finds that private property rights should be

1 protected. It is in the public interest that citizens, communities,
2 local governments, and the private sector cooperate and coordinate with
3 one another in comprehensive land use planning. Further, the
4 legislature finds that it is in the public interest that economic
5 development programs be shared with communities experiencing
6 insufficient economic growth.

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

9 The following goals are adopted to guide the development and
10 adoption of comprehensive plans and development regulations of those
11 counties and cities that are required or choose to plan under RCW
12 36.70A.040. The following goals are not listed in order of priority
13 and shall be used exclusively for the purpose of guiding the
14 development of comprehensive plans and development regulations:

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

18 (2) Reduce sprawl. Reduce the inappropriate conversion of
19 undeveloped land (~~((into sprawling, low density development))~~).

20 (3) Transportation. Encourage efficient multimodal transportation
21 systems that are based on regional priorities and coordinated with
22 county and city comprehensive plans.

23 (4) Housing. Encourage the availability of affordable housing to
24 all economic segments of the population of this state, promote a
25 variety of residential densities and housing types, and encourage
26 preservation of existing housing stock.

27 (5) Economic development. Encourage economic development
28 throughout the state that is consistent with adopted comprehensive
29 plans, promote economic opportunity for all citizens of this state,
30 (~~((especially for))~~) including unemployed and (~~((for))~~) disadvantaged
31 persons, and encourage growth in areas experiencing insufficient
32 economic growth(~~(, all within the capacities of the state's natural~~
33 ~~resources, public services, and public facilities))~~).

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

1 (7) Permits. Applications for both state and local government
2 permits should be processed in a timely and fair manner to ensure
3 predictability. Counties and cities shall issue permits for single-
4 family residential construction within seven business days of
5 application. Counties and cities shall issue permits for multifamily
6 construction within thirty days of application. Counties and cities
7 shall issue permits for short-subdivision applications within thirty
8 days of application and subdivision applications within ninety days of
9 application.

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

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

19 (10) Environment. Protect the environment from hazards and
20 nuisances and ~~((enhance))~~ maintain the state's high quality of life,
21 including air and water quality, and the availability of water.

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

26 (12) Public facilities and services. Ensure that those public
27 facilities and services necessary to support development shall be
28 ~~((adequate))~~ planned to ~~((serve))~~ provide services to the development
29 at the time the development is available for occupancy ~~((and use~~
30 ~~without decreasing current service levels below locally established~~
31 ~~minimum standards))~~. A city that operates public facilities and
32 services shall serve within its service area if service is technically
33 feasible and in compliance with local regulations.

34 A city that provides water or sewer service outside the corporate
35 boundaries of the city shall not require, as a condition of providing
36 water or sewer service, the property owner who has requested water or
37 sewer service to agree to:

38 (a) Lot sizes different from those required by the jurisdiction
39 with zoning authority over the property; or

1 (b) Other development or design requirements not required by the
2 local government with jurisdiction over the property.

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

6 (14) Equal protection of property owners' rights. Property owners
7 have the prospective right to those existing uses of similar adjacent
8 properties within the same zoning designation.

9 **Sec. 3.** RCW 36.70A.030 and 1997 c 429 s 3 are each amended to read
10 as follows:

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout this chapter.

13 (1) "Adopt a comprehensive land use plan" means to enact a new
14 comprehensive land use plan or to update an existing comprehensive land
15 use plan.

16 (2) "Agricultural land" means land primarily devoted to the
17 commercial production of horticultural, viticultural, floricultural,
18 dairy, apiary, vegetable, or animal products or of berries, grain, hay,
19 straw, turf, seed, Christmas trees not subject to the excise tax
20 imposed by RCW 84.33.100 through 84.33.140, finfish in upland
21 hatcheries, or livestock, and that has long-term commercial
22 significance for agricultural production.

23 (3) "City" means any city or town, including a code city.

24 (4) "Comprehensive land use plan," "comprehensive plan," or "plan"
25 means a generalized coordinated land use policy statement of the
26 governing body of a county or city that is adopted pursuant to this
27 chapter.

28 (5) "Critical areas" include the following areas and ecosystems:

29 (a) Wetlands, limited to the United States army corps of engineers'
30 definition of wetlands, as now existing or subsequently amended under
31 its authority, under section 401 of the clean water act, 33 U.S.C. Sec.
32 1344; (b) areas with a documented critical ((recharging)) recharge
33 effect ((en)) that is necessary for the health and sanitation of
34 aquifers used for potable water; (c) fish and wildlife habitat
35 conservation areas as limited in chapter 75.20 RCW; (d) frequently
36 flooded areas no larger than areas within one hundred year flood plains
37 under Title 86 RCW; and (e) geologically hazardous areas.

1 (6) "Department" means the department of community, trade, and
2 economic development.

3 (7) "Development regulations" or "regulation" means the controls
4 placed on development or land use activities by a county or city,
5 ~~((including, but not limited to,))~~ zoning ordinances, critical areas
6 ordinances, shoreline master programs, shoreline management act
7 provisions, or official controls, ((planned unit development
8 ordinances, subdivision ordinances, and binding site plan ordinances
9 together with any amendments thereto)) each with their own separate
10 approval processes. A development regulation ~~((does not))~~ includes
11 ~~((a))~~ the decision to approve a project permit application, ~~((as~~
12 ~~defined in))~~ notwithstanding RCW 36.70B.020, even though the decision
13 may be expressed in a resolution or ordinance of the legislative body
14 of the county or city.

15 (8) "Forest land" means land primarily devoted to growing trees for
16 long-term commercial timber production on land that can be economically
17 and practically managed for such production, including Christmas trees
18 subject to the excise tax imposed under RCW 84.33.100 through
19 84.33.140, and that has long-term commercial significance. In
20 determining whether forest land is primarily devoted to growing trees
21 for long-term commercial timber production on land that can be
22 economically and practically managed for such production, the following
23 factors shall be considered: (a) The proximity of the land to urban,
24 suburban, and rural settlements; (b) surrounding parcel size and the
25 compatibility and intensity of adjacent and nearby land uses; (c) long-
26 term local economic conditions that affect the ability to manage for
27 timber production; and (d) the availability of public facilities and
28 services conducive to conversion of forest land to other uses.

29 (9) "Geologically hazardous areas" means areas that because of
30 their susceptibility to erosion, sliding, earthquake, or other
31 geological events, are not suited to the siting of commercial,
32 residential, or industrial development consistent with public health or
33 safety concerns. The county or city has the burden of proving
34 geologically hazardous areas exist and cannot safely support
35 development. The cost of this burden shall not be borne by the
36 property owner.

37 (10) "Long-term commercial significance" includes the growing
38 capacity, productivity, and soil composition of the land for long-term

1 commercial production, in consideration with the land's proximity to
2 population areas, and the possibility of more intense uses of the land.

3 (11) "Minerals" include gravel, sand, and valuable metallic
4 substances.

5 (12) "Public facilities" include streets, roads, highways,
6 sidewalks, street and road lighting systems, traffic signals, domestic
7 water systems, storm and sanitary sewer systems, parks and recreational
8 facilities, and schools.

9 (13) "Public services" include fire protection and suppression, law
10 enforcement, public health, education, and recreation(~~(, environmental~~
11 ~~protection, and other governmental services)~~)).

12 (14) "Rural character" refers to the patterns of land use and
13 development established by a county in the rural element of its
14 comprehensive plan:

15 (a) In which open space, the natural landscape, and vegetation
16 (~~(predominate over)~~) occur more frequently than the built environment;

17 (b) That foster traditional rural lifestyles, rural-based
18 economies, and opportunities to both live and work in rural areas;

19 (c) That provide visual landscapes that are traditionally found in
20 rural areas and communities;

21 (d) That are compatible with the use of the land by wildlife and
22 for fish and wildlife habitat;

23 (e) That reduce the inappropriate conversion of undeveloped land
24 into sprawling, low-density development;

25 (f) That generally do not require the extension of urban
26 governmental services; and

27 (g) That are consistent with the protection of natural surface
28 water flows and ground water and surface water recharge and discharge
29 areas.

30 (15) "Rural development" refers to development outside the urban
31 growth area and outside agricultural, forest, and mineral resource
32 lands designated pursuant to RCW 36.70A.170. Rural development can
33 consist of a variety of uses and residential densities, including
34 clustered residential development, at levels that (~~(are consistent~~
35 ~~with)~~) consider the preservation of rural character and the
36 requirements of the rural element. Rural development does not refer to
37 agriculture or forestry activities that may be conducted in rural
38 areas.

1 (16) "Rural governmental services" or "rural services" include
2 those public services and public facilities historically and typically
3 delivered at an intensity usually found in rural areas, and may include
4 domestic water systems, fire and police protection services,
5 transportation and public transit services, and other public utilities
6 associated with rural development and normally not associated with
7 urban areas. Rural services ~~((do))~~ may not include storm or sanitary
8 sewers, except as otherwise authorized by RCW 36.70A.110(4).

9 (17) "Service area" means a specific geographic area serviced or
10 for which service is planned by a purveyor.

11 (18) "Urban growth" refers to growth that makes intensive use of
12 land for the location of buildings, structures, and impermeable
13 surfaces to ~~((such a degree as to be incompatible with the primary use~~
14 ~~of land for the production of food, other agricultural products, or~~
15 ~~fiber, or the extraction of mineral resources, rural uses, rural~~
16 ~~development, and natural resource lands designated pursuant to RCW~~
17 ~~36.70A.170))~~ provide for housing, business, and commerce, which
18 typically requires urban governmental services. A pattern of more
19 intensive rural development, as provided in RCW 36.70A.070(5)(d), is
20 not urban growth. ~~((When allowed to spread over wide areas, urban~~
21 ~~growth typically requires urban governmental services.))~~
22 "Characterized by urban growth" refers to land ~~((having))~~ that: (a)
23 Has urban growth located on it, or ((to land)) is located in
24 relationship to an area with urban growth on it ((as to be appropriate
25 for urban growth)); or (b) is so located in relationship to facilities,
26 infrastructure, and services as to make urban growth on the land
27 feasible through public or private extensions of service.

28 ~~((+18+))~~ (19) "Urban growth areas" means those areas designated by
29 a county pursuant to RCW 36.70A.110.

30 ~~((+19+))~~ (20) "Urban governmental services" or "urban services"
31 include those public services and public facilities at an intensity
32 historically and typically provided in cities, specifically including
33 storm and sanitary sewer systems, domestic water systems, street
34 cleaning services, fire and police protection services, public transit
35 services, and other public utilities associated with urban areas ~~((and~~
36 ~~normally not associated with rural areas))~~.

37 ~~((+20+))~~ (21) "Wetland" or "wetlands" means areas that are
38 inundated or saturated by surface water or ground water at a frequency
39 and duration sufficient to support, and that under normal circumstances

1 do support, a prevalence of vegetation typically adapted for life in
2 saturated soil conditions. Wetlands generally include swamps, marshes,
3 bogs, and similar areas. Wetlands are limited to wetlands under the
4 United States army corps of engineers' definition under section 401 of
5 the clean water act, 33 U.S.C. Sec. 1344, as now existing or hereafter
6 amended. Wetlands do not include those artificial wetlands
7 intentionally created from nonwetland sites, including, but not limited
8 to, irrigation and drainage ditches, grass-lined swales, canals,
9 detention facilities, wastewater treatment facilities, farm ponds, and
10 landscape amenities, or those wetlands created after July 1, 1990, that
11 were unintentionally created as a result of the construction of a road,
12 street, or highway. Wetlands may include those artificial wetlands
13 intentionally created from nonwetland areas created to mitigate
14 conversion of wetlands.

15 NEW SECTION. **Sec. 4.** The department of ecology shall
16 expeditiously and summarily waive the water quality certification
17 process of the clean water act, 33 U.S.C. Sec. 1341, as now existing or
18 hereafter amended.

19 NEW SECTION. **Sec. 5.** Land developing under this chapter is exempt
20 from RCW 76.09.050. For the purposes of this section, "land
21 developing" means the division or platting of land in preparation for
22 development or the actual building, constructing, or erecting of
23 residences or commercial buildings.

24 NEW SECTION. **Sec. 6.** Critical areas shall be regulated only for
25 the limited purpose of protecting the public's health and safety.

26 NEW SECTION. **Sec. 7.** Development regulations shall only be
27 adopted for the limited purpose of protecting the public's health and
28 safety.

29 NEW SECTION. **Sec. 8.** Geologically hazardous areas are not
30 restricted from development activities unless a city or county meets
31 its burden to prove that the identified geologic conditions preclude
32 the safe siting of commercial, residential, or industrial development.

1 NEW SECTION. **Sec. 9.** Outside an established urban growth area, if
2 a project applicant has an approved water system and an approval for
3 sewer or a septic tank system, the city or county shall issue permits
4 necessary for building single-family residences.

5 **Sec. 10.** RCW 36.70A.050 and 1990 1st ex.s. c 17 s 5 are each
6 amended to read as follows:

7 (1) Subject to the definitions provided in RCW 36.70A.030, the
8 department shall adopt guidelines, under chapter 34.05 RCW, no later
9 than September 1, 1990, and shall amend these guidelines to conform to
10 this chapter by December 31, 1999, to guide the classification of: (a)
11 Agricultural lands; (b) forest lands; (c) mineral resource lands; and
12 (d) critical areas. The department shall consult with the department
13 of agriculture regarding guidelines for agricultural lands, the
14 department of natural resources regarding forest lands and mineral
15 resource lands, and the department of ecology regarding critical areas.

16 (2) In carrying out its duties under this section, the department
17 shall consult with interested parties, including but not limited to:
18 (a) Representatives of cities; (b) representatives of counties; (c)
19 representatives of developers; (d) representatives of builders; (e)
20 representatives of owners of agricultural lands, forest lands, and
21 mining lands; (f) representatives of local economic development
22 officials; (g) representatives of environmental organizations; (h)
23 representatives of special districts; (i) representatives of the
24 governor's office and federal and state agencies; and (j)
25 representatives of Indian tribes. In addition to the consultation
26 required under this subsection, the department shall conduct public
27 hearings in the various regions of the state. The department shall
28 consider the public input obtained at such public hearings when
29 adopting the guidelines.

30 (3) The guidelines under subsection (1) of this section shall ((be
31 ~~minimum guidelines that~~)) apply to all jurisdictions((, ~~but also shall~~
32 ~~allow for regional differences that exist in Washington state~~)). The
33 intent of these guidelines is to assist counties and cities in
34 designating the classification of agricultural lands, forest lands,
35 mineral resource lands, and critical areas under RCW 36.70A.170.
36 Counties and cities may not designate lands as resource lands or
37 critical areas that do not qualify under the guidelines.

1 (4) The guidelines established by the department under this section
2 regarding classification of forest lands shall not be inconsistent with
3 guidelines adopted by the department of natural resources.

4 **Sec. 11.** RCW 36.70A.060 and 1998 c 286 s 5 are each amended to
5 read as follows:

6 (1) Each county that is required or chooses to plan under RCW
7 36.70A.040, and each city within such county, shall adopt development
8 regulations on or before September 1, 1991, to assure the conservation
9 of agricultural, forest, and mineral resource lands designated under
10 RCW 36.70A.170. Regulations adopted under this subsection may not
11 prohibit uses legally existing on any parcel prior to their adoption
12 and shall remain in effect until the county or city adopts development
13 regulations pursuant to RCW 36.70A.040. (~~Such regulations shall
14 assure that the use of lands adjacent to agricultural, forest, or
15 mineral resource lands shall not interfere with the continued use, in
16 the accustomed manner and in accordance with best management practices,
17 of these designated lands for the production of food, agricultural
18 products, or timber, or for the extraction of minerals.~~) Counties and
19 cities shall require that all plats, short plats, development permits,
20 and building permits issued for development activities on, or within
21 five hundred feet of, lands designated as agricultural lands, forest
22 lands, or mineral resource lands, contain a notice that the subject
23 property is within or near designated agricultural lands, forest lands,
24 or mineral resource lands on which a variety of commercial activities
25 may occur that are not compatible with residential development for
26 certain periods of limited duration. The notice for mineral resource
27 lands shall also inform that an application might be made for mining-
28 related activities, including mining, extraction, washing, crushing,
29 stockpiling, blasting, transporting, and recycling of minerals.

30 (2) Each county and city shall adopt development regulations that
31 protect critical areas from hazards and health and safety risks that
32 are required to be designated under RCW 36.70A.170. For counties and
33 cities that are required or choose to plan under RCW 36.70A.040, such
34 development regulations shall be adopted on or before September 1,
35 1991. For the remainder of the counties and cities, such development
36 regulations shall be adopted on or before March 1, 1992, but cities and
37 counties shall amend their development regulations to conform with this
38 chapter by December 1, 1999.

1 (3) Such counties and cities shall review these designations and
2 development regulations when adopting their comprehensive plans under
3 RCW 36.70A.040 and implementing development regulations under RCW
4 36.70A.120 ~~((and may alter such designations and development
5 regulations to insure consistency))~~.

6 (4) Forest land and agricultural land located within urban growth
7 areas shall not be designated by a county or city as forest land or
8 agricultural land of long-term commercial significance under RCW
9 36.70A.170 ~~((unless the city or county has enacted a program
10 authorizing transfer or purchase of development rights))~~.

11 **Sec. 12.** RCW 36.70A.070 and 1998 c 171 s 2 are each amended to
12 read as follows:

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

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

22 (1) A land use element designating the proposed general
23 distribution and general location and extent of the uses of land, where
24 appropriate, for agriculture, timber production, housing, commerce,
25 industry, recreation, open spaces, general aviation airports, public
26 utilities, public facilities, and other land uses. ~~((The land use
27 element shall include population densities, building intensities, and
28 estimates of future population growth. The land use element shall
29 provide for protection of the quality and quantity of ground water used
30 for public water supplies. Where applicable, the land use element
31 shall review drainage, flooding, and storm water run-off in the area
32 and nearby jurisdictions and provide guidance for corrective actions to
33 mitigate or cleanse those discharges that pollute waters of the state,
34 including Puget Sound or waters entering Puget Sound.))~~

35 (2) A housing element ensuring the vitality and character of
36 established residential neighborhoods that: (a) Includes an inventory
37 and analysis of existing and projected housing needs; (b) includes a
38 statement of goals, policies, objectives, and mandatory provisions for

1 the preservation, improvement, and development of housing, including
2 single-family residences; (c) identifies sufficient land for housing(~~(~~
3 ~~including, but not limited to, government-assisted housing, housing for~~
4 ~~low-income families, manufactured housing, multifamily housing, and~~
5 ~~group homes and foster care facilities))); and (d) makes adequate
6 provisions for existing and projected needs of all economic segments of
7 the community, except that counties and cities shall not require
8 private projects to include low-income housing as a condition of
9 issuing a permit or granting a land-use approval.~~

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

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

27 (5) Rural element. Counties shall include a rural element
28 (~~(including lands that are not designated for urban growth,~~
29 ~~agriculture, forest, or mineral resources)). The following provisions~~
30 shall apply to the rural element:

31 (a) Growth management act goals and local circumstances. Because
32 circumstances vary from county to county, in establishing patterns of
33 rural densities and uses, a county may consider local circumstances,
34 but shall develop a written record explaining how the rural element
35 harmonizes the planning goals in RCW 36.70A.020 and meets the
36 requirements of this chapter.

37 (b) Rural development. The rural element shall permit rural
38 development, forestry, and agriculture in rural areas, including the
39 development of less than ten single-family residential units by a
property owner. The rural element shall provide for a variety of rural

1 densities, uses, essential public facilities, and rural governmental
2 services needed to serve the permitted densities and uses. In order to
3 achieve a variety of rural densities and uses, counties may provide for
4 clustering, density transfer, design guidelines, conservation
5 easements, and other innovative techniques that will accommodate
6 appropriate rural densities and uses that are not characterized by
7 urban growth and that are consistent with rural character.

8 (c) Measures governing rural development. The rural element shall
9 include measures that apply to rural development and protect the rural
10 character of the area, as established by the county, by:

11 (i) Containing or otherwise controlling rural development;

12 (ii) Assuring visual compatibility of rural development with the
13 surrounding rural area;

14 (iii) Reducing the inappropriate conversion of undeveloped land
15 into sprawling, low-density development in the rural area;

16 (iv) ~~((Protecting))~~ Preserving critical areas, as provided in RCW
17 36.70A.060, and surface water and ground water resources; and

18 (v) Protecting against conflicts with the use of agricultural,
19 forest, and mineral resource lands designated under RCW 36.70A.170.

20 (d) Limited areas of more intensive rural development. Subject to
21 the requirements of this subsection and except as otherwise
22 specifically provided in this subsection (5)(d), the rural element may
23 allow for limited areas of more intensive rural development, including
24 necessary public facilities and public services to serve the limited
25 area as follows:

26 (i) Rural development consisting of the infill, development, or
27 redevelopment of existing commercial, industrial, residential, or
28 mixed-use areas, whether characterized as shoreline development,
29 villages, hamlets, rural activity centers, or crossroads developments.
30 A commercial, industrial, residential, shoreline, or mixed-use area
31 shall be subject to the requirements of (d)(iv) of this subsection, but
32 shall not be subject to the requirements of (c)(ii) and (iii) of this
33 subsection. An industrial area is not required to be principally
34 designed to serve the existing and projected rural population;

35 (ii) The intensification of development on lots containing, or new
36 development of, small-scale recreational or tourist uses, including
37 commercial facilities to serve those recreational ~~((or))~~ tourist, or
38 residential uses, that rely on a rural location and setting(~~((, but that~~
39 ~~do not include new residential development))~~). A small-scale recreation

1 (~~(or)~~), tourist, or residential use is not required to be principally
2 designed to serve the existing and projected rural population. Public
3 services and public facilities shall be limited to those necessary to
4 serve the recreation (~~(or)~~), tourist, or residential use (~~(and shall be~~
5 ~~provided in a manner that does not permit low density sprawl)~~);

6 (iii) The intensification of development on lots containing
7 isolated nonresidential uses or new development of isolated cottage
8 industries and isolated small-scale businesses that are not principally
9 designed to serve the existing and projected rural population and
10 nonresidential uses, but do provide job opportunities for rural
11 residents. Public services and public facilities shall be limited to
12 those necessary to serve the isolated nonresidential use (~~(and shall be~~
13 ~~provided in a manner that does not permit low density sprawl)~~);

14 (iv) A county shall adopt measures to minimize and contain the
15 existing areas or uses of more intensive rural development, as
16 appropriate, authorized under this subsection. (~~(Lands included in~~
17 ~~such existing areas or uses shall not extend beyond the logical outer~~
18 ~~boundary of the existing area or use, thereby allowing a new pattern of~~
19 ~~low density sprawl.)~~) Existing areas are those that are clearly
20 identifiable and (~~(contained and where there is a logical boundary~~
21 ~~delineated predominately by the built environment, but that)~~) may also
22 include undeveloped lands if limited as provided in this subsection.
23 The county shall establish the (~~(logical)~~) outer boundary of an area of
24 more intensive rural development. In establishing the (~~(logical)~~)
25 outer boundary the county shall address (A) the need to preserve the
26 character of existing natural neighborhoods and communities, (B)
27 physical boundaries such as bodies of water, streets and highways, and
28 land forms and contours, (C) the prevention of abnormally irregular
29 boundaries, and (D) the ability to provide public facilities and public
30 services (~~(in a manner that does not permit low density sprawl)~~);

31 (v) For purposes of (d) of this subsection, an existing area or
32 existing use is one that was in existence:

33 (A) On July 1, 1990, in a county that was initially required to
34 plan under all of the provisions of this chapter;

35 (B) On the date the county adopted a resolution under RCW
36 36.70A.040(2), in a county that is planning under all of the provisions
37 of this chapter under RCW 36.70A.040(2); or

38 (C) On the date the office of financial management certifies the
39 county's population as provided in RCW 36.70A.040(5), in a county that

1 is planning under all of the provisions of this chapter pursuant to RCW
2 36.70A.040(5).

3 (e) Exception. This subsection shall not be interpreted to permit
4 in the rural area a major industrial development or a master planned
5 resort unless otherwise specifically permitted under RCW 36.70A.360 and
6 36.70A.365.

7 (6) A transportation element that implements, and is consistent
8 with, the land use element.

9 (a) The transportation element shall include the following
10 subelements:

11 (i) Land use assumptions used in estimating travel;

12 (ii) Estimated traffic impacts to state-owned transportation
13 facilities resulting from land use assumptions to assist the department
14 of transportation in monitoring the performance of state facilities, to
15 plan improvements for the facilities, and to assess the impact of land-
16 use decisions on state-owned transportation facilities;

17 (iii) Facilities and services needs, including:

18 (A) An inventory of air, water, and ground transportation
19 facilities and services, including transit alignments and general
20 aviation airport facilities, to define existing capital facilities and
21 travel levels as a basis for future planning. This inventory must
22 include state-owned transportation facilities within the city or
23 county's jurisdiction boundaries;

24 (B) Level of service standards for all locally owned arterials and
25 transit routes to serve as a gauge to judge performance of the system.
26 These standards should be regionally coordinated;

27 (C) For state-owned transportation facilities, level of service
28 standards for highways, as prescribed in chapters 47.06 and 47.80 RCW,
29 to gauge the performance of the system. The purposes of reflecting
30 level of service standards for state highways in the local
31 comprehensive plan are to monitor the performance of the system, to
32 evaluate improvement strategies, and to facilitate coordination between
33 the county's or city's six-year street, road, or transit program and
34 the department of transportation's six-year investment program. The
35 ~~((concurrency requirements of))~~ transportation strategies adopted under

36 (b) of this subsection do not apply to transportation facilities and
37 services of state-wide significance ~~((except for counties consisting of~~
38 ~~islands whose only connection to the mainland are state highways or~~
39 ~~ferry routes. In these island counties, state highways and ferry route~~

1 ~~capacity must be a factor in meeting the concurrency requirements in~~
2 ~~(b) of this subsection));~~

3 (D) Specific actions ~~((and requirements)),~~ by using motor vehicle
4 excise tax and gas tax funds, for bringing into compliance locally
5 owned transportation facilities or services that are below an
6 established level of service standard;

7 (E) Forecasts of traffic for at least ten years based on the
8 adopted land use plan to provide information on the location, timing,
9 and capacity needs of future growth;

10 (F) Identification of state and local system needs to meet current
11 and future demands. Identified needs on state-owned transportation
12 facilities must be consistent with the state-wide multimodal
13 transportation plan required under chapter 47.06 RCW;

14 (iv) Finance, including:

15 (A) An analysis of funding capability to judge needs against
16 probable funding resources;

17 (B) A multiyear financing plan based on the needs identified in the
18 comprehensive plan, the appropriate parts of which shall serve as the
19 basis for the six-year street, road, or transit program required by RCW
20 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795
21 for public transportation systems. The multiyear financing plan should
22 be coordinated with the six-year improvement program developed by the
23 department of transportation as required by RCW 47.05.030;

24 (C) If probable funding falls short of meeting identified needs, a
25 discussion of how additional funding will be raised ~~((, or how land use~~
26 ~~assumptions will be reassessed))~~ to ensure that level of service
27 standards will be met;

28 (v) Intergovernmental coordination efforts, including an assessment
29 of the impacts of the transportation plan and land use assumptions on
30 the transportation systems of adjacent jurisdictions;

31 (vi) Demand-management strategies.

32 (b) After adoption of the comprehensive plan by jurisdictions
33 required to plan or who choose to plan under RCW 36.70A.040, local
34 jurisdictions must adopt and enforce ordinances ~~((which prohibit~~
35 ~~development approval if the development causes the level of service on~~
36 ~~a locally owned transportation facility to decline below the standards~~
37 ~~adopted in the transportation element of the comprehensive plan, unless~~
38 ~~transportation improvements or strategies to accommodate the impacts of~~
39 ~~development are made concurrent with the development. These))~~ that

1 provide strategies that may include increased public transportation
2 service, ride sharing programs, demand management, and other
3 transportation systems management strategies. ~~((For the purposes of
4 this subsection (6) "concurrent with the development" shall mean that
5 improvements or strategies are in place at the time of development, or
6 that a financial commitment is in place to complete the improvements or
7 strategies within six years.))~~

8 (c) The transportation element described in this subsection (6),
9 and the six-year plans required by RCW 35.77.010 for cities, RCW
10 36.81.121 for counties, RCW 35.58.2795 for public transportation
11 systems, and RCW 47.05.030 for the state, must be consistent.

12 **Sec. 13.** RCW 36.70A.110 and 1997 c 429 s 24 are each amended to
13 read as follows:

14 (1) Each county that is required or chooses to plan under RCW
15 36.70A.040 shall designate an urban growth area or areas within which
16 urban growth shall be encouraged ~~((and outside of which growth can
17 occur only if it is not urban in nature))~~. Each city that is located
18 in such a county shall be included within an urban growth area. An
19 urban growth area may include more than a single city. An urban growth
20 area ~~((may))~~ shall include territory that is located outside of a city
21 ~~((only if such territory already is characterized by urban growth
22 whether or not the urban growth area includes a city, or is adjacent to
23 territory already characterized by urban growth, or is a designated new
24 fully contained community as defined by RCW 36.70A.350))~~ when a county
25 determines that territory is necessary to provide an adequate land
26 supply to expand the urban growth boundaries beyond the boundaries of
27 existing cities. However, a county's designated urban growth areas
28 shall be at least large enough to accommodate all projected growth and
29 all growth that actually occurs. Cities and counties shall designate
30 urban growth areas that favor expansive delineation of these areas.

31 (2) ~~((Based upon the growth management population projection made
32 for the county by the office of financial management,))~~ The county and
33 each city within the county shall include areas and densities
34 sufficient to permit the urban growth that is projected to occur in the
35 county or city for the succeeding twenty-year period. The office of
36 financial management may be a source for which counties base their
37 population forecasts. Counties may add their own calculations to the
38 office of financial management's population projections. Each urban

1 growth area shall permit urban densities and shall include greenbelt
2 and open space areas. An urban growth area determination may include
3 a reasonable land market supply factor and shall permit a range of
4 urban densities and uses. In determining this market factor, cities
5 and counties may consider local circumstances. Cities and counties
6 have discretion in their comprehensive plans to make many choices about
7 accommodating growth.

8 Within one year of July 1, 1990, each county that as of June 1,
9 1991, was required or chose to plan under RCW 36.70A.040, shall begin
10 consulting with each city located within its boundaries and each city
11 shall propose the location of an urban growth area. Within sixty days
12 of the date the county legislative authority of a county adopts its
13 resolution of intention or of certification by the office of financial
14 management, all other counties that are required or choose to plan
15 under RCW 36.70A.040 shall begin this consultation with each city
16 located within its boundaries. The county shall attempt to reach
17 agreement with each city on the location of an urban growth area within
18 which the city is located. If such an agreement is not reached with
19 each city located within the urban growth area, the county shall
20 justify in writing why it so designated the area an urban growth area.
21 A city may object formally with the department over the designation of
22 the urban growth area within which it is located. Where appropriate,
23 the department shall attempt to resolve the conflicts, including the
24 use of mediation services. This section is intended to establish only
25 a minimum standard for the size of urban growth areas. This section
26 neither limits the discretion of counties to include an ample land
27 supply within urban growth areas nor compels counties to limit or
28 disregard existing property rights.

29 (3)(a) Urban growth should be located (~~first~~) in areas already
30 characterized by urban growth that have adequate existing public
31 facility and service capacities to serve such development, (~~second~~)
32 in areas already characterized by urban growth that will be served
33 adequately by a combination of both existing public facilities and
34 services and any additional needed public facilities and services that
35 are provided by either public or private sources, and (~~third~~) in the
36 remaining portions of the urban growth areas. Urban growth may also be
37 located in designated new fully contained communities as defined by RCW
38 36.70A.350. This chapter does not limit the common law duty of a
39 public utility, whether publicly or privately owned, to make service

1 available to all within its franchise area and within areas as to which
2 a public utility has held itself out as a provider of service. "Public
3 utility," as used in this subsection, refers to a private entity or
4 municipal or quasi-municipal corporation that provides electricity,
5 sanitary sewer, storm sewer, water, telephone, cable television,
6 communications services, or natural gas to the public.

7 (b) In addition to (a) of this subsection, a city that provides
8 water or sewer service outside the corporate boundaries of the city
9 shall not require, as a condition of providing water or sewer service,
10 the property owner who has requested water or sewer service to agree
11 to:

12 (i) Lot sizes different from those required by the jurisdiction
13 with zoning authority over the property; or

14 (ii) Other development or design requirements not required by the
15 local government with jurisdiction over the property.

16 (4) In general, cities are the units of local government most
17 appropriate to provide urban governmental services. In general, it is
18 not appropriate that urban governmental services be extended to or
19 expanded in rural areas except in those limited circumstances shown to
20 be necessary to protect basic public health and safety and the
21 environment and when such services are financially supportable at rural
22 densities ((and do not permit urban development)).

23 (5) On or before October 1, 1993, each county that was initially
24 required to plan under RCW 36.70A.040(1) shall adopt development
25 regulations designating interim urban growth areas under this chapter.
26 Within three years and three months of the date the county legislative
27 authority of a county adopts its resolution of intention or of
28 certification by the office of financial management, all other counties
29 that are required or choose to plan under RCW 36.70A.040 shall adopt
30 development regulations designating interim urban growth areas under
31 this chapter. Adoption of the interim urban growth areas may only
32 occur after public notice; public hearing; and compliance with the
33 state environmental policy act, chapter 43.21C RCW, and RCW 36.70A.110.
34 Such action may be appealed to the appropriate growth management
35 hearings board under RCW 36.70A.280. Final urban growth areas shall be
36 adopted at the time of comprehensive plan adoption under this chapter.

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

1 NEW SECTION. **Sec. 14.** (1) A county or city that downzones any
2 property, in the course of planning, bears the burden of proving, by
3 clear and convincing evidence, that the downzone is justified by
4 reference to the common law standards governing downzones and is
5 indispensable to government achieving compliance with this chapter.

6 (2) The standard set forth in subsection (1) of this section
7 applies to a downzone regardless of whether that downzone is quasi-
8 judicial or legislative in nature.

9 (3) A county or city proposing a downzone shall give timely notice
10 of the proceedings to each affected property owner and shall provide
11 each individual property owner with a separate quasi-judicial hearing
12 in accordance with local procedure. Commencement of a downzone
13 proceeding against a property owner must be by written petition,
14 setting forth in full detail the facts, circumstances, and theories
15 upon which the entity's claim is based. The county or city shall not
16 prove any ground for the downzone not specifically pled.

17 (4) A proceeding for a downzone shall not be commenced within five
18 years of the determination of another downzone proceeding relating to
19 the same property.

20 (5) A property owner who prevails in a proceeding under this
21 section shall recover reasonable attorneys' fees, expert witness fees,
22 and costs.

23 **Sec. 15.** RCW 36.70A.130 and 1997 c 429 s 10 are each amended to
24 read as follows:

25 (1) Each comprehensive land use plan and development regulations
26 shall be subject to continuing review and evaluation by the county or
27 city that adopted them. Not later than September 1, 2002, and at least
28 every ((five)) two years thereafter, a county or city shall take action
29 to review and, if needed, revise its comprehensive land use plan and
30 development regulations to ensure that the plan and regulations are
31 complying with the requirements of this chapter. The review and
32 evaluation required by this subsection may be combined with the review
33 required by subsection (3) of this section.

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

37 (2)(a) Each county and city shall establish and broadly disseminate
38 to the public a public participation program identifying procedures

1 whereby proposed amendments or revisions of the comprehensive plan are
2 considered by the governing body of the county or city no more
3 frequently than once every year except that amendments may be
4 considered more frequently under the following circumstances:

5 (i) The initial adoption of a subarea plan;

6 (ii) The adoption or amendment of a shoreline master program under
7 the procedures set forth in chapter 90.58 RCW; and

8 (iii) The amendment of the capital facilities element of a
9 comprehensive plan that occurs concurrently with the adoption or
10 amendment of a county or city budget.

11 (b) Except as otherwise provided in (a) of this subsection, all
12 proposals shall be considered by the governing body concurrently so the
13 cumulative effect of the various proposals can be ascertained.
14 However, after appropriate public participation a county or city may
15 adopt amendments or revisions to its comprehensive plan that conform
16 with this chapter whenever an emergency exists or to resolve an appeal
17 of a comprehensive plan filed with a growth management hearings board
18 or with the court.

19 (3) Each county that designates urban growth areas under RCW
20 36.70A.110 shall review, at least every (~~ten~~) five years, its
21 designated urban growth area or areas, and the densities permitted
22 within both the incorporated and unincorporated portions of each urban
23 growth area. In conjunction with this review by the county, each city
24 located within an urban growth area shall review the densities
25 permitted within its boundaries, and the extent to which the urban
26 growth occurring within the county has located within each city and the
27 unincorporated portions of the urban growth areas. The county
28 comprehensive plan designating urban growth areas, and the densities
29 permitted in the urban growth areas by the comprehensive plans of the
30 county and each city located within the urban growth areas, shall be
31 revised to accommodate the urban growth projected to occur in the
32 county for the succeeding twenty-year period. The review required by
33 this subsection may be combined with the review and evaluation required
34 by RCW 36.70A.215.

35 **Sec. 16.** RCW 36.70A.140 and 1995 c 347 s 107 are each amended to
36 read as follows:

37 Each county and city that is required or chooses to plan under RCW
38 36.70A.040 shall establish and broadly disseminate to the public a

1 public participation program identifying procedures providing for early
2 (~~and continuous~~) public participation in the development and
3 amendment of comprehensive land use plans and development regulations
4 implementing such plans. The procedures shall provide for broad
5 dissemination of proposals and alternatives, opportunity for written
6 comments, public meetings after effective notice, provision for open
7 discussion, communication programs, information services, and
8 consideration of and response to public comments. In enacting
9 legislation in response to the board's decision pursuant to RCW
10 36.70A.300 declaring part or all of a comprehensive plan or development
11 regulation invalid, the county or city shall provide for public
12 participation that is appropriate and effective under the circumstances
13 presented by the board's order. Errors in exact compliance with the
14 established program and procedures shall not render the comprehensive
15 land use plan or development regulations invalid if the spirit of the
16 program and procedures is observed.

17 **Sec. 17.** RCW 36.70A.160 and 1992 c 227 s 1 are each amended to
18 read as follows:

19 Each county and city that is required or chooses to prepare a
20 comprehensive land use plan under RCW 36.70A.040 shall identify open
21 space corridors within and between urban growth areas. They shall
22 include lands useful for recreation, wildlife habitat, trails, and
23 connection of critical areas as defined in RCW 36.70A.030.
24 Identification of a corridor under this section by a county or city
25 shall not restrict the use or management of lands within the corridor
26 for agricultural or forest purposes. Restrictions on the use or
27 management of such lands for agricultural or forest purposes imposed
28 after identification solely to maintain or enhance the value of such
29 lands as a corridor may occur only if the county or city acquires
30 sufficient interest to prevent development of the lands or to control
31 the resource development of the lands. The requirement for acquisition
32 of sufficient interest does not include those corridors regulated by
33 the interstate commerce commission, under provisions of 16 U.S.C. Sec.
34 1247(d), 16 U.S.C. Sec. 1248, or 43 U.S.C. Sec. 912. (~~Nothing in this~~
35 ~~section shall be interpreted to alter the authority of the state, or a~~
36 ~~county or city, to regulate land use activities.)) Private property
37 shall not be taken for public use without just compensation having been~~

1 made. The property rights of landowners shall be protected from
2 arbitrary and discriminatory actions.

3 The city or county may acquire by donation or purchase the fee
4 simple or lesser interests in these open space corridors using funds
5 authorized by RCW 84.34.230 or other sources.

6 **Sec. 18.** RCW 36.70A.210 and 1998 c 171 s 4 are each amended to
7 read as follows:

8 (1) The legislature recognizes that counties are regional
9 governments within their boundaries, and cities are primary providers
10 of urban governmental services within urban growth areas. For the
11 purposes of this section, a "county-wide planning policy" is a written
12 policy statement or statements used solely for establishing a county-
13 wide framework from which county and city comprehensive plans are
14 developed and adopted pursuant to this chapter. This framework shall
15 ensure that city and county comprehensive plans are consistent as
16 required in RCW 36.70A.100. Nothing in this section shall be construed
17 to alter the land-use powers of cities.

18 (2) The legislative authority of a county that plans under RCW
19 36.70A.040 shall adopt a county-wide planning policy in cooperation
20 with the cities located in whole or in part within the county as
21 follows:

22 (a) No later than sixty calendar days from July 16, 1991, the
23 legislative authority of each county that as of June 1, 1991, was
24 required or chose to plan under RCW 36.70A.040 shall convene a meeting
25 with representatives of each city located within the county for the
26 purpose of establishing a collaborative process that will provide a
27 framework for the adoption of a county-wide planning policy. In other
28 counties that are required or choose to plan under RCW 36.70A.040, this
29 meeting shall be convened no later than sixty days after the date the
30 county adopts its resolution of intention or was certified by the
31 office of financial management.

32 (b) The process and framework for adoption of a county-wide
33 planning policy specified in (a) of this subsection shall determine the
34 manner in which the county and the cities agree to all procedures and
35 provisions including but not limited to desired planning policies,
36 deadlines, ratification of final agreements and demonstration thereof,
37 and financing, if any, of all activities associated therewith.

1 (c) If a county fails for any reason to convene a meeting with
2 representatives of cities as required in (a) of this subsection, the
3 governor may immediately impose any appropriate sanction or sanctions
4 on the county from those specified under RCW 36.70A.340.

5 (d) If there is no agreement by October 1, 1991, in a county that
6 was required or chose to plan under RCW 36.70A.040 as of June 1, 1991,
7 or if there is no agreement within one hundred twenty days of the date
8 the county adopted its resolution of intention or was certified by the
9 office of financial management in any other county that is required or
10 chooses to plan under RCW 36.70A.040, the governor shall first inquire
11 of the jurisdictions as to the reason or reasons for failure to reach
12 an agreement. If the governor deems it appropriate, the governor may
13 immediately request the assistance of the department of community,
14 trade, and economic development to mediate any disputes that preclude
15 agreement. If mediation is unsuccessful in resolving all disputes that
16 will lead to agreement, the governor may impose appropriate sanctions
17 from those specified under RCW 36.70A.340 on the county, city, or
18 cities for failure to reach an agreement as provided in this section.
19 The governor shall specify the reason or reasons for the imposition of
20 any sanction.

21 (e) No later than July 1, 1992, the legislative authority of each
22 county that was required or chose to plan under RCW 36.70A.040 as of
23 June 1, 1991, or no later than fourteen months after the date the
24 county adopted its resolution of intention or was certified by the
25 office of financial management the county legislative authority of any
26 other county that is required or chooses to plan under RCW 36.70A.040,
27 shall adopt a county-wide planning policy according to the process
28 provided under this section and that is consistent with the agreement
29 pursuant to (b) of this subsection, and after holding a public hearing
30 or hearings on the proposed county-wide planning policy.

31 (3) A county-wide planning policy shall at a minimum, address the
32 following:

33 (a) Policies to implement RCW 36.70A.110;

34 (b) Policies for promotion of contiguous and orderly development
35 and provision of urban services to such development;

36 (c) Policies for siting public capital facilities of a county-wide
37 or state-wide nature, including transportation facilities of state-wide
38 significance as defined in RCW 47.06.140;

1 (d) Policies for county-wide transportation facilities and
2 strategies;

3 (e) Policies that consider the need for affordable housing, such as
4 housing for all economic segments of the population (~~and parameters~~
5 ~~for its distribution~~);

6 (f) Policies for joint county and city planning within urban growth
7 areas;

8 (g) Policies for county-wide economic development and employment;
9 and

10 (h) An analysis of the fiscal impact.

11 (4) Federal agencies and Indian tribes may participate in and
12 cooperate with the county-wide planning policy adoption process.
13 Adopted county-wide planning policies shall be adhered to by state
14 agencies.

15 (5) Failure to adopt a county-wide planning policy that meets the
16 requirements of this section may result in the imposition of a sanction
17 or sanctions on a county or city within the county, as specified in RCW
18 36.70A.340. In imposing a sanction or sanctions, the governor shall
19 specify the reasons for failure to adopt a county-wide planning policy
20 in order that any imposed sanction or sanctions are fairly and
21 equitably related to the failure to adopt a county-wide planning
22 policy.

23 (6) Cities and the governor may appeal an adopted county-wide
24 planning policy to the growth management hearings board within sixty
25 days of the adoption of the county-wide planning policy.

26 (7) Multicounty planning policies shall be adopted by two or more
27 counties, each with a population of four hundred fifty thousand or
28 more, with contiguous urban areas and may be adopted by other counties,
29 according to the process established under this section or other
30 processes agreed to among the counties and cities within the affected
31 counties throughout the multicounty region.

32 **Sec. 19.** RCW 36.70A.350 and 1991 sp.s. c 32 s 16 are each amended
33 to read as follows:

34 A county required or choosing to plan under RCW 36.70A.040 may
35 establish a process as part of its urban growth areas, that are
36 designated under RCW 36.70A.110, for reviewing proposals to authorize
37 new fully contained communities located outside of the initially
38 designated urban growth areas.

1 (1) A new fully contained community may be approved in a county
2 planning under this chapter if criteria including but not limited to
3 the following are met:

4 (a) New infrastructure is provided for (~~and impact fees are~~
5 ~~established consistent with the requirements of RCW 82.02.050~~);

6 (b) Transit-oriented site planning and traffic demand management
7 programs are implemented;

8 (c) Buffers are provided between the new fully contained
9 communities and adjacent urban development;

10 (d) A mix of uses is provided to offer jobs, housing, and services
11 to the residents of the new community;

12 (e) Affordable housing is provided within the new community for a
13 broad range of income levels;

14 (f) Environmental protection has been addressed and provided for;

15 (g) Development regulations are established to ensure urban growth
16 will not occur in adjacent nonurban areas;

17 (h) Provision is made to mitigate impacts on designated
18 agricultural lands, forest lands, and mineral resource lands;

19 (i) The plan for the new fully contained community is consistent
20 with the development regulations established for the protection of
21 critical areas by the county pursuant to RCW 36.70A.170.

22 (2) New fully contained communities may be approved outside
23 established urban growth areas only if a county reserves a portion of
24 the twenty-year population projection and offsets the urban growth area
25 accordingly for allocation to new fully contained communities that meet
26 the requirements of this chapter. Any county electing to establish a
27 new community reserve shall do so no more often than once every five
28 years as a part of the designation or review of urban growth areas
29 required by this chapter. The new community reserve shall be allocated
30 on a project-by-project basis, only after specific project approval
31 procedures have been adopted pursuant to this chapter as a development
32 regulation. When a new community reserve is established, urban growth
33 areas designated pursuant to this chapter shall accommodate the
34 unreserved portion of the twenty-year population projection.

35 Final approval of an application for a new fully contained
36 community shall be considered an adopted amendment to the comprehensive
37 plan prepared pursuant to RCW 36.70A.070 designating the new fully
38 contained community as an urban growth area.

1 **Sec. 20.** RCW 36.70A.370 and 1991 sp.s. c 32 s 18 are each amended
2 to read as follows:

3 (1) The state attorney general shall establish by October 1, 1991,
4 an orderly, consistent process, including a checklist if appropriate,
5 that better enables state agencies and local governments to evaluate
6 proposed regulatory or administrative actions to assure that such
7 actions do not result in an unconstitutional taking of private
8 property. It is not the purpose of this section to ~~((expand or))~~
9 reduce the scope of private property protections provided in the state
10 and federal Constitutions. The attorney general shall review and
11 update the process at least on an annual basis to maintain consistency
12 with changes in case law.

13 (2) Local governments that are required or choose to plan under RCW
14 36.70A.040 and state agencies shall utilize the process established by
15 subsection (1) of this section to assure that proposed regulatory or
16 administrative actions do not result in an unconstitutional taking of
17 private property.

18 (3) The attorney general, in consultation with the Washington state
19 bar association, shall develop a continuing education course to
20 implement this section.

21 ~~((4) The process used by government agencies shall be protected by
22 attorney-client privilege. Nothing in this section grants a private
23 party the right to seek judicial relief requiring compliance with the
24 provisions of this section.))~~

25 NEW SECTION. **Sec. 21.** It is necessary that the procedures
26 established in this chapter ensure that all applicable permit
27 processes, approvals, and reviews are processed concurrently, rather
28 than consecutively. The lead environmental agency or counties and
29 cities shall establish by rule or ordinance an expedited appeals
30 process by which an applicant may appeal any failure by any permit
31 agency, county, or city to take timely action on the issuance or denial
32 of a permit or land-use approval or subdivision of land in accordance
33 with the time limits established under this chapter. If the decision
34 maker finds that the time limits under appeal have been violated
35 without good cause, the decision maker shall establish a date certain
36 by which the permit agency shall act on the permit application and
37 provide for the full reimbursement of any filing or permit processing

1 fees paid by the applicant to the local government or agency for the
2 permit application under appeal.

3 **Sec. 22.** RCW 36.70A.390 and 1992 c 207 s 6 are each amended to
4 read as follows:

5 A county or city governing body that adopts a moratorium, interim
6 zoning map, interim zoning ordinance, or interim official control
7 without holding a public hearing on the proposed moratorium, interim
8 zoning map, interim zoning ordinance, or interim official control,
9 shall hold a public hearing on the adopted moratorium, interim zoning
10 map, interim zoning ordinance, or interim official control within at
11 least sixty days of its adoption, whether or not the governing body
12 received a recommendation on the matter from the planning commission or
13 department. If the governing body does not adopt findings of fact
14 justifying its action before this hearing, then the governing body
15 shall do so immediately after this public hearing. A moratorium,
16 interim zoning map, interim zoning ordinance, or interim official
17 control adopted under this section may be effective for not longer than
18 six months, but may be effective for up to one year if a work plan is
19 developed for related studies providing for such a longer period. A
20 moratorium, interim zoning map, interim zoning ordinance, or interim
21 official control may be renewed for one or more six-month periods if a
22 subsequent public hearing is held and findings of fact are made prior
23 to each renewal.

24 This section does not apply to the designation of (~~critical~~
25 ~~areas~~) agricultural lands, forest lands, and mineral resource lands,
26 under RCW 36.70A.170, and the conservation of these lands and
27 protection of these areas under RCW 36.70A.060, prior to such actions
28 being taken in a comprehensive plan adopted under RCW 36.70A.070 and
29 implementing development regulations adopted under RCW 36.70A.120, if
30 a public hearing is held on such proposed actions.

31 **Sec. 23.** RCW 76.09.050 and 1997 c 173 s 2 are each amended to read
32 as follows:

33 (1) The board shall establish by rule which forest practices shall
34 be included within each of the following classes:

35 Class I: Minimal or specific forest practices that have no direct
36 potential for damaging a public resource and that may be conducted
37 without submitting an application or a notification except that when

1 the regulating authority is transferred to a local governmental entity,
2 those Class I forest practices that involve timber harvesting or road
3 construction within "urban growth areas," designated pursuant to
4 chapter 36.70A RCW, are processed as Class IV forest practices, but are
5 not subject to environmental review under chapter 43.21C RCW;

6 Class II: Forest practices which have a less than ordinary
7 potential for damaging a public resource that may be conducted without
8 submitting an application and may begin five calendar days, or such
9 lesser time as the department may determine, after written notification
10 by the operator, in the manner, content, and form as prescribed by the
11 department, is received by the department. However, the work may not
12 begin until all forest practice fees required under RCW 76.09.065 have
13 been received by the department. Class II shall not include forest
14 practices:

15 (a) On lands platted after January 1, 1960, as provided in chapter
16 58.17 RCW or on lands that have or are being converted to another use;

17 (b) Which require approvals under the provisions of the hydraulics
18 act, RCW 75.20.100;

19 (c) Within "shorelines of the state" as defined in RCW 90.58.030;

20 (d) Excluded from Class II by the board; or

21 (e) Including timber harvesting or road construction within "urban
22 growth areas," designated pursuant to chapter 36.70A RCW, which are
23 Class IV;

24 Class III: Forest practices other than those contained in Class I,
25 II, or IV. A Class III application must be approved or disapproved by
26 the department within thirty calendar days from the date the department
27 receives the application. However, the applicant may not begin work on
28 that forest practice until all forest practice fees required under RCW
29 76.09.065 have been received by the department;

30 Class IV: Forest practices other than those contained in Class I
31 or II: (a) On lands platted after January 1, 1960, as provided in
32 chapter 58.17 RCW, (b) on lands that have or are being converted to
33 another use, (c) on lands which, pursuant to RCW 76.09.070 (~~as now or~~
34 ~~hereafter amended~~), are not to be reforested because of the likelihood
35 of future conversion to urban development, (d) except on those lands
36 involving timber harvesting or road construction on lands that are
37 contained within "urban growth areas," designated pursuant to chapter
38 36.70A RCW, where the forest landowner provides: (i) A written
39 statement of intent signed by the forest landowner not to convert to a

1 use other than commercial forest product operations for ten years,
2 accompanied by either a written forest management plan acceptable to
3 the department or documentation that the land is enrolled under the
4 provisions of chapter 84.33 RCW; or (ii) a conversion option harvest
5 plan approved by the local governmental entity and submitted to the
6 department as part of the application, and/or (e) which have a
7 potential for a substantial impact on the environment and therefore
8 require an evaluation by the department as to whether or not a detailed
9 statement must be prepared pursuant to the state environmental policy
10 act, chapter 43.21C RCW. Such evaluation shall be made within ten days
11 from the date the department receives the application: PROVIDED, That
12 nothing herein shall be construed to prevent any local or regional
13 governmental entity from determining that a detailed statement must be
14 prepared for an action pursuant to a Class IV forest practice taken by
15 that governmental entity concerning the land on which forest practices
16 will be conducted. A Class IV application must be approved or
17 disapproved by the department within thirty calendar days from the date
18 the department receives the application, unless the department
19 determines that a detailed statement must be made, in which case the
20 application must be approved or disapproved by the department within
21 sixty calendar days from the date the department receives the
22 application, unless the commissioner of public lands, through the
23 promulgation of a formal order, determines that the process cannot be
24 completed within such period. However, the applicant may not begin
25 work on that forest practice until all forest practice fees required
26 under RCW 76.09.065 have been received by the department.

27 Forest practices under Classes I, II, and III are exempt from the
28 requirements for preparation of a detailed statement under the state
29 environmental policy act.

30 (2) Except for those forest practices being regulated by local
31 governmental entities as provided elsewhere in this chapter, no Class
32 II, Class III, or Class IV forest practice shall be commenced or
33 continued after January 1, 1975, unless the department has received a
34 notification with regard to a Class II forest practice or approved an
35 application with regard to a Class III or Class IV forest practice
36 containing all information required by RCW 76.09.060 (~~as now or~~
37 ~~hereafter amended~~). However, in the event forest practices
38 regulations necessary for the scheduled implementation of this chapter
39 and RCW 90.48.420 have not been adopted in time to meet such schedules,

1 the department shall have the authority to regulate forest practices
2 and approve applications on such terms and conditions consistent with
3 this chapter and RCW 90.48.420 and the purposes and policies of RCW
4 76.09.010 until applicable forest practices regulations are in effect.

5 (3) Except for those forest practices being regulated by local
6 governmental entities as provided elsewhere in this chapter, if a
7 notification or application is delivered in person to the department by
8 the operator or the operator's agent, the department shall immediately
9 provide a dated receipt thereof. In all other cases, the department
10 shall immediately mail a dated receipt to the operator.

11 (4) Except for those forest practices being regulated by local
12 governmental entities as provided elsewhere in this chapter, forest
13 practices shall be conducted in accordance with the forest practices
14 regulations, orders and directives as authorized by this chapter or the
15 forest practices regulations, and the terms and conditions of any
16 approved applications.

17 (5) Except for those forest practices being regulated by local
18 governmental entities as provided elsewhere in this chapter, the
19 department of natural resources shall notify the applicant in writing
20 of either its approval of the application or its disapproval of the
21 application and the specific manner in which the application fails to
22 comply with the provisions of this section or with the forest practices
23 regulations. Except as provided otherwise in this section, if the
24 department fails to either approve or disapprove an application or any
25 portion thereof within the applicable time limit, the application shall
26 be deemed approved and the operation may be commenced: PROVIDED, That
27 this provision shall not apply to applications which are neither
28 approved nor disapproved pursuant to the provisions of subsection (7)
29 of this section: PROVIDED, FURTHER, That if seasonal field conditions
30 prevent the department from being able to properly evaluate the
31 application, the department may issue an approval conditional upon
32 further review within sixty days: PROVIDED, FURTHER, That the
33 department shall have until April 1, 1975, to approve or disapprove an
34 application involving forest practices allowed to continue to April 1,
35 1975, under the provisions of subsection (2) of this section. Upon
36 receipt of any notification or any satisfactorily completed application
37 the department shall in any event no later than two business days after
38 such receipt transmit a copy to the departments of ecology and fish and
39 wildlife, and to the county, city, or town in whose jurisdiction the

1 forest practice is to be commenced. Any comments by such agencies
2 shall be directed to the department of natural resources.

3 (6) For those forest practices regulated by the board and the
4 department, if the county, city, or town believes that an application
5 is inconsistent with this chapter, the forest practices regulations, or
6 any local authority consistent with RCW 76.09.240 (~~as now or hereafter~~
7 ~~amended~~)), it may so notify the department and the applicant,
8 specifying its objections.

9 (7) For those forest practices regulated by the board and the
10 department, the department shall not approve portions of applications
11 to which a county, city, or town objects if:

12 (a) The department receives written notice from the county, city,
13 or town of such objections within fourteen business days from the time
14 of transmittal of the application to the county, city, or town, or one
15 day before the department acts on the application, whichever is later;
16 and

17 (b) The objections relate to lands either:

18 (i) Platted after January 1, 1960, as provided in chapter 58.17
19 RCW; or

20 (ii) On lands that have or are being converted to another use.

21 The department shall either disapprove those portions of such
22 application or appeal the county, city, or town objections to the
23 appeals board. If the objections related to subparagraphs (b)(i) and
24 (ii) of this subsection are based on local authority consistent with
25 RCW 76.09.240 (~~as now or hereafter amended~~)), the department shall
26 disapprove the application until such time as the county, city, or town
27 consents to its approval or such disapproval is reversed on appeal.
28 The applicant shall be a party to all department appeals of county,
29 city, or town objections. Unless the county, city, or town either
30 consents or has waived its rights under this subsection, the department
31 shall not approve portions of an application affecting such lands until
32 the minimum time for county, city, or town objections has expired.

33 (8) For those forest practices regulated by the board and the
34 department, in addition to any rights under the above paragraph, the
35 county, city, or town may appeal any department approval of an
36 application with respect to any lands within its jurisdiction. The
37 appeals board may suspend the department's approval in whole or in part
38 pending such appeal where there exists potential for immediate and
39 material damage to a public resource.

1 (9) For those forest practices regulated by the board and the
2 department, appeals under this section shall be made to the appeals
3 board in the manner and time provided in RCW 76.09.220(8). In such
4 appeals there shall be no presumption of correctness of either the
5 county, city, or town or the department position.

6 (10) For those forest practices regulated by the board and the
7 department, the department shall, within four business days notify the
8 county, city, or town of all notifications, approvals, and disapprovals
9 of an application affecting lands within the county, city, or town,
10 except to the extent the county, city, or town has waived its right to
11 such notice.

12 (11) For those forest practices regulated by the board and the
13 department, a county, city, or town may waive in whole or in part its
14 rights under this section, and may withdraw or modify any such waiver,
15 at any time by written notice to the department.

16 (12) This section does not apply to land development proceeding
17 under Title 36 RCW.

18 (13) For the purposes of this section, "land development" means the
19 division or platting of land in preparation for development or the
20 actual building, constructing, or erecting of residences or commercial
21 buildings.

22 **Sec. 24.** RCW 36.70B.010 and 1995 c 347 s 401 are each amended to
23 read as follows:

24 The legislature finds and declares the following:

25 (1) As the number of environmental laws and development regulations
26 has increased for land uses and development, so has the number of
27 required local land use permits, each with its own separate approval
28 process.

29 (2) The increasing number of local and state land use permits and
30 separate environmental review processes required by agencies has
31 generated continuing potential for conflict, overlap, and duplication
32 between the various permit and review processes.

33 (3) This regulatory burden has significantly added to the cost and
34 time needed to obtain local and state land use permits and has made it
35 difficult for the public to know how and when to provide timely
36 comments on land use proposals that require multiple permits and have
37 separate environmental review processes.

1 (4) The legislature therefore finds minimizing lengthy, costly, and
2 burdensome appeals and permit processes to be of great importance as
3 well as to promote clear vesting of property and development rights.

4 **Sec. 25.** RCW 36.70B.020 and 1995 c 347 s 402 are each amended to
5 read as follows:

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

8 (1) "Closed record appeal" means an administrative appeal on the
9 record to a local government body or officer, including the legislative
10 body, following an open record hearing on a project permit application
11 when the appeal is on the record with no or limited new evidence or
12 information allowed to be submitted and only appeal argument allowed.

13 (2) "Local government" means a county, city, or town.

14 (3) "Open record hearing" means a hearing, conducted by a single
15 hearing body or officer authorized by the local government to conduct
16 such hearings, that creates the local government's record through
17 testimony and submission of evidence and information, under procedures
18 prescribed by the local government by ordinance or resolution. ~~((An~~
19 ~~open record hearing may be held prior to a local government's decision~~
20 ~~on a project permit to be known as an "open record predecision~~
21 ~~hearing." An open record hearing may be held on an appeal, to be known~~
22 ~~as an "open record appeal hearing," if no open record predecision~~
23 ~~hearing has been held on the project permit.))~~

24 (4) "Project permit" ~~((or "project permit application"))~~ means any
25 land use or environmental permit or license required from a local
26 government for a project action, including ~~((but not limited to))~~
27 building permits, subdivisions, binding site plans, planned unit
28 developments, conditional uses, shoreline substantial development
29 permits, and site plan review~~((, permits or approvals required by~~
30 ~~critical area ordinances, site-specific rezones))~~ authorized by a
31 comprehensive plan ~~((or subarea plan, but excluding the adoption or~~
32 ~~amendment of a comprehensive plan, subarea plan, or development~~
33 ~~regulations except as otherwise specifically included in this~~
34 ~~subsection))~~.

35 (5) "Public meeting" means an informal meeting, hearing, workshop,
36 or other public gathering of people to obtain comments from the public
37 or other agencies on a proposed project permit prior to the local
38 government s decision. A public meeting ~~((may include, but))~~ is

1 (~~not~~) limited to(~~(, a design review or architectural control board~~
2 ~~meeting, a special review district or community council meeting, or)~~)
3 a scoping meeting on a draft environmental impact statement. A public
4 meeting does not include an open record hearing. The proceedings at a
5 public meeting may be recorded and a report (~~or recommendation~~) may
6 be included in the local government's project permit application file.

7 (6) "Separate approval process" means a distinct permit or review
8 process required by state, local, or other agencies, including but not
9 limited to land use permits and environmental reviews.

10 **Sec. 26.** RCW 36.70B.040 and 1997 c 429 s 46 are each amended to
11 read as follows:

12 (1) A proposed project's consistency with a local government's
13 development regulations adopted under chapter 36.70A RCW, or, in the
14 absence of applicable development regulations, the appropriate elements
15 of the comprehensive plan adopted under chapter 36.70A RCW shall be
16 decided by the local government during project review by consideration
17 of:

18 (a) The type of land use;

19 (b) The level of development, such as units per acre or other
20 measures of density; and

21 (c) Infrastructure, including public facilities and services needed
22 to serve the development(~~(; and~~

23 ~~(d) The characteristics of the development, such as development~~
24 ~~standards)).~~

25 (2) (~~In deciding whether a project is consistent, the~~
26 ~~determinations made pursuant to RCW 36.70B.030(2) shall be controlling.~~

27 ~~(3))~~ For purposes of this section, the term "consistency" shall
28 include all terms used in (~~this chapter and~~) chapter 36.70A RCW to
29 refer to performance in accordance with (~~this chapter and~~) chapter
30 36.70A RCW(~~(, including but not limited to compliance, conformity, and~~
31 ~~consistency.~~

32 ~~(4) Nothing in this section requires documentation, dictates an~~
33 ~~agency's procedures for considering consistency, or limits a city or~~
34 ~~county from asking more specific or related questions with respect to~~
35 ~~any of the four main categories listed in subsection (1)(a) through (d)~~
36 ~~of this section.~~

37 ~~(5) The department of community, trade, and economic development is~~
38 ~~authorized to develop and adopt by rule criteria to assist local~~

1 governments planning under RCW 36.70A.040 to analyze the consistency of
2 project actions. These criteria shall be jointly developed with the
3 department of ecology)).

4 **Sec. 27.** RCW 36.70B.060 and 1995 c 347 s 407 are each amended to
5 read as follows:

6 Not later than March 31, 1996, each local government planning under
7 RCW 36.70A.040 shall establish by ordinance or resolution an integrated
8 and consolidated project permit process that ((may)) shall be included
9 in its development regulations. ((In addition to the elements required
10 by RCW 36.70B.050,)) The process shall include the following elements:

11 (1) A determination of completeness to the applicant as required by
12 ((RCW 36.70B.070)) each separate approval process;

13 (2) A notice of application to the public and agencies with
14 jurisdiction ((as required by RCW 36.70B.110));

15 (3) Except as provided in RCW 36.70B.140, an optional consolidated
16 project permit review process as provided in RCW 36.70B.120. The
17 review process shall provide for no more than one consolidated open
18 record hearing and one closed record appeal((. If an open record
19 predecision hearing is provided prior to the decision on a project
20 permit, the process shall not allow a subsequent open record appeal
21 hearing));

22 (4) Provision allowing for any required public meeting or required
23 open record hearing to be combined with any ((public meeting or)) open
24 record hearing that may be held on the project by another local((,)) or
25 state((, regional, federal, or other)) agency, in accordance with
26 provisions of RCW 36.70B.090 and 36.70B.110;

27 (5) ((A single report stating all the decisions made as of the date
28 of the report on all project permits included in the consolidated
29 permit process that do not require an open record predecision hearing
30 and any recommendations on project permits that do not require an open
31 record predecision hearing. The report shall state any mitigation
32 required or proposed under the development regulations or the agency's
33 authority under RCW 43.21C.060. The report may be the local permit.
34 If a threshold determination other than a determination of significance
35 has not been issued previously by the local government, the report
36 shall include or append this determination;

37 (6) Except for the appeal of a determination of significance as
38 provided in RCW 43.21C.075, if a local government elects to provide an

1 ~~appeal of its threshold determinations or project permit decisions, the~~
2 ~~local government shall provide for no more than one consolidated open~~
3 ~~record hearing on such appeal. The local government need not provide~~
4 ~~for any further appeal and may provide an appeal for some but not all~~
5 ~~project permit decisions. If an appeal is provided after the open~~
6 ~~record hearing, it shall be a closed record appeal before a single~~
7 ~~decision-making body or officer;~~

8 ~~(7))~~ A notice of decision as required by RCW 36.70B.130 and issued
9 within the time period provided in RCW 36.70B.080 and 36.70B.090;

10 ~~((8))~~ (6) Completion of project review by the local government,
11 including environmental review and public review and any appeals to the
12 local government, within any applicable time periods under RCW
13 36.70B.090; and

14 ~~((9))~~ (7) Any other provisions not inconsistent with the
15 requirements of this chapter or chapter 43.21C RCW.

16 **Sec. 28.** RCW 36.70B.070 and 1995 c 347 s 408 are each amended to
17 read as follows:

18 (1) Within twenty-eight days after receiving a project permit
19 application, a local government planning pursuant to RCW 36.70A.040
20 shall mail or provide in person a written determination to the
21 applicant, stating either:

- 22 (a) That the application is complete; or
23 (b) That the application is incomplete and what is necessary to
24 make the application complete.

25 To the extent known by the local government, the local government
26 shall identify other agencies of local, state, or federal governments
27 that may have jurisdiction over some aspect of the application.

28 (2) A project permit application is complete ~~((for purposes of this~~
29 ~~section))~~ when it meets the procedural submission requirements of the
30 local government and is sufficient for continued processing even though
31 additional information may be ~~((required))~~ requested or project
32 modifications may be undertaken subsequently. ~~((The determination of~~
33 ~~completeness shall not preclude the local government from requesting~~
34 ~~additional information or studies either at the time of the notice of~~
35 ~~completeness or subsequently if new information is required or~~
36 ~~substantial changes in the proposed action occur.~~

37 ~~(3) The determination of completeness may include the following as~~
38 ~~optional information:~~

1 ~~(a) A preliminary determination of those development regulations~~
2 ~~that will be used for project mitigation;~~

3 ~~(b) A preliminary determination of consistency, as provided under~~
4 ~~RCW 36.70B.040; or~~

5 ~~(c) Other information the local government chooses to include.~~

6 ~~(4))~~ Additional requested information shall be of a clarifying
7 nature and based on requirements of the underlying development
8 regulations.

9 (3)(a) An application shall be deemed complete ~~((under this~~
10 ~~section))~~ if the local government does not provide a written
11 determination to the applicant that the application is incomplete as
12 provided in subsection (1)(b) of this section.

13 (b) Within fourteen days after an applicant has submitted to a
14 local government additional information identified by the local
15 government as being necessary for a complete application, the local
16 government shall notify the applicant whether the application is
17 complete or what ~~((additional))~~ information ~~((is necessary))~~ was not
18 included under the original written determination provided in
19 subsection (1)(b) of this section.

20 **Sec. 29.** RCW 36.70B.090 and 1995 c 347 s 413 are each amended to
21 read as follows:

22 (1) ~~((Except as otherwise provided in subsection (2) of this~~
23 ~~section,))~~ A local government planning under RCW 36.70A.040 shall issue
24 its notice of final decision on a project permit application within one
25 hundred twenty days after the local government notifies the applicant
26 that the application is complete, as provided in RCW 36.70B.070. In
27 determining the number of days that have elapsed after the local
28 government has notified the applicant that the application is complete,
29 the following periods shall be excluded:

30 (a)(i) Any period during which the applicant has been requested by
31 the local government to correct plans ~~((, perform required studies,))~~ or
32 provide additional ~~((required))~~ information required in the underlying
33 development regulations. The period shall be calculated from the date
34 the local government notifies the applicant of the need for additional
35 required information until the earlier of the date the local government
36 determines whether the additional required information satisfies the
37 original request for information or fourteen days after the date the
38 information has been provided to the local government.

1 (ii) If the local government determines that the information
2 submitted by the applicant under (a)(i) of this subsection (~~is~~
3 ~~insufficient~~) does not meet requirements of the underlying development
4 regulations, it shall notify the applicant of the deficiencies and the
5 procedures under (a)(i) of this subsection shall apply (~~as if a new~~
6 ~~request for studies had been made~~); and

7 (b) Any period during which an environmental impact statement is
8 being prepared following a determination of significance pursuant to
9 chapter 43.21C RCW, if the local government by ordinance or resolution
10 has established time periods for completion of environmental impact
11 statements, or if the local government and the applicant in writing
12 agree to a time period for completion of an environmental impact
13 statement(~~;~~

14 ~~(c) Any period for administrative appeals of project permits, if an~~
15 ~~open record appeal hearing or a closed record appeal, or both, are~~
16 ~~allowed. The local government by ordinance or resolution shall~~
17 ~~establish a time period to consider and decide such appeals. The time~~
18 ~~period shall not exceed: (i) Ninety days for an open record appeal~~
19 ~~hearing; and (ii) sixty days for a closed record appeal. The parties~~
20 ~~to an appeal may agree to extend these time periods; and~~

21 ~~(d) Any extension of time mutually agreed upon by the applicant and~~
22 ~~the local government.~~

23 ~~(2) The time limits established by subsection (1) of this section~~
24 ~~do not apply if a project permit application:~~

25 ~~(a) Requires an amendment to the comprehensive plan or a~~
26 ~~development regulation;~~

27 ~~(b) Requires approval of a new fully contained community as~~
28 ~~provided in RCW 36.70A.350, a master planned resort as provided in RCW~~
29 ~~36.70A.360, or the siting of an essential public facility as provided~~
30 ~~in RCW 36.70A.200; or~~

31 ~~(c) Is substantially revised by the applicant, in which case the~~
32 ~~time period shall start from the date at which the revised project~~
33 ~~application is determined to be complete under RCW 36.70B.070.~~

34 ~~(3) If the local government is unable to issue its final decision~~
35 ~~within the time limits provided for in this section, it shall provide~~
36 ~~written notice of this fact to the project applicant. The notice shall~~
37 ~~include a statement of reasons why the time limits have not been met~~
38 ~~and an estimated date for issuance of the notice of final decision)).~~

1 (~~(4)~~) (2) This section shall apply to project permit applications
2 filed on or after April 1, 1996.

3 **Sec. 30.** RCW 36.70B.110 and 1997 c 429 s 48 and 1997 c 396 s 1 are
4 each reenacted and amended to read as follows:

5 (1) Not later than April 1, 1996, a local government planning under
6 RCW 36.70A.040 shall provide a notice of application to the public and
7 the departments and agencies with jurisdiction as provided in this
8 section. If a local government has made a threshold determination
9 under chapter 43.21C RCW concurrently with the notice of application,
10 the notice of application may be combined with the threshold
11 determination and the scoping notice for a determination of
12 significance. Nothing in this section prevents a determination of
13 significance and scoping notice from being issued prior to the notice
14 of application. Nothing in this section or this chapter prevents a
15 lead agency, when it is a project proponent or is funding a project,
16 from conducting its review under chapter 43.21C RCW or from allowing
17 appeals of procedural determinations prior to submitting a project
18 permit application.

19 (2) The notice of application shall be provided within fourteen
20 days after the determination of completeness as provided in RCW
21 36.70B.070 and, except as limited by the provisions of subsection
22 (~~(4)~~) (3)(b) of this section, shall include the following in whatever
23 sequence or format the local government deems appropriate:

24 (a) The date of application, the date of the notice of completion
25 for the application, and the date of the notice of application;

26 (b) A description of the proposed project action and a list of the
27 project permits included in the application (~~and, if applicable, a~~
28 ~~list of any studies requested under RCW 36.70B.070 or 36.70B.090~~);

29 (c) The identification of other permits not included in the
30 application (~~to the extent known by the local government~~);

31 (d) The identification of existing environmental documents that
32 evaluate the proposed project, and, if not otherwise stated on the
33 document providing the notice of application, such as a city land use
34 bulletin, the location where the application and any studies can be
35 reviewed;

36 (e) A statement of the public comment period, which shall be not
37 less than fourteen nor more than thirty days following the date of
38 notice of application, and statements of the right of any person to

1 comment on the application, receive notice of and participate in any
2 hearings, request a copy of the decision once made, and any appeal
3 rights. A local government may accept public comments at any time
4 (~~prior to the closing of the record of an open record predecision~~
5 ~~hearing, if any, or, if no open record predecision hearing is~~
6 ~~provided,~~) prior to the decision on the project permit;

7 (f) The date, time, place, and type of hearing, if applicable and
8 scheduled at the date of notice of the application; and

9 (g) A statement of (~~the preliminary determination, if one has been~~
10 ~~made at the time of notice, of~~) those development regulations that
11 will be used for project mitigation (~~and of consistency as provided in~~
12 ~~RCW 36.70B.030(2); and~~

13 (~~h) Any other information determined appropriate by the local~~
14 ~~government.~~

15 (~~3) If an open record predecision hearing is required for the~~
16 ~~requested project permits, the notice of application shall be provided~~
17 ~~at least fifteen days prior to the open record hearing.~~

18 (~~4~~) required in chapter 43.21C RCW.

19 (3) A local government shall use reasonable methods to give the
20 notice of application to the public and agencies with jurisdiction and
21 (~~may~~) shall use its existing notice procedures. (~~A local government~~
22 ~~may use different types of notice for different categories of project~~
23 ~~permits or types of project actions. If a local government by~~
24 ~~resolution or ordinance does not specify its method of public notice,~~
25 ~~the local government shall use the methods provided for in (a) and (b)~~
26 ~~of this subsection. Examples of reasonable methods to inform the~~
27 ~~public are:~~

28 (a) ~~Posting the property for site specific proposals;~~

29 (b) ~~Publishing notice, including at least the project location,~~
30 ~~description, type of permit(s) required, comment period dates, and~~
31 ~~location where the notice of application required by subsection (2) of~~
32 ~~this section and the complete application may be reviewed, in the~~
33 ~~newspaper of general circulation in the general area where the proposal~~
34 ~~is located or in a local land use newsletter published by the local~~
35 ~~government;~~

36 (c) ~~Notifying public or private groups with known interest in a~~
37 ~~certain proposal or in the type of proposal being considered;~~

38 (d) ~~Notifying the news media;~~

1 ~~(e) Placing notices in appropriate regional or neighborhood~~
2 ~~newspapers or trade journals;~~

3 ~~(f) Publishing notice in agency newsletters or sending notice to~~
4 ~~agency mailing lists, either general lists or lists for specific~~
5 ~~proposals or subject areas; and~~

6 ~~(g) Mailing to neighboring property owners.~~

7 ~~(5)) (4) A notice of application shall not be required for project~~
8 ~~permits that are categorically exempt under chapter 43.21C RCW((~~
9 ~~unless an open record predecision hearing is required or an open record~~
10 ~~appeal hearing is allowed on the project permit decision)).~~

11 ~~((6)) (5) A local government shall integrate the permit~~
12 ~~procedures in this section with its environmental review under chapter~~
13 ~~43.21C RCW as follows:~~

14 (a) Except for a threshold determination and except as otherwise
15 expressly allowed in this section, the local government may not issue
16 until the expiration of the public comment period on the notice of
17 application.

18 ~~(b) ((If an open record predecision hearing is required, the local~~
19 ~~government shall issue its threshold determination at least fifteen~~
20 ~~days prior to the open record predecision hearing.~~

21 ~~(c)) Comments shall be as specific as possible.~~

22 ~~((d)) (c) A local government is not required to provide for~~
23 ~~administrative appeals of its threshold determination. If provided, an~~
24 ~~administrative appeal shall be filed within fourteen days after notice~~
25 ~~that the determination has been made and is appealable. Except as~~
26 ~~otherwise expressly provided in this section, the appeal hearing on a~~
27 ~~determination of nonsignificance shall be consolidated with any open~~
28 ~~record hearing on the project permit.~~

29 ~~((7)) (6) At the request of the applicant, a local government~~
30 ~~((may)) shall combine any hearing on a project permit with any hearing~~
31 ~~that may be held by another local((~~
32 ~~or state((~~
33 ~~or other)) agency((~~
34 ~~if:~~

33 (a) The hearing is held within the geographic boundary of the local
34 government; and

35 (b) The joint hearing can be held within the time periods specified
36 in RCW 36.70B.090 or the applicant agrees to the schedule in the event
37 that additional time is needed in order to combine the hearings. All
38 agencies of the state of Washington, including municipal corporations
39 and counties participating in a combined hearing, are hereby authorized

1 to issue joint hearing notices and develop a joint format, select a
2 mutually acceptable hearing body or officer, and take such other
3 actions as may be necessary to hold joint hearings consistent with each
4 of their respective statutory obligations.

5 ~~((+8+))~~ (7) All state and local agencies shall cooperate to the
6 fullest extent possible with the local government in holding a joint
7 hearing if requested to do so, as long as:

8 (a) The agency is not expressly prohibited by statute from doing
9 so;

10 (b) Sufficient notice of the hearing is given to meet each of the
11 agencies' adopted notice requirements as set forth in statute,
12 ordinance, or rule; and

13 (c) The agency has received the necessary information about the
14 proposed project from the applicant to hold its hearing at the same
15 time as the local government hearing.

16 ~~((+9+))~~ (8) A local government is not required to provide for
17 administrative appeals. If provided, an administrative appeal of the
18 project decision and of any environmental determination issued at the
19 same time as the project decision, shall be filed within fourteen days
20 after the notice of the decision or after other notice that the
21 decision has been made and is appealable. The local government shall
22 extend the appeal period for an additional seven days, if state or
23 local rules adopted pursuant to chapter 43.21C RCW allow public comment
24 on a determination of nonsignificance issued as part of the appealable
25 project permit decision.

26 ~~((+10+))~~ (9) The applicant for a project permit is deemed to be a
27 participant in any comment period, open record hearing, or closed
28 record appeal.

29 ~~((+11+))~~ (10) Each local government planning under RCW 36.70A.040
30 shall adopt procedures for administrative interpretation of its
31 development regulations.

32 **Sec. 31.** RCW 36.70B.120 and 1995 c 347 s 416 are each amended to
33 read as follows:

34 (1) Each local government planning under RCW 36.70A.040 shall
35 establish a permit review process that provides for the integrated and
36 consolidated review and decision on two or more project permits
37 relating to a proposed project action, including a single application
38 review and approval process covering all project permits requested by

1 an applicant for all or part of a project action and a designated
2 permit coordinator. If an applicant elects the consolidated permit
3 review process, the determination of completeness, notice of
4 application, and notice of final decision must include all project
5 permits being reviewed through the consolidated permit review process.

6 (2) Consolidated permit review may provide different procedures for
7 different categories of project permits, but if a project action
8 requires project permits from more than one category, the local
9 government shall provide for consolidated permit review with a single
10 open record hearing and no more than one closed record appeal as
11 provided in RCW 36.70B.060. Each local government shall determine
12 which project permits are subject to an open record hearing and a
13 closed record appeal. Examples of categories of project permits
14 include but are not limited to:

15 (a) Proposals that are categorically exempt from chapter 43.21C
16 RCW, such as construction permits, that do not require environmental
17 review or public notice;

18 (b) Permits that require environmental review(~~(, but no open record~~
19 ~~predecision hearing))~~); and

20 (c) Permits that require a threshold determination and an open
21 record predecision hearing and may provide for a closed record appeal
22 to a hearing body or officer or to the local government legislative
23 body.

24 (3) A local government may provide by ordinance or resolution for
25 the same or a different decision maker or hearing body or officer for
26 different categories of project permits. In the case of consolidated
27 project permit review, the local government shall specify which
28 decision makers shall make the decision or recommendation, conduct the
29 hearing, or decide the appeal to ensure that consolidated permit review
30 occurs as provided in this section. The consolidated permit review may
31 combine an open record predecision hearing on one or more permits with
32 an open record appeal hearing on other permits. In such cases, the
33 local government by ordinance or resolution shall specify which project
34 permits, if any, shall be subject to a closed record appeal.

35 **Sec. 32.** RCW 36.70B.130 and 1996 c 254 s 1 are each amended to
36 read as follows:

37 A local government planning under RCW 36.70A.040 shall provide a
38 notice of decision that also includes a statement of any threshold

1 determination made under chapter 43.21C RCW and the procedures for
2 administrative appeal, if any. The notice of decision may be a copy of
3 the report or decision on the project permit application. The notice
4 shall be provided to the applicant and to any person who, prior to the
5 rendering of the decision, requested notice of the decision or
6 submitted substantive comments on the application. The local
7 government shall provide for notice of its decision as provided in RCW
8 36.70B.110(~~((+4))~~) (3), which shall also state that affected property
9 owners may request a change in valuation for property tax purposes
10 notwithstanding any program of revaluation. The local government
11 shall provide notice of decision to the county assessor's office of the
12 county or counties in which the property is situated.

13 **Sec. 33.** RCW 36.70B.140 and 1995 c 347 s 418 are each amended to
14 read as follows:

15 (1) A local government by ordinance or resolution (~~((may))~~) shall
16 exclude the following project permits from the provisions of RCW
17 36.70B.060 through 36.70B.090 and 36.70B.110 through 36.70B.130:
18 Landmark designations, street vacations, or other approvals relating to
19 the use of public areas or facilities, or other project permits,
20 whether administrative or quasi-judicial, that the local government by
21 ordinance or resolution has determined present special circumstances
22 that warrant a review process different from that provided in RCW
23 36.70B.060 through 36.70B.090 and 36.70B.110 through 36.70B.130.

24 (2) A local government by ordinance or resolution also (~~((may))~~)
25 shall exclude the following project permits from the provisions of RCW
26 36.70B.060 and 36.70B.110 through 36.70B.130: Lot line or boundary
27 adjustments and building and other construction permits, or similar
28 administrative approvals, categorically exempt from environmental
29 review under chapter 43.21C RCW, or for which environmental review has
30 been completed in connection with other project permits.

31 **Sec. 34.** RCW 36.70B.160 and 1995 c 347 s 420 are each amended to
32 read as follows:

33 (1) Each local government (~~((is encouraged to))~~) shall adopt further
34 project review provisions to (~~((provide prompt, coordinated review and))~~)
35 ensure accountability to applicants and the public(~~((, including))~~) and
36 provide expedited, coordinated review (~~((for project permit~~
37 ~~applications))~~) for projects that are consistent with adopted

1 development regulations ((and within the capacity of system-wide
2 infrastructure improvements)).

3 (2) Nothing in this chapter is intended or shall be construed to
4 prevent a local government from ((requiring)) allowing a preapplication
5 conference or a public ((meeting)) hearing by rule, ordinance, or
6 resolution.

7 (3) Each local government shall adopt procedures to monitor and
8 enforce permit decisions and conditions.

9 (4) Nothing in this chapter modifies any independent statutory
10 authority for a government agency to appeal a project permit issued by
11 a local government.

12 **Sec. 35.** RCW 36.70B.170 and 1995 c 347 s 502 are each amended to
13 read as follows:

14 (1) A local government may enter into a development agreement with
15 a person having ownership or control of real property within its
16 jurisdiction. A city may enter into a development agreement for real
17 property outside its boundaries as part of a proposed annexation or a
18 service agreement. A development agreement must set forth the
19 development standards and other provisions that shall apply to and
20 govern and vest the development, use, and mitigation of the development
21 of the real property for the duration specified in the agreement. A
22 development agreement shall be consistent with applicable development
23 regulations adopted by a local government planning under chapter 36.70A
24 RCW.

25 (2) RCW 36.70B.170 through 36.70B.190 and section 501, chapter 347,
26 Laws of 1995 do not affect the validity of a contract rezone,
27 concomitant agreement, annexation agreement, or other agreement in
28 existence on July 23, 1995, or adopted under separate authority, that
29 includes some or all of the development standards provided in
30 subsection (3) of this section.

31 (3) For the purposes of this section, "development standards"
32 includes, but is not limited to:

33 (a) Project elements such as permitted uses, residential densities,
34 and nonresidential densities and intensities or building sizes;

35 (b) The amount and payment of impact fees imposed or agreed to in
36 accordance with any applicable provisions of state law, any
37 reimbursement provisions, other financial contributions by the property
38 owner, inspection fees, or dedications;

1 (c) Mitigation measures, development conditions, and other
2 requirements under chapter 43.21C RCW;

3 (d) Design standards such as maximum heights, setbacks, drainage
4 and water quality requirements, landscaping, and other development
5 features;

6 (e) Affordable housing;

7 (f) Parks and open space preservation;

8 (g) Phasing;

9 (h) Review procedures and standards for implementing decisions;

10 (i) A build-out or vesting period for applicable standards; and

11 (j) Any other appropriate development requirement or procedure.

12 (4) The execution of a development agreement is a proper exercise
13 of county and city police power and contract authority. A development
14 agreement may obligate a party to fund or provide services,
15 infrastructure, or other facilities. The execution of a development
16 agreement may not be deemed an admission by the person having ownership
17 or control of real property that such execution is a voluntary act. A
18 development agreement shall reserve authority to impose new or
19 different regulations to the extent required by a serious threat to
20 public health and safety.

21 NEW SECTION. **Sec. 36.** The following acts or parts of acts are
22 each repealed:

23 (1) RCW 36.70B.030 and 1995 c 347 s 404;

24 (2) RCW 36.70B.080 and 1995 c 347 s 409 & 1994 c 257 s 3; and

25 (3) 1998 c 286 s 9 & 1995 c 347 s 411 (uncodified).

26 NEW SECTION. **Sec. 37.** Sections 4 through 9, 14, and 21 of this
27 act are each added to chapter 36.70A RCW.

28 NEW SECTION. **Sec. 38.** If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

32 NEW SECTION. **Sec. 39.** Section 29 of this act expires June 30,
33 2000.

1 NEW SECTION. **Sec. 40.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 immediately.

5 NEW SECTION. **Sec. 41.** This act is remedial in nature and applies
6 retroactively to July 1, 1990, and thereafter.

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