

2 **SSB 6597** - H COMM AMD **ADOPTED 3-1-96**  
3 By Committee on Government Operations

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5 Strike everything after the enacting clause and insert the  
6 following:

7 "Sec. 1. RCW 36.70B.080 and 1995 c 347 s 409 are each amended to  
8 read as follows:

9 (1) Development regulations adopted pursuant to RCW 36.70A.040  
10 shall establish time periods consistent with RCW 36.70B.090 for local  
11 government actions on specific project permit applications and provide  
12 timely and predictable procedures to determine whether a completed  
13 project permit application meets the requirements of those development  
14 regulations. Such development regulations shall specify the contents  
15 of a completed project permit application necessary for the application  
16 of such time periods and procedures.

17 (2) Development regulations adopted under RCW 36.70A.040 shall  
18 include procedures to facilitate the conduct of voluntary  
19 preapplication meetings between a potential permit applicant, involved  
20 governmental entities, adjacent property owners, or other classes of  
21 groups and individuals deemed appropriate by the city or county.  
22 Participation or nonparticipation in such a meeting does not affect an  
23 individual's or group's standing in a legal action that might be  
24 brought concerning a subsequent permit application. Nothing in this  
25 section precludes development regulations from also establishing or  
26 using a process involving only a potential permit applicant and the  
27 local government.

28 (3) In jurisdictions planning under this chapter that have adopted  
29 regulations restricting the use of private property, those regulations  
30 shall provide for the use of a reasonable use exception in accordance  
31 with this section.

32 (4) Because government has no right to treat people unreasonably in  
33 regard to their rights in real property, a reasonable use exception is  
34 required to avoid unreasonable burdens on property owners.

35 (5) A reasonable use exception from development regulations must be  
36 granted under the following circumstances:

1       (a) The development regulation or the application thereof:

2       (i) Directly or effectively precludes the type or intensity of uses  
3 allowed by the provision of the zoning ordinance which identifies the  
4 type and intensity or density of uses permitted in the zoning  
5 designation; or

6       (ii) Directly or effectively precludes substantially all reasonable  
7 economic uses of any part of the property; and

8       (b) The development regulation is not preventing, mitigating, or  
9 abating a nuisance as defined by the laws of this state or as  
10 recognized under the common law standards for defining a nuisance.

11       (6) The relief granted by a reasonable use exception must mitigate  
12 the loss, if any, in fair market value of the real property caused by  
13 restriction identified in subsection (5) of this section.

14       (7) "Reasonable economic uses" are uses of property that are more  
15 than nominal or passive, that are proportionate to and compatible with  
16 actual uses of property in the immediate area.

17       (8) "Private property" means all real property or an interest in  
18 real property recognized under Washington law, including but not  
19 limited to: Estates in fee; life estates; estates for years or  
20 otherwise; inchoate interests in real property such as remainders and  
21 future interests; personalty that is affixed or appurtenant to real  
22 property; easements; covenants; leaseholds; the right to use water or  
23 the right to receive water; or rents, issues, and profits of land,  
24 including minerals, timber, and crops.

25       (9) Nothing in this section may be interpreted to prevent a  
26 jurisdiction from purchasing an interest in property under the laws of  
27 eminent domain.

28       **Sec. 2.** RCW 36.70B.080 and 1995 c 347 s 410 are each amended to  
29 read as follows:

30       (1) Development regulations adopted pursuant to RCW 36.70A.040  
31 shall establish time periods for local government actions on specific  
32 project permit applications and provide timely and predictable  
33 procedures to determine whether a completed project permit application  
34 meets the requirements of those development regulations. Such  
35 development regulations shall specify the contents of a completed  
36 project permit application necessary for the application of such time  
37 periods and procedures.

1       (2) Development regulations adopted under RCW 36.70A.040 shall  
2 include procedures to facilitate the conduct of voluntary  
3 preapplication meetings between a potential permit applicant, involved  
4 governmental entities, adjacent property owners, or other classes of  
5 groups and individuals deemed appropriate by the city or county.  
6 Participation or nonparticipation in such a meeting does not affect an  
7 individual's or group's standing in a legal action that might be  
8 brought concerning a subsequent permit application. Nothing in this  
9 section precludes development regulations from also establishing or  
10 using a process involving only a potential permit applicant and the  
11 local government.

12       (3) In jurisdictions planning under this chapter that have adopted  
13 regulations restricting the use of private property, those regulations  
14 shall provide for the use of a reasonable use exception in accordance  
15 with this section.

16       (4) Because government has no right to treat people unreasonably in  
17 regard to their rights in real property, a reasonable use exception is  
18 required to avoid unreasonable burdens on property owners.

19       (5) A reasonable use exception from development regulations must be  
20 granted under the following circumstances:

21       (a) The development regulation or the application thereof:

22       (i) Directly or effectively precludes the type or intensity of uses  
23 allowed by the provision of the zoning ordinance which identifies the  
24 type and intensity or density of uses permitted in the zoning  
25 designation; or

26       (ii) Directly or effectively precludes all reasonable economic uses  
27 of any part of the property; and

28       (b) The development regulation is not preventing, mitigating, or  
29 abating a nuisance as defined by the laws of this state or as  
30 recognized under the common law standards for defining a nuisance.

31       (6) The relief granted by a reasonable use exception must mitigate  
32 the loss, if any, in fair market value of the real property caused by  
33 restriction identified in subsection (5) of this section.

34       (7) "Reasonable economic uses" are uses of property that are more  
35 than nominal or passive, that are proportionate to and compatible with  
36 actual uses of property in the immediate area.

37       (8) "Private property" means all real property or an interest in  
38 real property recognized under Washington law, including but not  
39 limited to: Estates in fee; life estates; estates for years or

1 otherwise; inchoate interests in real property such as remainders and  
2 future interests; personalty that is affixed or appurtenant to real  
3 property; easements; covenants; leaseholds; the right to use water or  
4 the right to receive water; or rents, issues, and profits of land,  
5 including minerals, timber, and crops.

6 (9) Nothing in this section may be interpreted to prevent a  
7 jurisdiction from purchasing an interest in property under the laws of  
8 eminent domain.

9 NEW SECTION. Sec. 3. A new section is added to chapter 35.22 RCW  
10 to read as follows:

11 Development regulations adopted under this chapter shall include  
12 procedures to facilitate the conduct of voluntary preapplication  
13 meetings between a potential permit applicant, involved governmental  
14 entities, adjacent property owners, or other classes of groups and  
15 individuals deemed appropriate by the first class city. Participation  
16 or nonparticipation in such a meeting does not affect an individual's  
17 or group's standing in a legal action that might be brought concerning  
18 a subsequent permit application. Nothing in this section precludes  
19 development regulations from also establishing or using a process  
20 involving only a potential permit applicant and the local government.

21 NEW SECTION. Sec. 4. A new section is added to chapter 35.22 RCW  
22 to read as follows:

23 (1) In jurisdictions planning under this chapter that have adopted  
24 regulations restricting the use of private property, those regulations  
25 shall provide for the use of a reasonable use exception in accordance  
26 with this section.

27 (2) Because government has no right to treat people unreasonably in  
28 regard to their rights in real property, a reasonable use exception is  
29 required to avoid unreasonable burdens on property owners.

30 (3) A reasonable use exception from development regulations must be  
31 granted under the following circumstances:

32 (a) The development regulation or the application thereof:

33 (i) Directly or effectively precludes the type or intensity of uses  
34 allowed by the provision of the zoning ordinance which identifies the  
35 type and intensity or density of uses permitted in the zoning  
36 designation; or

1 (ii) Directly or effectively precludes all reasonable economic uses  
2 of any part of the property; and

3 (b) The development regulation is not preventing, mitigating, or  
4 abating a nuisance as defined by the laws of this state or as  
5 recognized under the common law standards for defining a nuisance.

6 (4) The relief granted by a reasonable use exception must mitigate  
7 the loss, if any, in fair market value of the real property caused by  
8 restriction identified in subsection (3) of this section.

9 (5) "Reasonable economic uses" are uses of property that are more  
10 than nominal or passive, that are proportionate to and compatible with  
11 actual uses of property in the immediate area.

12 (6) "Private property" means all real property or an interest in  
13 real property recognized under Washington law, including but not  
14 limited to: Estates in fee; life estates; estates for years or  
15 otherwise; inchoate interests in real property such as remainders and  
16 future interests; personalty that is affixed or appurtenant to real  
17 property; easements; covenants; leaseholds; the right to use water or  
18 the right to receive water; or rents, issues, and profits of land,  
19 including minerals, timber, and crops.

20 (7) Nothing in this section may be interpreted to prevent a  
21 jurisdiction from purchasing an interest in property under the laws of  
22 eminent domain.

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

25 Development regulations adopted under this chapter shall include  
26 procedures to facilitate the conduct of voluntary preapplication  
27 meetings between a potential permit applicant, involved governmental  
28 entities, adjacent property owners, or other classes of groups and  
29 individuals deemed appropriate by the city. Participation or  
30 nonparticipation in such a meeting does not affect an individual's or  
31 group's standing in a legal action that might be brought concerning a  
32 subsequent permit application. Nothing in this section precludes  
33 development regulations from also establishing or using a process  
34 involving only a potential permit applicant and the local government.

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

1 (1) In jurisdictions planning under this chapter that have adopted  
2 regulations restricting the use of private property, those regulations  
3 shall provide for the use of a reasonable use exception in accordance  
4 with this section.

5 (2) Because government has no right to treat people unreasonably in  
6 regard to their rights in real property, a reasonable use exception is  
7 required to avoid unreasonable burdens on property owners.

8 (3) A reasonable use exception from development regulations must be  
9 granted under the following circumstances:

10 (a) The development regulation or the application thereof:

11 (i) Directly or effectively precludes the type or intensity of uses  
12 allowed by the provision of the zoning ordinance which identifies the  
13 type and intensity or density of uses permitted in the zoning  
14 designation; or

15 (ii) Directly or effectively precludes all reasonable economic uses  
16 of any part of the property; and

17 (b) The development regulation is not preventing, mitigating, or  
18 abating a nuisance as defined by the laws of this state or as  
19 recognized under the common law standards for defining a nuisance.

20 (4) The relief granted by a reasonable use exception must mitigate  
21 the loss, if any, in fair market value of the real property caused by  
22 restriction identified in subsection (3) of this section.

23 (5) "Reasonable economic uses" are uses of property that are more  
24 than nominal or passive, that are proportionate to and compatible with  
25 actual uses of property in the immediate area.

26 (6) "Private property" means all real property or an interest in  
27 real property recognized under Washington law, including but not  
28 limited to: Estates in fee; life estates; estates for years or  
29 otherwise; inchoate interests in real property such as remainders and  
30 future interests; personalty that is affixed or appurtenant to real  
31 property; easements; covenants; leaseholds; the right to use water or  
32 the right to receive water; or rents, issues, and profits of land,  
33 including minerals, timber, and crops.

34 (7) Nothing in this section may be interpreted to prevent a  
35 jurisdiction from purchasing an interest in property under the laws of  
36 eminent domain.

37 NEW SECTION. **Sec. 7.** A new section is added to chapter 35A.63 RCW  
38 to read as follows:

1 Development regulations adopted under this chapter shall include  
2 procedures to facilitate the conduct of voluntary preapplication  
3 meetings between a potential permit applicant, involved governmental  
4 entities, adjacent property owners, or other classes of groups and  
5 individuals deemed appropriate by the code city. Participation or  
6 nonparticipation in such a meeting does not affect an individual's or  
7 group's standing in a legal action that might be brought concerning a  
8 subsequent permit application. Nothing in this section precludes  
9 development regulations from also establishing or using a process  
10 involving only a potential permit applicant and the local government.

11 NEW SECTION. **Sec. 8.** A new section is added to chapter 35A.63 RCW  
12 to read as follows:

13 (1) In jurisdictions planning under this chapter that have adopted  
14 regulations restricting the use of private property, those regulations  
15 shall provide for the use of a reasonable use exception in accordance  
16 with this section.

17 (2) Because government has no right to treat people unreasonably in  
18 regard to their rights in real property, a reasonable use exception is  
19 required to avoid unreasonable burdens on property owners.

20 (3) A reasonable use exception from development regulations must be  
21 granted under the following circumstances:

22 (a) The development regulation or the application thereof:

23 (i) Directly or effectively precludes the type or intensity of uses  
24 allowed by the provision of the zoning ordinance which identifies the  
25 type and intensity or density of uses permitted in the zoning  
26 designation; or

27 (ii) Directly or effectively precludes all reasonable economic uses  
28 of any part of the property; and

29 (b) The development regulation is not preventing, mitigating, or  
30 abating a nuisance as defined by the laws of this state or as  
31 recognized under the common law standards for defining a nuisance.

32 (4) The relief granted by a reasonable use exception must mitigate  
33 the loss, if any, in fair market value of the real property caused by  
34 restriction identified in subsection (3) of this section.

35 (5) "Reasonable economic uses" are uses of property that are more  
36 than nominal or passive, that are proportionate to and compatible with  
37 actual uses of property in the immediate area.

1 (6) "Private property" means all real property or an interest in  
2 real property recognized under Washington law, including but not  
3 limited to: Estates in fee; life estates; estates for years or  
4 otherwise; inchoate interests in real property such as remainders and  
5 future interests; personalty that is affixed or appurtenant to real  
6 property; easements; covenants; leaseholds; the right to use water or  
7 the right to receive water; or rents, issues, and profits of land,  
8 including minerals, timber, and crops.

9 (7) Nothing in this section may be interpreted to prevent a  
10 jurisdiction from purchasing an interest in property under the laws of  
11 eminent domain.

12 NEW SECTION. Sec. 9. A new section is added to chapter 36.70 RCW  
13 to read as follows:

14 Development regulations adopted under this chapter shall include  
15 procedures to facilitate the conduct of voluntary preapplication  
16 meetings between a potential permit applicant, involved governmental  
17 entities, adjacent property owners, or other classes of groups and  
18 individuals deemed appropriate by the county. Participation or  
19 nonparticipation in such a meeting does not affect an individual's or  
20 group's standing in a legal action that might be brought concerning a  
21 subsequent permit application. Nothing in this section precludes  
22 development regulations from also establishing or using a process  
23 involving only a potential permit applicant and the local government.

24 NEW SECTION. Sec. 10. A new section is added to chapter 36.70 RCW  
25 to read as follows:

26 (1) In jurisdictions planning under this chapter that have adopted  
27 regulations restricting the use of private property, those regulations  
28 shall provide for the use of a reasonable use exception in accordance  
29 with this section.

30 (2) Because government has no right to treat people unreasonably in  
31 regard to their rights in real property, a reasonable use exception is  
32 required to avoid unreasonable burdens on property owners.

33 (3) A reasonable use exception from development regulations must be  
34 granted under the following circumstances:

35 (a) The development regulation or the application thereof:

36 (i) Directly or effectively precludes the type or intensity of uses  
37 allowed by the provision of the zoning ordinance which identifies the



1 type and intensity or density of uses permitted in the zoning  
2 designation; or

3 (ii) Directly or effectively precludes all reasonable economic uses  
4 of any part of the property; and

5 (b) The development regulation is not preventing, mitigating, or  
6 abating a nuisance as defined by the laws of this state or as  
7 recognized under the common law standards for defining a nuisance.

8 (4) The relief granted by a reasonable use exception must mitigate  
9 the loss, if any, in fair market value of the real property caused by  
10 restriction identified in subsection (3) of this section.

11 (5) "Reasonable economic uses" are uses of property that are more  
12 than nominal or passive, that are proportionate to and compatible with  
13 actual uses of property in the immediate area.

14 (6) "Private property" means all real property or an interest in  
15 real property recognized under Washington law, including but not  
16 limited to: Estates in fee; life estates; estates for years or  
17 otherwise; inchoate interests in real property such as remainders and  
18 future interests; personalty that is affixed or appurtenant to real  
19 property; easements; covenants; leaseholds; the right to use water or  
20 the right to receive water; or rents, issues, and profits of land,  
21 including minerals, timber, and crops.

22 (7) Nothing in this section may be interpreted to prevent a  
23 jurisdiction from purchasing an interest in property under the laws of  
24 eminent domain.

25 NEW SECTION. **Sec. 11.** Development regulations providing for a  
26 reasonable use exception under this act shall be adopted by the  
27 appropriate county or city no later than January 1, 1997.

28 NEW SECTION. **Sec. 12.** Section 1 of this act shall expire July 1,  
29 1998.

30 NEW SECTION. **Sec. 13.** Section 2 of this act shall take effect  
31 July 1, 1998."

1 **SSB 6597** - H COMM AMD  
2 By Committee on Government Operations

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4 On page 1, line 2 of the title, after "exceptions;" strike the  
5 remainder of the title and insert "amending RCW 36.70B.080 and  
6 36.70B.080; adding new sections to chapter 35.22 RCW; adding new  
7 sections to chapter 35.63 RCW; adding new sections to chapter 35A.63  
8 RCW; adding new sections to chapter 36.70 RCW; creating a new section;  
9 providing an effective date; and providing an expiration date."

--- END ---