
HOUSE BILL 1649

State of Washington

55th Legislature

1997 Regular Session

By Representatives Cairnes, Mulliken, Sherstad, Koster, Boldt, Skinner, Clements, Mielke, Radcliff, Dunn and McMorris

Read first time 02/04/97. Referred to Committee on Government Reform & Land Use.

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.160, 36.70A.210, 36.70A.370, 76.09.050, 36.70B.010,
4 36.70B.020, 36.70B.040, 36.70B.060, 36.70B.070, 36.70B.090, 36.70B.110,
5 36.70B.120, 36.70B.130, 36.70B.140, and 36.70B.160; amending 1995 c 347
6 s 433 (uncodified); adding new sections to chapter 36.70A RCW; creating
7 a new section; repealing RCW 36.70B.030 and 36.70B.080; repealing 1995
8 c 347 s 411 (uncodified); and declaring an emergency.

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

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

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

1 one another in comprehensive land use planning. Further, the
2 legislature finds that it is in the public interest that economic
3 development programs be shared with communities experiencing
4 insufficient economic growth.

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

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

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

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

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

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

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

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

36 (7) Permits. Applications for both state and local government
37 permits should be processed in a timely and fair manner to ensure
38 predictability. Counties and cities shall issue permits for single-

1 family residential construction within seven business days of
2 application. Counties and cities shall issue permits for multifamily
3 construction within thirty days of application. Counties and cities
4 shall issue permits for short-plat applications within thirty days of
5 application and long-subdivision applications within ninety days of
6 application.

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

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

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

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

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

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

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

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

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

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

7 **Sec. 3.** RCW 36.70A.030 and 1995 c 382 s 9 are each amended to read
8 as follows:

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.

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

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

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

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

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

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

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

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

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

34 (10) "Long-term commercial significance" includes the growing
35 capacity, productivity, and soil composition of the land for long-term
36 commercial production, in consideration with the land's proximity to
37 population areas, and the possibility of more intense uses of the land.

38 (11) "Minerals" include gravel, sand, and valuable metallic
39 substances.

1 (12) "Public facilities" include streets, roads, highways,
2 sidewalks, street and road lighting systems, traffic signals, domestic
3 water systems, storm and sanitary sewer systems, parks and recreational
4 facilities, and schools.

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

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

10 (15) "Urban growth" refers to growth that makes intensive use of
11 land for the location of buildings, structures, and impermeable
12 surfaces to ~~((such a degree as to be incompatible with the primary use
13 of such land for the production of food, other agricultural products,
14 or fiber, or the extraction of mineral resources. When allowed to
15 spread over wide areas, urban growth))~~ provide for housing, business,
16 and commerce, which typically requires urban governmental services.
17 "Characterized by urban growth" refers to land ~~((having))~~ that: (a)
18 Has urban growth located on it, or to land located in relationship to
19 an area with urban growth on it ~~((as to be appropriate for urban
20 growth));~~ or (b) is so located in relationship to facilities,
21 infrastructure, and services as to make urban growth on the land
22 feasible through public or private extensions of service.

23 ~~((15))~~ (16) "Urban growth areas" means those areas designated by
24 a county pursuant to RCW 36.70A.110.

25 ~~((16))~~ (17) "Urban governmental services" include those
26 governmental services historically and typically delivered by cities,
27 and include storm and sanitary sewer systems, domestic water systems,
28 street cleaning services, fire and police protection services, public
29 transit services, and other public utilities associated with urban
30 areas ~~((and normally not associated with nonurban areas))~~.

31 ~~((17))~~ (18) "Wetland" or "wetlands" means areas that are
32 inundated or saturated by surface water or ground water at a frequency
33 and duration sufficient to support, and that under normal circumstances
34 do support, a prevalence of vegetation typically adapted for life in
35 saturated soil conditions. Wetlands generally include swamps, marshes,
36 bogs, and similar areas. Wetlands are limited to wetlands under the
37 United States army corps of engineers' definition under section 401 of
38 the Clean Water Act, 33 U.S.C. Sec. 1344, as now existing or hereafter
39 amended. Wetlands do not include those artificial wetlands

1 intentionally created from nonwetland sites, including, but not limited
2 to, irrigation and drainage ditches, grass-lined swales, canals,
3 detention facilities, wastewater treatment facilities, farm ponds, and
4 landscape amenities, or those wetlands created after July 1, 1990, that
5 were unintentionally created as a result of the construction of a road,
6 street, or highway. Wetlands may include those artificial wetlands
7 intentionally created from nonwetland areas created to mitigate
8 conversion of wetlands.

9 NEW SECTION. **Sec. 4.** The department of ecology shall
10 expeditiously and summarily waive the water quality certification
11 process of the Clean Water Act, 33 U.S.C. Sec. 1341, as now existing or
12 hereafter amended.

13 NEW SECTION. **Sec. 5.** Land developing under this chapter is exempt
14 from RCW 76.09.050. For the purposes of this section, "land
15 developing" means the division or platting of land in preparation for
16 development or the actual building, constructing, or erecting of
17 residences or commercial buildings.

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

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

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

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

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

1 (1) Subject to the definitions provided in RCW 36.70A.030, the
2 department shall adopt guidelines, under chapter 34.05 RCW, no later
3 than September 1, 1990, and shall amend these guidelines to conform to
4 this chapter by December 31, 1997, to guide the classification of: (a)
5 Agricultural lands; (b) forest lands; (c) mineral resource lands; and
6 (d) critical areas. The department shall consult with the department
7 of agriculture regarding guidelines for agricultural lands, the
8 department of natural resources regarding forest lands and mineral
9 resource lands, and the department of ecology regarding critical areas.

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

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

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

35 **Sec. 11.** RCW 36.70A.060 and 1991 sp.s. c 32 s 21 are each amended
36 to read as follows:

37 (1) Each county that is required or chooses to plan under RCW
38 36.70A.040, and each city within such county, shall adopt development

1 regulations on or before September 1, 1991, to assure the conservation
2 of agricultural, forest, and mineral resource lands designated under
3 RCW 36.70A.170. Regulations adopted under this subsection may not
4 prohibit uses legally existing on any parcel prior to their adoption
5 and shall remain in effect until the county or city adopts development
6 regulations pursuant to RCW 36.70A.120. ~~((Such regulations shall
7 assure that the use of lands adjacent to agricultural, forest, or
8 mineral resource lands shall not interfere with the continued use, in
9 the accustomed manner and in accordance with best management practices,
10 of these designated lands for the production of food, agricultural
11 products, or timber, or for the extraction of minerals.))~~ Counties and
12 cities shall require that all plats, short plats, development permits,
13 and building permits issued for development activities on, or within
14 three hundred feet of, lands designated as agricultural lands, forest
15 lands, or mineral resource lands, contain a notice that the subject
16 property is within or near designated agricultural lands, forest lands,
17 or mineral resource lands on which a variety of commercial activities
18 may occur that are not compatible with residential development for
19 certain periods of limited duration.

20 (2) Each county and city shall adopt development regulations that
21 protect critical areas from hazards and health and safety risks that
22 are required to be designated under RCW 36.70A.170. For counties and
23 cities that are required or choose to plan under RCW 36.70A.040, such
24 development regulations shall be adopted on or before September 1,
25 1991. For the remainder of the counties and cities, such development
26 regulations shall be adopted on or before March 1, 1992, but cities and
27 counties shall amend their development regulations to conform with this
28 chapter by December 1, 1997.

29 (3) Such counties and cities shall review these designations and
30 development regulations when adopting their comprehensive plans under
31 RCW 36.70A.040 and implementing development regulations under RCW
32 36.70A.120 ~~((and may alter such designations and development
33 regulations to insure consistency))~~.

34 (4) Forest land and agricultural land located within urban growth
35 areas shall not be designated by a county or city as forest land or
36 agricultural land of long-term commercial significance under RCW
37 36.70A.170 ~~((unless the city or county has enacted a program
38 authorizing transfer or purchase of development rights))~~.

1 **Sec. 12.** RCW 36.70A.070 and 1996 c 239 s 1 are each amended to
2 read as follows:

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

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

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

25 (2) A housing element ensuring the vitality and character of
26 established residential neighborhoods that: (a) Includes an inventory
27 and analysis of existing and projected housing needs; (b) includes a
28 statement of goals, policies, objectives, and mandatory provisions for
29 the preservation, improvement, and development of housing, including
30 single-family residences; (c) identifies sufficient land for housing(~~(
31 including, but not limited to, government-assisted housing, housing for
32 low-income families, manufactured housing, multifamily housing, and
33 group homes and foster care facilities))~~); and (d) makes adequate
34 provisions for existing and projected needs of all economic segments of
35 the community, except that counties and cities shall not require
36 private projects to include low-income housing as a condition of
37 issuing a permit or granting a land-use approval.

38 (3) A capital facilities plan element consisting of: (a) An
39 inventory of existing capital facilities owned by public entities,

1 showing the locations and capacities of the capital facilities; (b) a
2 forecast of the future needs for such capital facilities; (c) the
3 proposed locations and capacities of expanded or new capital
4 facilities; and (d) at least a six-year plan that will finance such
5 capital facilities within projected funding capacities and clearly
6 identifies sources of public money for such purposes(~~(; and (e) a~~
7 ~~requirement to reassess the land use element if probable funding falls~~
8 ~~short of meeting existing needs and to ensure that the land use~~
9 ~~element, capital facilities plan element, and financing plan within the~~
10 ~~capital facilities plan element are coordinated and consistent))~~).

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

15 (5) Counties shall include a rural element (~~(including lands that~~
16 ~~are not designated for urban growth, agriculture, forest, or mineral~~
17 ~~resources))~~). The rural element shall permit appropriate land uses that
18 are compatible with the rural character of such lands and provide for
19 a variety of rural densities and uses and may also provide for
20 clustering, density transfer, design guidelines, conservation
21 easements, and other innovative techniques that will accommodate
22 appropriate rural uses not characterized by urban growth. For the
23 purposes of this subsection, "compatible with the rural character of
24 such lands" means development of less than ten single-family
25 residential units by a property owner.

26 (6) A transportation element that implements, and is consistent
27 with, the land use element. The transportation element shall include
28 the following subelements:

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

30 (b) Facilities and services needs, including:

31 (i) An inventory of air, water, and ground transportation
32 facilities and services, including transit alignments and general
33 aviation airport facilities, to define existing capital facilities and
34 travel levels as a basis for future planning;

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

38 (iii) Specific actions ((and requirements)), by using motor vehicle
39 excise tax and gas tax funds, for bringing into compliance any

1 facilities or services that are below an established level of service
2 standard;

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

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

8 (c) Finance, including:

9 (i) An analysis of funding capability to judge needs against
10 probable funding resources;

11 (ii) A multiyear financing plan based on the needs identified in
12 the comprehensive plan, the appropriate parts of which shall serve as
13 the basis for the six-year street, road, or transit program required by
14 RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
15 35.58.2795 for public transportation systems;

16 (iii) If probable funding falls short of meeting identified needs,
17 a discussion of how additional funding will be raised(~~(, or how land~~
18 ~~use assumptions will be reassessed))~~) to ensure that level of service
19 standards will be met;

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

23 (e) Demand-management strategies.

24 After adoption of the comprehensive plan by jurisdictions required
25 to plan or who choose to plan under RCW 36.70A.040, local jurisdictions
26 must adopt and enforce ordinances (~~(which prohibit development approval~~
27 ~~if the development causes the level of service on a transportation~~
28 ~~facility to decline below the standards adopted in the transportation~~
29 ~~element of the comprehensive plan, unless transportation improvements~~
30 ~~or strategies to accommodate the impacts of development are made~~
31 ~~concurrent with the development. These)) that provide strategies that
32 may include increased public transportation service, ride sharing
33 programs, demand management, and other transportation systems
34 management strategies. (~~(For the purposes of this subsection (6)~~
35 ~~"concurrent with the development" shall mean that improvements or~~
36 ~~strategies are in place at the time of development, or that a financial~~
37 ~~commitment is in place to complete the improvements or strategies~~
38 ~~within six years.))~~)~~

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

5 **Sec. 13.** RCW 36.70A.110 and 1995 c 400 s 2 are each amended to
6 read as follows:

7 (1) Each county that is required or chooses to plan under RCW
8 36.70A.040 shall designate an urban growth area or areas within which
9 urban growth shall be encouraged (~~((and outside of which growth can
10 occur only if it is not urban in nature))~~). Each city that is located
11 in such a county shall be included within an urban growth area. An
12 urban growth area may include more than a single city. An urban growth
13 area ~~((may))~~ shall include territory that is located outside of a city
14 ~~((only if such territory already is characterized by urban growth
15 whether or not the urban growth area includes a city, or is adjacent to
16 territory already characterized by urban growth, or is a designated new
17 fully contained community as defined by RCW 36.70A.350))~~ when a county
18 determines the territory is necessary to provide an adequate land
19 supply to expand the urban growth boundaries beyond the boundaries of
20 existing cities. However, a county's designated urban growth areas
21 shall be at least large enough to accommodate all projected growth and
22 all growth that actually occurs. Cities and counties shall designate
23 urban growth areas that favor expansive delineation of these areas.

24 (2) ~~((Based upon the growth management population projection made
25 for the county by the office of financial management,))~~ The urban
26 growth areas in the county shall include areas and densities sufficient
27 to permit the urban growth that is projected to occur in the county for
28 the succeeding twenty-year period. The office of financial management
29 may be a source for which counties base their population forecasts.
30 Counties may add their own calculations to the office of financial
31 management's population projections. Each urban growth area shall
32 permit urban densities and shall include greenbelt and open space
33 areas. An urban growth area determination may include a reasonable
34 land market supply factor and shall permit a range of urban densities
35 and uses. In determining this market factor, cities and counties may
36 consider local circumstances. Cities and counties have discretion in
37 their comprehensive plans to make many choices about accommodating
38 growth.

1 Within one year of July 1, 1990, each county that as of June 1,
2 1991, was required or chose to plan under RCW 36.70A.040, shall begin
3 consulting with each city located within its boundaries and each city
4 shall propose the location of an urban growth area. Within sixty days
5 of the date the county legislative authority of a county adopts its
6 resolution of intention or of certification by the office of financial
7 management, all other counties that are required or choose to plan
8 under RCW 36.70A.040 shall begin this consultation with each city
9 located within its boundaries. The county shall attempt to reach
10 agreement with each city on the location of an urban growth area within
11 which the city is located. If such an agreement is not reached with
12 each city located within the urban growth area, the county shall
13 justify in writing why it so designated the area an urban growth area.
14 A city may object formally with the department over the designation of
15 the urban growth area within which it is located. Where appropriate,
16 the department shall attempt to resolve the conflicts, including the
17 use of mediation services. This section is intended to establish only
18 a minimum standard for the size of urban growth areas. This section
19 neither limits the discretion of counties to include an ample land
20 supply within urban growth areas nor compels counties to limit or
21 disregard existing property rights.

22 (3)(a) Urban growth should be located (~~(first)~~) in areas already
23 characterized by urban growth that have adequate existing public
24 facility and service capacities to serve such development, (~~(second)~~)
25 in areas already characterized by urban growth that will be served
26 adequately by a combination of both existing public facilities and
27 services and any additional needed public facilities and services that
28 are provided by either public or private sources, and (~~(third)~~) in the
29 remaining portions of the urban growth areas. Urban growth may also be
30 located in designated new fully contained communities as defined by RCW
31 36.70A.350. This chapter does not limit the common law duty of a
32 public utility, whether publicly or privately owned, to make service
33 available to all within its franchise area and within areas as to which
34 a public utility has held itself out as a provider of service. "Public
35 utility," as used in this subsection, refers to a private entity or
36 municipal or quasi-municipal corporation that provides electricity,
37 sanitary sewer, storm sewer, water, telephone, cable television,
38 communications services, or natural gas to the public.

1 (b) In addition to (a) of this subsection, a city that provides
2 water or sewer service outside the corporate boundaries of the city
3 shall not require, as a condition of providing water or sewer service,
4 the property owner who has requested water or sewer service to agree
5 to:

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

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

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

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

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

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

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

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

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

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

18 **Sec. 15.** RCW 36.70A.130 and 1995 c 347 s 106 are each amended to
19 read as follows:

20 (1) Each comprehensive land use plan and development regulations
21 shall be subject to continuing evaluation and review by the county or
22 city that adopted them.

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

26 (2)(a) Each county and city shall establish and broadly disseminate
27 to the public a public participation program identifying procedures
28 whereby proposed amendments or revisions of the comprehensive plan are
29 considered by the governing body of the county or city no more
30 frequently than once every year except that amendments may be
31 considered more frequently under the following circumstances:

32 (i) The initial adoption of a subarea plan; and

33 (ii) The adoption or amendment of a shoreline master program under
34 the procedures set forth in chapter 90.58 RCW.

35 (b) All proposals shall be considered by the governing body
36 concurrently so the cumulative effect of the various proposals can be
37 ascertained. However, after appropriate public participation a county
38 or city may adopt amendments or revisions to its comprehensive plan

1 that conform with this chapter whenever an emergency exists or to
2 resolve an appeal of a comprehensive plan filed with a growth
3 management hearings board or with the court.

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

18 **Sec. 16.** RCW 36.70A.160 and 1992 c 227 s 1 are each amended to
19 read as follows:

20 Each county and city that is required or chooses to prepare a
21 comprehensive land use plan under RCW 36.70A.040 shall identify open
22 space corridors within and between urban growth areas. They shall
23 include lands useful for recreation, wildlife habitat, trails, and
24 connection of critical areas as defined in RCW 36.70A.030.
25 Identification of a corridor under this section by a county or city
26 shall not restrict the use or management of lands within the corridor
27 for agricultural or forest purposes. Restrictions on the use or
28 management of such lands for agricultural or forest purposes imposed
29 after identification solely to maintain or enhance the value of such
30 lands as a corridor may occur only if the county or city acquires
31 sufficient interest to prevent development of the lands or to control
32 the resource development of the lands. The requirement for acquisition
33 of sufficient interest does not include those corridors regulated by
34 the interstate commerce commission, under provisions of 16 U.S.C. Sec.
35 1247(d), 16 U.S.C. Sec. 1248, or 43 U.S.C. Sec. 912. ~~((Nothing in this
36 section shall be interpreted to alter the authority of the state, or a
37 county or city, to regulate land use activities.))~~ Private property
38 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. 17.** RCW 36.70A.210 and 1994 c 249 s 28 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;

38 (d) Policies for county-wide transportation facilities and
39 strategies;

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

4 (f) Policies for joint county and city planning within urban growth
5 areas;

6 (g) Policies for county-wide economic development and employment;
7 and

8 (h) An analysis of the fiscal impact.

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

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

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

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

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

32 (1) The state attorney general shall establish by October 1, 1991,
33 an orderly, consistent process, including a checklist if appropriate,
34 that better enables state agencies and local governments to evaluate
35 proposed regulatory or administrative actions to assure that such
36 actions do not result in an unconstitutional taking of private
37 property. It is not the purpose of this section to (~~expand or~~)
38 reduce the scope of private property protections provided in the state

1 and federal Constitutions. The attorney general shall review and
2 update the process at least on an annual basis to maintain consistency
3 with changes in case law.

4 (2) Local governments that are required or choose to plan under RCW
5 36.70A.040 and state agencies shall utilize the process established by
6 subsection (1) of this section to assure that proposed regulatory or
7 administrative actions do not result in an unconstitutional taking of
8 private property.

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

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

16 NEW SECTION. **Sec. 19.** It is necessary that the procedures
17 established in this chapter ensure that all applicable permit
18 processes, approvals, and reviews are processed concurrently, rather
19 than consecutively. The lead environmental agency or counties and
20 cities shall establish by rule or ordinance an expedited appeals
21 process by which an applicant may appeal any failure by any permit
22 agency, county, or city to take timely action on the issuance or denial
23 of a permit or land-use approval or subdivision of land in accordance
24 with the time limits established under this chapter. If the decision
25 maker finds that the time limits under appeal have been violated
26 without good cause, the decision maker shall establish a date certain
27 by which the permit agency shall act on the permit application and
28 provide for the full reimbursement of any filing or permit processing
29 fees paid by the applicant to the local government or agency for the
30 permit application under appeal.

31 **Sec. 20.** RCW 76.09.050 and 1994 c 264 s 49 are each amended to
32 read 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 that may be conducted without
37 submitting an application or a notification;

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

10 (a) On lands platted after January 1, 1960, or being converted to
11 another use;

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

14 (c) Within "shorelines of the state" as defined in RCW 90.58.030;
15 or

16 (d) Excluded from Class II by the board;

17 Class III: Forest practices other than those contained in Class I,
18 II, or IV. A Class III application must be approved or disapproved by
19 the department within thirty calendar days from the date the department
20 receives the application. However, the applicant may not begin work on
21 that forest practice until all forest practice fees required under RCW
22 76.09.065 have been received by the department;

23 Class IV: Forest practices other than those contained in Class I
24 or II: (a) On lands platted after January 1, 1960, (b) on lands being
25 converted to another use, (c) on lands which, pursuant to RCW 76.09.070
26 as now or hereafter amended, are not to be reforested because of the
27 likelihood of future conversion to urban development, and/or (d) which
28 have a potential for a substantial impact on the environment and
29 therefore require an evaluation by the department as to whether or not
30 a detailed statement must be prepared pursuant to the state
31 environmental policy act, chapter 43.21C RCW. Such evaluation shall be
32 made within ten days from the date the department receives the
33 application: PROVIDED, That nothing herein shall be construed to
34 prevent any local or regional governmental entity from determining that
35 a detailed statement must be prepared for an action pursuant to a Class
36 IV forest practice taken by that governmental entity concerning the
37 land on which forest practices will be conducted. A Class IV
38 application must be approved or disapproved by the department within
39 thirty calendar days from the date the department receives the

1 application, unless the department determines that a detailed statement
2 must be made, in which case the application must be approved or
3 disapproved by the department within sixty calendar days from the date
4 the department receives the application, unless the commissioner of
5 public lands, through the promulgation of a formal order, determines
6 that the process cannot be completed within such period. However, the
7 applicant may not begin work on that forest practice until all forest
8 practice fees required under RCW 76.09.065 have been received by the
9 department.

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

13 (2) No Class II, Class III, or Class IV forest practice shall be
14 commenced or continued after January 1, 1975, unless the department has
15 received a notification with regard to a Class II forest practice or
16 approved an application with regard to a Class III or Class IV forest
17 practice containing all information required by RCW 76.09.060 as now or
18 hereafter amended: PROVIDED, That any person commencing a forest
19 practice during 1974 may continue such forest practice until April 1,
20 1975, if such person has submitted an application to the department
21 prior to January 1, 1975: PROVIDED, FURTHER, That in the event forest
22 practices regulations necessary for the scheduled implementation of
23 this chapter and RCW 90.48.420 have not been adopted in time to meet
24 such schedules, the department shall have the authority to regulate
25 forest practices and approve applications on such terms and conditions
26 consistent with this chapter and RCW 90.48.420 and the purposes and
27 policies of RCW 76.09.010 until applicable forest practices regulations
28 are in effect.

29 (3) If a notification or application is delivered in person to the
30 department by the operator or the operator's agent, the department
31 shall immediately provide a dated receipt thereof. In all other cases,
32 the department shall immediately mail a dated receipt to the operator.

33 (4) Forest practices shall be conducted in accordance with the
34 forest practices regulations, orders and directives as authorized by
35 this chapter or the forest practices regulations, and the terms and
36 conditions of any approved applications.

37 (5) The department of natural resources shall notify the applicant
38 in writing of either its approval of the application or its disapproval
39 of the application and the specific manner in which the application

1 fails to comply with the provisions of this section or with the forest
2 practices regulations. Except as provided otherwise in this section,
3 if the department fails to either approve or disapprove an application
4 or any portion thereof within the applicable time limit, the
5 application shall be deemed approved and the operation may be
6 commenced: PROVIDED, That this provision shall not apply to
7 applications which are neither approved nor disapproved pursuant to the
8 provisions of subsection (7) of this section: PROVIDED, FURTHER, That
9 if seasonal field conditions prevent the department from being able to
10 properly evaluate the application, the department may issue an approval
11 conditional upon further review within sixty days: PROVIDED, FURTHER,
12 That the department shall have until April 1, 1975, to approve or
13 disapprove an application involving forest practices allowed to
14 continue to April 1, 1975, under the provisions of subsection (2) of
15 this section. Upon receipt of any notification or any satisfactorily
16 completed application the department shall in any event no later than
17 two business days after such receipt transmit a copy to the departments
18 of ecology and fish and wildlife, and to the county, city, or town in
19 whose jurisdiction the forest practice is to be commenced. Any
20 comments by such agencies shall be directed to the department of
21 natural resources.

22 (6) If the county, city, or town believes that an application is
23 inconsistent with this chapter, the forest practices regulations, or
24 any local authority consistent with RCW 76.09.240 as now or hereafter
25 amended, it may so notify the department and the applicant, specifying
26 its objections.

27 (7) The department shall not approve portions of applications to
28 which a county, city, or town objects if:

29 (a) The department receives written notice from the county, city,
30 or town of such objections within fourteen business days from the time
31 of transmittal of the application to the county, city, or town, or one
32 day before the department acts on the application, whichever is later;
33 and

34 (b) The objections relate to lands either:

35 (i) Platted after January 1, 1960; or

36 (ii) Being converted to another use.

37 The department shall either disapprove those portions of such
38 application or appeal the county, city, or town objections to the
39 appeals board. If the objections related to subparagraphs (b) (i) and

1 (ii) of this subsection are based on local authority consistent with
2 RCW 76.09.240 as now or hereafter amended, the department shall
3 disapprove the application until such time as the county, city, or town
4 consents to its approval or such disapproval is reversed on appeal.
5 The applicant shall be a party to all department appeals of county,
6 city, or town objections. Unless the county, city, or town either
7 consents or has waived its rights under this subsection, the department
8 shall not approve portions of an application affecting such lands until
9 the minimum time for county, city, or town objections has expired.

10 (8) In addition to any rights under the above paragraph, the
11 county, city, or town may appeal any department approval of an
12 application with respect to any lands within its jurisdiction. The
13 appeals board may suspend the department's approval in whole or in part
14 pending such appeal where there exists potential for immediate and
15 material damage to a public resource.

16 (9) Appeals under this section shall be made to the appeals board
17 in the manner and time provided in RCW 76.09.220(8). In such appeals
18 there shall be no presumption of correctness of either the county,
19 city, or town or the department position.

20 (10) The department shall, within four business days notify the
21 county, city, or town of all notifications, approvals, and disapprovals
22 of an application affecting lands within the county, city, or town,
23 except to the extent the county, city, or town has waived its right to
24 such notice.

25 (11) A county, city, or town may waive in whole or in part its
26 rights under this section, and may withdraw or modify any such waiver,
27 at any time by written notice to the department.

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

30 (13) For the purposes of this section, "land development" means the
31 division or platting of land in preparation for development or the
32 actual building, constructing, or erecting of residences or commercial
33 buildings.

34 **Sec. 21.** RCW 36.70B.010 and 1995 c 347 s 401 are each amended to
35 read as follows:

36 The legislature finds and declares the following:

37 (1) As the number of environmental laws and development regulations
38 has increased for land uses and development, so has the number of

1 required local land use permits, each with its own separate approval
2 process.

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

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

12 (4) The legislature therefore finds minimizing lengthy, costly, and
13 burdensome appeals and permit processes to be of great importance as
14 well as to be promoting clear vesting of property and development
15 rights.

16 **Sec. 22.** RCW 36.70B.020 and 1995 c 347 s 402 are each amended to
17 read as follows:

18 Unless the context clearly requires otherwise, the definitions in
19 this section apply throughout this chapter.

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

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

26 (3) "Open record hearing" means a hearing, conducted by a single
27 hearing body or officer authorized by the local government to conduct
28 such hearings, that creates the local government's record through
29 testimony and submission of evidence and information, under procedures
30 prescribed by the local government by ordinance or resolution. ((An
31 open record hearing may be held prior to a local government's decision
32 on a project permit to be known as an "open record predecision
33 hearing." An open record hearing may be held on an appeal, to be known
34 as an "open record appeal hearing," if no open record predecision
35 hearing has been held on the project permit.))

36 (4) "Project permit" ((or "project permit application")) means any
37 land use or environmental permit or license required from a local
38 government for a project action, including ((but not limited to))

1 building permits, subdivisions, binding site plans, planned unit
2 developments, conditional uses, shoreline substantial development
3 permits, and site plan review(~~(, permits or approvals required by~~
4 ~~critical area ordinances, site specific rezones)~~) authorized by a
5 comprehensive plan (~~(or subarea plan, but excluding the adoption or~~
6 ~~amendment of a comprehensive plan, subarea plan, or development~~
7 ~~regulations except as otherwise specifically included in this~~
8 ~~subsection)~~).

9 (5) "Public meeting" means an informal meeting, hearing, workshop,
10 or other public gathering of people to obtain comments from the public
11 or other agencies on a proposed project permit prior to the local
12 government s decision. A public meeting (~~(may include, but)~~) is
13 (~~(not)~~) limited to(~~(, a design review or architectural control board~~
14 ~~meeting, a special review district or community council meeting, or)~~)
15 a scoping meeting on a draft environmental impact statement. A public
16 meeting does not include an open record hearing. The proceedings at a
17 public meeting may be recorded and a report (~~(or recommendation)~~) may
18 be included in the local government s project permit application file.

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

22 **Sec. 23.** RCW 36.70B.040 and 1995 c 347 s 405 are each amended to
23 read as follows:

24 (1) A proposed project's consistency with a local government's
25 development regulations adopted under chapter 36.70A RCW, or, in the
26 absence of applicable development regulations, the appropriate elements
27 of the comprehensive plan or subarea plan adopted under chapter 36.70A
28 RCW shall be determined by consideration of:

29 (a) The type of land use;

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

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

34 ~~(d) The character of the development, such as development~~
35 ~~standards.~~

36 ~~(2) In determining consistency, the determinations made pursuant to~~
37 ~~RCW 36.70B.030(2) shall be controlling).~~

1 ~~((3))~~ (2) For purposes of this section, the term "consistency"
2 shall include all terms used in ~~((this chapter and))~~ chapter 36.70A RCW
3 to refer to performance in accordance with ~~((this chapter and))~~ chapter
4 36.70A RCW~~(, including but not limited to compliance, conformity, and~~
5 ~~consistency.~~

6 ~~(4) Nothing in this section requires documentation, dictates an~~
7 ~~agency's procedures for considering consistency, or limits a unit of~~
8 ~~government from asking more specific or related questions with respect~~
9 ~~to any of the four main categories listed in subsection (1)(a) through~~
10 ~~(d) of this section)).~~

11 **Sec. 24.** RCW 36.70B.060 and 1995 c 347 s 407 are each amended to
12 read as follows:

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

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

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

22 (3) Except as provided in RCW 36.70B.140, an optional consolidated
23 project permit review process as provided in RCW 36.70B.120. The
24 review process shall provide for no more than one consolidated open
25 record hearing and one closed record appeal~~((.—If an open record~~
26 ~~predecision hearing is provided prior to the decision on a project~~
27 ~~permit, the process shall not allow a subsequent open record appeal~~
28 ~~hearing));~~

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

34 (5) ~~((A single report stating all the decisions made as of the date~~
35 ~~of the report on all project permits included in the consolidated~~
36 ~~permit process that do not require an open record predecision hearing~~
37 ~~and any recommendations on project permits that do not require an open~~
38 ~~record predecision hearing.—The report shall state any mitigation~~

1 required or proposed under the development regulations or the agency's
2 authority under RCW 43.21C.060. The report may be the local permit.
3 If a threshold determination other than a determination of significance
4 has not been issued previously by the local government, the report
5 shall include or append this determination;

6 (6) Except for the appeal of a determination of significance as
7 provided in RCW 43.21C.075, if a local government elects to provide an
8 appeal of its threshold determinations or project permit decisions, the
9 local government shall provide for no more than one consolidated open
10 record hearing on such appeal. The local government need not provide
11 for any further appeal and may provide an appeal for some but not all
12 project permit decisions. If an appeal is provided after the open
13 record hearing, it shall be a closed record appeal before a single
14 decision-making body or officer;

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

17 ((+8)) (6) Completion of project review by the local government,
18 including environmental review and public review and any appeals to the
19 local government, within any applicable time periods under RCW
20 36.70B.090; and

21 ((+9)) (7) Any other provisions not inconsistent with the
22 requirements of this chapter or chapter 43.21C RCW.

23 **Sec. 25.** RCW 36.70B.070 and 1995 c 347 s 408 are each amended to
24 read as follows:

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

29 (a) That the application is complete; or

30 (b) That the application is incomplete and what is necessary to
31 make the application complete.

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

35 (2) A project permit application is complete ((for purposes of this
36 section)) when it meets the procedural submission requirements of the
37 local government and is sufficient for continued processing even though
38 additional information may be ((required)) requested or project

1 modifications may be undertaken subsequently. ((The determination of
2 completeness shall not preclude the local government from requesting
3 additional information or studies either at the time of the notice of
4 completeness or subsequently if new information is required or
5 substantial changes in the proposed action occur.

6 (3) The determination of completeness may include the following as
7 optional information:

8 (a) A preliminary determination of those development regulations
9 that will be used for project mitigation;

10 (b) A preliminary determination of consistency, as provided under
11 RCW 36.70B.040; or

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

13 (4)) Additional requested information shall be of a clarifying
14 nature and based on requirements of the underlying development
15 regulations.

16 (3)(a) An application shall be deemed complete ((under this
17 section)) if the local government does not provide a written
18 determination to the applicant that the application is incomplete as
19 provided in subsection (1)(b) of this section.

20 (b) Within fourteen days after an applicant has submitted to a
21 local government additional information identified by the local
22 government as being necessary for a complete application, the local
23 government shall notify the applicant whether the application is
24 complete or what ((additional)) information ((is necessary)) was not
25 included under the original written determination provided in
26 subsection (1)(b) of this section.

27 **Sec. 26.** RCW 36.70B.090 and 1995 c 347 s 413 are each amended to
28 read as follows:

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

37 (a)(i) Any period during which the applicant has been requested by
38 the local government to correct plans((, perform required studies,)) or

1 provide additional (~~required~~) information required in the underlying
2 development regulations. The period shall be calculated from the date
3 the local government notifies the applicant of the need for additional
4 required information until the earlier of the date the local government
5 determines whether the additional required information satisfies the
6 original request for information or fourteen days after the date the
7 information has been provided to the local government.

8 (ii) If the local government determines that the information
9 submitted by the applicant under (a)(i) of this subsection (~~is~~
10 ~~insufficient~~) does not meet requirements of the underlying development
11 regulations, it shall notify the applicant of the deficiencies and the
12 procedures under (a)(i) of this subsection shall apply (~~as if a new~~
13 ~~request for studies had been made~~); and

14 (b) Any period during which an environmental impact statement is
15 being prepared following a determination of significance pursuant to
16 chapter 43.21C RCW, if the local government by ordinance or resolution
17 has established time periods for completion of environmental impact
18 statements, or if the local government and the applicant in writing
19 agree to a time period for completion of an environmental impact
20 statement(~~;~~

21 ~~(c) Any period for administrative appeals of project permits, if an~~
22 ~~open record appeal hearing or a closed record appeal, or both, are~~
23 ~~allowed. The local government by ordinance or resolution shall~~
24 ~~establish a time period to consider and decide such appeals. The time~~
25 ~~period shall not exceed: (i) Ninety days for an open record appeal~~
26 ~~hearing; and (ii) sixty days for a closed record appeal. The parties~~
27 ~~to an appeal may agree to extend these time periods; and~~

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

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

32 ~~(a) Requires an amendment to the comprehensive plan or a~~
33 ~~development regulation;~~

34 ~~(b) Requires approval of a new fully contained community as~~
35 ~~provided in RCW 36.70A.350, a master planned resort as provided in RCW~~
36 ~~36.70A.360, or the siting of an essential public facility as provided~~
37 ~~in RCW 36.70A.200; or~~

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

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

9 ~~((4))~~ (2) This section shall apply to project permit applications
10 filed on or after April 1, 1996.

11 **Sec. 27.** 1995 c 347 s 433 (uncodified) is amended to read as
12 follows:

13 Section(~~s 413 and~~) 421 of this act shall expire June 30, 1998.
14 The provisions of section(~~s 413 and~~) 421 of this act shall apply to
15 project permit applications determined to be complete pursuant to RCW
16 36.70B.070 on or before June 30, 1998.

17 **Sec. 28.** RCW 36.70B.110 and 1995 c 347 s 415 are each amended to
18 read as follows:

19 (1) Not later than April 1, 1996, a local government planning under
20 RCW 36.70A.040 shall provide a notice of application to the public and
21 the departments and agencies with jurisdiction as provided in this
22 section. If a local government has made a determination of
23 significance under chapter 43.21C RCW concurrently with the notice of
24 application, the notice of application shall be combined with the
25 determination of significance and scoping notice. Nothing in this
26 section prevents a determination of significance and scoping notice
27 from being issued prior to the notice of application.

28 (2) The notice of application shall be provided within fourteen
29 days after the determination of completeness as provided in RCW
30 36.70B.070 and include the following in whatever sequence or format the
31 local government deems appropriate:

32 (a) The date of application, the date of the notice of completion
33 for the application, and the date of the notice of application;

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

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

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

8 (e) A statement of the public comment period, which shall be not
9 less than fourteen nor more than thirty days following the date of
10 notice of application, and statements of the right of any person to
11 comment on the application, receive notice of and participate in any
12 hearings, request a copy of the decision once made, and any appeal
13 rights. A local government may accept public comments at any time
14 prior to the closing of the record of an open record predecision
15 hearing, if any, or, if no open record predecision hearing is provided,
16 prior to the decision on the project permit;

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

19 (g) A statement (~~((of the preliminary determination, if one has been
20 made at the time of notice,))~~) of those development regulations that
21 will be used for project mitigation (~~((and of consistency as provided in
22 RCW 36.70B.040; and~~

23 ~~(h) Any other information determined appropriate by the local
24 government.~~

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

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

29 (3) A local government shall use reasonable methods to give the
30 notice of application to the public and agencies with jurisdiction and
31 ~~((may)) shall~~ use its existing notice procedures. ~~((A local government
32 may use different types of notice for different categories of project
33 permits or types of project actions. If a local government by
34 resolution or ordinance does not specify its method of public notice,
35 the local government shall use the methods provided for in (a) and (b)
36 of this subsection. Examples of reasonable methods to inform the
37 public are:~~

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

1 ~~(b) Publishing notice, including at least the project location,~~
2 ~~description, type of permit(s) required, comment period dates, and~~
3 ~~location where the complete application may be reviewed, in the~~
4 ~~newspaper of general circulation in the general area where the proposal~~
5 ~~is located or in a local land use newsletter published by the local~~
6 ~~government;~~

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

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

10 ~~(e) Placing notices in appropriate regional or neighborhood~~
11 ~~newspapers or trade journals;~~

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

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

16 ~~(5))~~ (4) A notice of application shall not be required for project
17 permits that are categorically exempt under chapter 43.21C RCW(~~(7~~
18 ~~unless a public comment period or an open record predecision hearing is~~
19 ~~required))).~~

20 ~~((6))~~ (5) A local government shall integrate the permit
21 procedures in this section with environmental review under chapter
22 43.21C RCW as follows:

23 (a) Except for a determination of significance, the local
24 government may not issue its threshold determination, or issue a
25 decision or a recommendation on a project permit until the expiration
26 of the public comment period on the notice of application.

27 (b) If an open record predecision hearing is required and the local
28 government's threshold determination requires public notice under
29 chapter 43.21C RCW, the local government shall issue its threshold
30 determination at least fifteen days prior to the open record
31 predecision hearing.

32 (c) Comments shall be as specific as possible.

33 ~~((7))~~ (6) A local government may combine any hearing on a project
34 permit with any hearing that may be held by another local(~~(7))~~ or
35 ~~state((7 regional, federal, or other))~~ agency provided that the hearing
36 is held within the geographic boundary of the local government.
37 Hearings shall be combined if requested by an applicant, as long as the
38 joint hearing can be held within the time periods specified in RCW
39 36.70B.090 or the applicant agrees to the schedule in the event that

1 additional time is needed in order to combine the hearings. All
2 agencies of the state of Washington, including municipal corporations
3 and counties participating in a combined hearing, are hereby authorized
4 to issue joint hearing notices and develop a joint format, select a
5 mutually acceptable hearing body or officer, and take such other
6 actions as may be necessary to hold joint hearings consistent with each
7 of their respective statutory obligations.

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

11 (a) The agency is not expressly prohibited by statute from doing
12 so;

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

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

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

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

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

34 **Sec. 29.** RCW 36.70B.120 and 1995 c 347 s 416 are each amended to
35 read as follows:

36 (1) Each local government planning under RCW 36.70A.040 shall
37 establish a permit review process that provides for the integrated and
38 consolidated review and decision on two or more project permits

1 relating to a proposed project action, including a single application
2 review and approval process covering all project permits requested by
3 an applicant for all or part of a project action and a designated
4 permit coordinator. If an applicant elects the consolidated permit
5 review process, the determination of completeness, notice of
6 application, and notice of final decision must include all project
7 permits being reviewed through the consolidated permit review process.

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

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

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

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

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

37 **Sec. 30.** RCW 36.70B.130 and 1996 c 254 s 1 are each amended to
38 read as follows:

1 A local government planning under RCW 36.70A.040 shall provide a
2 notice of decision that also includes a statement of any threshold
3 determination made under chapter 43.21C RCW and the procedures for
4 administrative appeal, if any. The notice of decision may be a copy of
5 the report or decision on the project permit application. The notice
6 shall be provided to the applicant and to any person who, prior to the
7 rendering of the decision, requested notice of the decision or
8 submitted substantive comments on the application. The local
9 government shall provide for notice of its decision as provided in RCW
10 36.70B.110(~~((4))~~)(3), which shall also state that affected property
11 owners may request a change in valuation for property tax purposes
12 notwithstanding any program of revaluation. The local government shall
13 provide notice of decision to the county assessor's office of the
14 county or counties in which the property is situated.

15 **Sec. 31.** RCW 36.70B.140 and 1995 c 347 s 418 are each amended to
16 read as follows:

17 (1) A local government by ordinance or resolution (~~((may))~~) shall
18 exclude the following project permits from the provisions of RCW
19 36.70B.060 through 36.70B.090 and 36.70B.110 through 36.70B.130:
20 Landmark designations, street vacations, or other approvals relating to
21 the use of public areas or facilities, or other project permits,
22 whether administrative or quasi-judicial, that the local government by
23 ordinance or resolution has determined present special circumstances
24 that warrant a review process different from that provided in RCW
25 36.70B.060 through 36.70B.090 and 36.70B.110 through 36.70B.130.

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

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

35 (1) Each local government (~~((is encouraged to))~~) shall adopt further
36 project review provisions to (~~((provide prompt, coordinated review and))~~)
37 ensure accountability to applicants and the public(~~((, including))~~) and

1 provide expedited, coordinated review (~~for project permit~~
2 ~~applications~~) for projects that are consistent with adopted
3 development regulations (~~and within the capacity of system-wide~~
4 ~~infrastructure improvements~~)).

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

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

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

14 NEW SECTION. Sec. 33. The following acts or parts of acts are
15 each repealed:

- 16 (1) RCW 36.70B.030 and 1995 c 347 s 404;
17 (2) RCW 36.70B.080 and 1995 c 347 s 409 & 1994 c 257 s 3; and
18 (3) 1995 c 347 s 411 (uncodified).

19 NEW SECTION. Sec. 34. Sections 4 through 9, 14, and 19 of this
20 act are each added to chapter 36.70A RCW.

21 NEW SECTION. Sec. 35. If any provision of this act or its
22 application to any person or circumstance is held invalid, the
23 remainder of the act or the application of the provision to other
24 persons or circumstances is not affected.

25 NEW SECTION. Sec. 36. This act is necessary for the immediate
26 preservation of the public peace, health, or safety, or support of the
27 state government and its existing public institutions, and takes effect
28 immediately.

29 NEW SECTION. Sec. 37. This act is remedial in nature and applies
30 retroactively to July 1, 1990, and thereafter.

--- END ---