
SUBSTITUTE SENATE BILL 5489

State of Washington**54th Legislature****1995 Regular Session**

By Senate Committee on Ecology & Parks (originally sponsored by Senators Sheldon, A. Anderson, Fraser, Drew, Hale, Haugen, Gaspard, Spanel, Snyder, Loveland and Winsley; by request of Governor Lowry)

Read first time 03/01/95.

1 AN ACT Relating to implementing the recommendations of the
2 governor's task force on regulatory reform on integrating growth
3 management planning and environmental review; amending RCW 43.21C.075,
4 43.21C.031, 43.21C.110, 43.21C.080, 43.21C.900, 36.70A.140, 36.70A.300,
5 36.70A.330, 90.58.020, 90.58.030, 90.58.050, 90.58.060, 90.58.080,
6 90.58.090, 90.58.100, 90.58.120, 90.58.140, 90.58.180, 90.58.190,
7 34.05.461, 34.05.514, 36.70A.130, 36.70A.280, 36.70A.320, 82.02.090,
8 82.02.020, 36.70A.440, 36.70A.065, 36.70A.065, 43.21C.033, 58.17.090,
9 58.17.092, 58.17.100, 58.17.330, 35.63.130, 35A.63.170, 36.70.970,
10 7.16.360, and 58.17.180; reenacting and amending RCW 36.70A.030 and
11 36.70A.290; adding new sections to chapter 36.70A RCW; adding new
12 sections to chapter 43.21C RCW; adding a new section to chapter 82.02
13 RCW; adding a new section to chapter 64.40 RCW; adding new sections to
14 chapter 43.131 RCW; adding a new section to chapter 4.84 RCW; adding
15 new chapters to Title 36 RCW; adding a new chapter to Title 82 RCW;
16 adding a new chapter to Title 90 RCW; creating new sections;
17 recodifying RCW 82.02.020, 82.02.050, 82.02.060, 82.02.070, 82.02.080,
18 82.02.090, 82.02.100, 36.70A.065, and 36.70A.440; repealing RCW
19 90.58.145, 90.62.010, 90.62.020, 90.62.030, 90.62.040, 90.62.050,
20 90.62.060, 90.62.070, 90.62.080, 90.62.090, 90.62.100, 90.62.110,
21 90.62.120, 90.62.130, 90.62.900, 90.62.901, 90.62.904, 90.62.905,

1 90.62.906, 90.62.907, and 90.62.908; making appropriations; providing
2 effective dates; providing expiration dates; and declaring an
3 emergency.

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

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11 NEW SECTION. **Sec. 1.** The legislature recognizes by this act that
12 the growth management act is a fundamental building block of regulatory
13 reform. The state and local governments have invested considerable
14 resources in an act that should serve as the integrating framework for
15 all other land-use related laws. The growth management act provides
16 the means to effectively combine certainty for development decisions,
17 reasonable environmental protection, long-range planning for cost-
18 effective infrastructure, and orderly growth and development.

19 **PART I - PLANNING AND ENVIRONMENTAL REVIEW**

20 NEW SECTION. **Sec. 101.** (1) In reviewing a project permit
21 application and making a permit decision, a county or city planning
22 under RCW 36.70A.040 shall rely on its adopted development regulations
23 or, in the absence of applicable development regulations, on the
24 adopted comprehensive plan. A project permit application shall be
25 approved, approved with conditions, or denied based on this review.

26 (2) At a minimum, adopted comprehensive plans and development
27 regulations shall be relied on to determine:

1 (a) The type of land use permitted at the site, including uses that
2 may be allowed under certain circumstances, such as planned unit
3 developments and conditional and special uses, if the criteria for
4 their approval have been satisfied;

5 (b) Density of residential development in urban growth areas; and

6 (c) System improvements related to the proposed project and site,
7 if the public facilities are identified in the comprehensive plan and
8 the plan or development regulations provide for funding of these
9 improvements as required by chapter 36.70A RCW.

10 (3) During project review, the county or city is only required to
11 determine whether the applicable items listed in subsection (2) of this
12 section are defined in the development regulations applicable to the
13 proposed project, or, if not defined in a development regulation
14 adopted under chapter 36.70A RCW, then identified in the applicable
15 elements of the comprehensive plan. During project review, the county
16 or city shall not reexamine alternatives to or hear appeals on these
17 items except for issues of code interpretation. As part of its project
18 review process, a county or city shall provide a procedure for
19 obtaining a code interpretation as provided in section 213 of this act.

20 (4) If the conditions of section 107 of this act are met, the
21 requirements for environmental analysis and mitigation measures in
22 development regulations and other applicable laws may be determined to
23 provide adequate mitigation for the specific adverse environmental
24 impacts to which the requirements apply.

25 (5) Permitting agencies shall continue to have the authority to
26 approve, condition, or deny projects as provided in their development
27 regulations adopted under this chapter and in their policies adopted
28 under RCW 43.21C.060. Specific project design and conditions relating
29 to the character of development, such as the details of site plans,
30 curb cuts, drainage swales, transportation demand management, the
31 payment of impact fees, or other measures to mitigate a proposal's
32 probable adverse environmental impacts, if applicable, shall be
33 identified through project review.

34 NEW SECTION. **Sec. 102.** The legislature finds that during project
35 review, a county or city planning under RCW 36.70A.040 is likely to
36 discover the need to make various improvements in comprehensive plans
37 and development regulations. There is no current requirement or
38 process for applicants, citizens, or agency staff to ensure that these

1 improvements are considered in the plan review process. The
2 legislature also finds that in the past environmental review and
3 permitting of proposed projects has been used to reopen and make land
4 use planning decisions that should have been made through the
5 comprehensive planning process, in part because agency staff and
6 hearing examiners have not been able to ensure consideration of issues
7 in the local planning process. The legislature further finds that,
8 while plans and regulations should be improved and refined over time,
9 it is unfair to penalize applicants that have submitted permit
10 applications that meet current requirements. It is the intent of the
11 legislature in enacting section 103 of this act to establish a means by
12 which cities and counties will docket suggested plan or development
13 regulation amendments and ensure their consideration during the
14 planning process.

15 NEW SECTION. **Sec. 103.** A new section is added to chapter 36.70A
16 RCW to read as follows:

17 (1) Project review, which shall be conducted pursuant to the
18 provisions of chapter 36.-- RCW (the new chapter created in section 251
19 of this act), shall be used to make individual project decisions, not
20 land use planning decisions. If, during project review, a county or
21 city planning under RCW 36.70A.040 identifies deficiencies in plans or
22 regulations:

23 (a) The permitting process shall not be used as a comprehensive
24 planning process;

25 (b) Project review shall continue; and

26 (c) The identified deficiencies shall be docketed for possible
27 future plan amendments.

28 (2) Each county and city planning under RCW 36.70A.040 shall
29 include in its development regulations a procedure for any interested
30 person, including applicants, citizens, hearing examiners, and staff of
31 other agencies, to suggest plan or development regulation amendments.
32 The suggested amendments shall be docketed and considered on at least
33 an annual basis.

34 (3) For purposes of this section, a deficiency in a comprehensive
35 plan or development regulation refers to the absence of required or
36 potentially desirable contents of a comprehensive plan or development
37 regulation. It does not refer to whether a development regulation
38 addresses a project's probable specific adverse environmental impacts

1 which the permitting agency could mitigate in the normal project review
2 process.

3 (4) For purposes of this section, docketing refers to compiling and
4 maintaining a list of suggested changes to the comprehensive plan or
5 development regulations in a manner that will ensure such suggested
6 changes will be considered by the local legislative authority and will
7 be available for review by the public.

8 NEW SECTION. **Sec. 104.** Given the hundreds of jurisdictions and
9 agencies in the state, the legislature finds that it is essential to
10 have a uniform overall approach for applicants, citizens, land use and
11 environmental professionals, elected and nonelected officials, and
12 hearing examiners and other review bodies to use when evaluating
13 whether a project meets the requirements of chapter 36.70A RCW. The
14 legislature further finds that this uniform approach corresponds to
15 existing project review practices and will not place a burden on
16 applicants or local government. The legislature intends in adopting
17 section 105 of this act for this approach to be largely a matter of
18 checking compliance with existing requirements for most projects, which
19 are simple or routine, while more complex projects may require more
20 analysis.

21 NEW SECTION. **Sec. 105.** (1) A proposed project's consistency with
22 a county's or a city's development regulations adopted under chapter
23 36.70A RCW, or, in the absence of applicable development regulations,
24 the appropriate elements of the comprehensive plan or subarea plan
25 adopted pursuant to chapter 36.70A RCW, shall be determined by
26 consideration of:

- 27 (a) The type of land use;
28 (b) The level of development;
29 (c) Infrastructure, including public facilities and public services
30 needed to serve the development; and
31 (d) The character of the development, such as development
32 standards.

33 (2) For purposes of this section, the term "consistency" shall
34 include all terms used in this chapter to refer to performance in
35 accordance with this chapter, including but not limited to compliance,
36 conformity, and consistency.

1 (3) Nothing in this section requires documentation, dictates an
2 agency's procedures for considering consistency, or limits a unit of
3 government from asking more specific or related questions with respect
4 to any of the four main categories listed in subsection (1) of this
5 section.

6 NEW SECTION. **Sec. 106.** A new section is added to chapter 43.21C
7 RCW to read as follows:

8 The legislature finds that:

9 (1) A wide range of environmental subjects and impacts have been
10 addressed by counties, cities, and towns in comprehensive plans and
11 development regulations adopted under chapter 36.70A RCW, and by the
12 state and federal government in environmental rules and laws. These
13 plans, regulations, rules, and laws often provide environmental
14 analysis and mitigation measures for project actions without the need
15 for an environmental impact statement or further project mitigation.
16 When existing plans, regulations, rules, or laws provide environmental
17 analysis and measures that avoid or otherwise mitigate the probable
18 specific adverse environmental impacts of proposed projects, these
19 requirements should be integrated with, and should not be duplicated
20 by, environmental review under this chapter. The legislature reaffirms
21 that a primary role of environmental review under this chapter is to
22 focus on the gaps and overlaps that may exist in applicable laws and
23 requirements related to a proposed action. Review of project actions
24 in counties, cities, and towns planning under RCW 36.70A.040 should
25 integrate environmental review with project review and not use this
26 chapter to substitute for other land use planning and environmental
27 requirements.

28 (2) Proposed projects should continue to receive environmental
29 review which should be conducted in a manner that is integrated with
30 and does not duplicate other requirements.

31 NEW SECTION. **Sec. 107.** A new section is added to chapter 43.21C
32 RCW to read as follows:

33 (1) In reviewing a project action, a county, city, or town planning
34 under RCW 36.70A.040 may determine that requirements for environmental
35 analysis, protection, and mitigation measures in development
36 regulations, comprehensive plans, and other applicable local, state, or
37 federal laws and rules provide adequate analysis of and mitigation for

1 the specific adverse environmental impacts to which the requirements
2 apply, if the following has occurred:

3 (a) In the course of the project review process, including any
4 required environmental analysis, the local government considered the
5 specific probable adverse environmental impacts of the proposed action
6 and determined that these specific impacts are adequately addressed by
7 the development regulations or other applicable requirements of the
8 comprehensive plan, subarea plan element of the comprehensive plan, or
9 other local, state, or federal rules or laws; and

10 (b) The local government has based or conditioned its approval on
11 compliance with these requirements or mitigation measures.

12 (2) For a county, city, or town planning under RCW 36.70A.040,
13 project review shall not impose additional mitigation under this
14 chapter if the comprehensive plans, subarea plans, or development
15 regulations adequately address a project s probable specific adverse
16 environmental impacts, as determined under subsection (1) of this
17 section. Project review shall be integrated with environmental
18 analysis under this chapter.

19 (3) For a county, city, or town planning under RCW 36.70A.040, a
20 comprehensive plan, subarea plan, or development regulation shall be
21 considered to adequately address an impact if, through the planning and
22 environmental review process under chapter 36.70A RCW and this chapter,
23 specific adverse environmental impacts have been identified and:

24 (a) The impacts have been avoided or otherwise mitigated; or

25 (b) The legislative body of the county, city, or town has
26 designated as acceptable certain levels of service, land use
27 designations, development standards, or other land use planning
28 required or allowed by chapter 36.70A RCW.

29 (4) In deciding whether a specific adverse environmental impact has
30 been addressed by an existing rule or law of another agency with
31 jurisdiction with environmental expertise with regard to a specific
32 environmental impact, the local government shall consult orally or in
33 writing with that agency and may expressly defer to that agency. In
34 making this deferral, the local government shall base or condition its
35 project approval on compliance with these other existing rules or laws.

36 (5) Nothing in this section limits the authority of an agency in
37 its review or mitigation of a project to adopt or otherwise rely on
38 environmental analyses and requirements under other laws, as provided
39 by this chapter.

1 **Sec. 108.** RCW 43.21C.075 and 1994 c 253 s 4 are each amended to
2 read as follows:

3 (1) Because a major purpose of this chapter is to combine
4 environmental considerations with public decisions, any appeal brought
5 under this chapter shall be linked to a specific governmental action.
6 The State Environmental Policy Act provides a basis for challenging
7 whether governmental action is in compliance with the substantive and
8 procedural provisions of this chapter. The State Environmental Policy
9 Act is not intended to create a cause of action unrelated to a specific
10 governmental action.

11 (2) Unless otherwise provided by this section:

12 (a) Appeals under this chapter shall be of the governmental action
13 together with its accompanying environmental determinations.

14 (b) Appeals of environmental determinations made (or lacking) under
15 this chapter shall be commenced within the time required to appeal the
16 governmental action which is subject to environmental review.

17 (3) If an agency has a procedure for appeals of agency
18 environmental determinations made under this chapter, such procedure:

19 (a) Shall not allow more than one agency appeal proceeding on a
20 procedural determination (the adequacy of a determination of
21 significance/nonsignificance or of a final environmental impact
22 statement)~~((, consistent with any state statutory requirements for
23 appeals to local legislative bodies))~~. The appeal proceeding on a
24 determination of significance/nonsignificance may occur before the
25 agency's final decision on a proposed action. Such an appeal shall
26 also be allowed for a determination of significance/nonsignificance
27 which may be issued by the agency after supplemental review;

28 (b) Shall consolidate an appeal of procedural issues and of
29 substantive determinations made under this chapter (such as a decision
30 to require particular mitigation measures or to deny a proposal) with
31 a hearing or appeal on the underlying governmental action by providing
32 for a single simultaneous ((~~appeal of an~~) hearing before one hearing
33 officer or body to consider the agency decision on a proposal and any
34 environmental determinations made under this chapter, with the
35 exception of the ~~((threshold determination))~~ appeal, if any, of a
36 determination of significance as provided in (a) of this subsection or
37 an appeal to the local legislative authority under RCW 43.21C.060 or
38 other applicable state statutes;

1 (c) Shall provide for the preparation of a record for use in any
2 subsequent appeal proceedings, and shall provide for any subsequent
3 appeal proceedings to be conducted on the record, consistent with other
4 applicable law. An adequate record consists of findings and
5 conclusions, testimony under oath, and taped or written transcript. An
6 electronically recorded transcript will suffice for purposes of review
7 under this subsection; and

8 (d) Shall provide that procedural determinations made by the
9 responsible official shall be entitled to substantial weight.

10 (4) If a person aggrieved by an agency action has the right to
11 judicial appeal and if an agency has an appeal procedure, such person
12 shall, prior to seeking any judicial review, use such agency procedure
13 if any such procedure is available, unless expressly provided otherwise
14 by state statute.

15 (5) (~~RCW 43.21C.080 establishes an optional "notice of action"~~
16 ~~procedure which, if used, imposes a time period for appealing decisions~~
17 ~~under this chapter.~~) Some statutes and ordinances contain time
18 periods for challenging governmental actions which are subject to
19 review under this chapter, such as various local land use approvals
20 (the "underlying governmental action"). RCW 43.21C.080 establishes an
21 optional "notice of action" procedure which, if used, imposes a time
22 period for appealing decisions under this chapter. This ((~~section~~))
23 subsection does not modify any such time periods. ((~~This section~~
24 ~~governs when a judicial appeal must be brought under this chapter where~~
25 ~~a "notice of action" is used, and/or where there is another time period~~
26 ~~which is required by statute or ordinance for challenging the~~
27 ~~underlying governmental action.~~)) In this subsection, the term "appeal"
28 refers to a judicial appeal only.

29 (a) If there is a time period for appealing the underlying
30 governmental action, appeals under this chapter shall be commenced
31 within ((~~thirty days~~)) such time period. The agency shall give
32 official notice stating the date and place for commencing an appeal.
33 ((~~If there is an agency proceeding under subsection (3) of this~~
34 ~~section, the appellant shall, prior to commencing a judicial appeal,~~
35 ~~submit to the responsible official a notice of intent to commence a~~
36 ~~judicial appeal. This notice of intent shall be given within the time~~
37 ~~period for commencing a judicial appeal on the underlying governmental~~
38 ~~action.~~))

1 (b) If there is no time period for appealing the underlying
2 governmental action, and a notice of action under RCW 43.21C.080 (~~may~~
3 ~~be used. If a notice of action~~) is used, (~~judicial~~) appeals shall
4 be commenced within the time period specified by RCW 43.21C.080(~~7~~
5 ~~unless there is a time period for appealing the underlying governmental~~
6 ~~action in which case (a) of this subsection shall apply.~~

7 (c) ~~Notwithstanding RCW 43.21C.080(1), if there is a time period~~
8 ~~for appealing the underlying governmental action, a notice of action~~
9 ~~may be published within such time period).~~

10 (6)(a) Judicial review under subsection (5) of this section of an
11 appeal decision made by an agency under (~~RCW 43.21C.075(5)~~)
12 subsection (3) of this section shall be on the record, consistent with
13 other applicable law.

14 (b) A taped or written transcript may be used. If a taped
15 transcript is to be reviewed, a record shall identify the location on
16 the taped transcript of testimony and evidence to be reviewed. Parties
17 are encouraged to designate only those portions of the testimony
18 necessary to present the issues raised on review, but if a party
19 alleges that a finding of fact is not supported by evidence, the party
20 should include in the record all evidence relevant to the disputed
21 finding. Any other party may designate additional portions of the
22 taped transcript relating to issues raised on review. A party may
23 provide a written transcript of portions of the testimony at the
24 party's own expense or apply to that court for an order requiring the
25 party seeking review to pay for additional portions of the written
26 transcript.

27 (c) Judicial review under this chapter shall without exception be
28 of the governmental action together with its accompanying environmental
29 determinations.

30 (7) Jurisdiction over the review of determinations under this
31 chapter in an appeal before an agency or superior court shall upon
32 consent of the parties be transferred in whole or part to the
33 shorelines hearings board. The shorelines hearings board shall hear
34 the matter and sign the final order expeditiously. The superior court
35 shall certify the final order of the shorelines hearings board and said
36 certified final order may only be appealed to an appellate court. In
37 the case of an appeal under this chapter regarding a project or other
38 matter that is also the subject of an appeal to the shorelines hearings
39 board under chapter 90.58 RCW, the shorelines hearings board shall have

1 sole jurisdiction over both the appeal under this section and the
2 appeal under chapter 90.58 RCW, shall consider them together, and shall
3 issue a final order within one hundred eighty days as provided in RCW
4 90.58.180.

5 (8) For purposes of this section and RCW 43.21C.080, the words
6 "action", "decision", and "determination" mean substantive agency
7 action including any accompanying procedural determinations under this
8 chapter (except where the word "action" means "appeal" in RCW
9 43.21C.080(2) (~~and (3)~~)). The word "action" in this section and RCW
10 43.21C.080 does not mean a procedural determination by itself made
11 under this chapter. The word "determination" includes any
12 environmental document required by this chapter and state or local
13 implementing rules. The word "agency" refers to any state or local
14 unit of government. Except as provided in subsection (5) of this
15 section, the word "appeal" refers to administrative, legislative, or
16 judicial appeals.

17 (9) The court in its discretion may award reasonable attorney's
18 fees of up to one thousand dollars in the aggregate to the prevailing
19 party, including a governmental agency, on issues arising out of this
20 chapter if the court makes specific findings that the legal position of
21 a party is frivolous and without reasonable basis.

22 **Sec. 109.** RCW 43.21C.031 and 1983 c 117 s 1 are each amended to
23 read as follows:

24 (1) An environmental impact statement (the detailed statement
25 required by RCW 43.21C.030(2)(c)) shall be prepared on proposals for
26 legislation and other major actions having a probable significant,
27 adverse environmental impact. The environmental impact statement may
28 be combined with the recommendation or report on the proposal or issued
29 as a separate document. Actions categorically exempt under RCW
30 43.21C.110(1)(a) do not require environmental review or the preparation
31 of an environmental impact statement under this chapter. In a county,
32 city, or town planning under RCW 36.70A.040, a planned action, as
33 provided for in subsection (2) of this section, does not require a
34 threshold determination or the preparation of an environmental impact
35 statement under this chapter, but is subject to environmental review
36 and mitigation as provided in this chapter.

37 An environmental impact statement is required to analyze only those
38 probable adverse environmental impacts which are significant.

1 Beneficial environmental impacts may be discussed. The responsible
2 official shall consult with agencies and the public to identify such
3 impacts and limit the scope of an environmental impact statement. The
4 subjects listed in RCW 43.21C.030(2)(c) need not be treated as separate
5 sections of an environmental impact statement. Discussions of
6 significant short-term and long-term environmental impacts, significant
7 irrevocable commitments of natural resources, significant alternatives
8 including mitigation measures, and significant environmental impacts
9 which cannot be mitigated should be consolidated or included, as
10 applicable, in those sections of an environmental impact statement
11 where the responsible official decides they logically belong.

12 (2)(a) For purposes of this section, a planned action means one or
13 more types of project action that:

14 (i) Are designated planned actions by an ordinance or resolution
15 adopted by a county, city, or town planning under RCW 36.70A.040;

16 (ii) Have had the significant impacts adequately addressed in an
17 environmental impact statement prepared in conjunction with (A) a
18 comprehensive plan or subarea plan adopted under chapter 36.70A RCW, or
19 (B) a fully contained community, a master planned resort, a master
20 planned development, or a phased project;

21 (iii) Are subsequent or implementing projects for the proposals
22 listed in (a)(ii) of this subsection;

23 (iv) Are located within an urban growth area, as defined in RCW
24 36.70A.030;

25 (v) Are not essential public facilities, as defined in RCW
26 36.70A.200; and

27 (vi) Are consistent with a comprehensive plan adopted under chapter
28 36.70A RCW.

29 (b) A county, city, or town shall limit planned actions to certain
30 types of development or to specific geographical areas that are less
31 extensive than the jurisdictional boundaries of the county, city, or
32 town and may limit a planned action to a time period identified in the
33 environmental impact statement or the ordinance or resolution adopted
34 under this subsection.

35 **Sec. 110.** RCW 43.21C.110 and 1983 c 117 s 7 are each amended to
36 read as follows:

1 It shall be the duty and function of the department of ecology(~~(7~~
2 ~~which may utilize proposed rules developed by the environmental policy~~
3 ~~commission)):~~

4 (1) To adopt and amend thereafter rules of interpretation and
5 implementation of this chapter (~~((the state environmental policy act of~~
6 ~~1971))~~), subject to the requirements of chapter 34.05 RCW, for the
7 purpose of providing uniform rules and guidelines to all branches of
8 government including state agencies, political subdivisions, public and
9 municipal corporations, and counties. The proposed rules shall be
10 subject to full public hearings requirements associated with rule
11 promulgation. Suggestions for modifications of the proposed rules
12 shall be considered on their merits, and the department shall have the
13 authority and responsibility for full and appropriate independent
14 promulgation and adoption of rules, assuring consistency with this
15 chapter as amended and with the preservation of protections afforded by
16 this chapter. The rule making powers authorized in this section shall
17 include, but shall not be limited to, the following phases of
18 interpretation and implementation of this chapter (~~((the state~~
19 ~~environmental policy act of 1971))~~):

20 (a) Categories of governmental actions which are not to be
21 considered as potential major actions significantly affecting the
22 quality of the environment, including categories pertaining to
23 applications for water right permits pursuant to chapters 90.03 and
24 90.44 RCW. The types of actions included as categorical exemptions in
25 the rules shall be limited to those types which are not major actions
26 significantly affecting the quality of the environment. The rules
27 shall provide for certain circumstances where actions which potentially
28 are categorically exempt require environmental review. An action that
29 is categorically exempt under the rules adopted by the department may
30 not be conditioned or denied under this chapter.

31 (b) Rules for criteria and procedures applicable to the
32 determination of when an act of a branch of government is a major
33 action significantly affecting the quality of the environment for which
34 a detailed statement is required to be prepared pursuant to RCW
35 43.21C.030.

36 (c) Rules and procedures applicable to the preparation of detailed
37 statements and other environmental documents, including but not limited
38 to rules for timing of environmental review, obtaining comments, data
39 and other information, and providing for and determining areas of

1 public participation which shall include the scope and review of draft
2 environmental impact statements.

3 (d) Scope of coverage and contents of detailed statements assuring
4 that such statements are simple, uniform, and as short as practicable;
5 statements are required to analyze only reasonable alternatives and
6 probable adverse environmental impacts which are significant, and may
7 analyze beneficial impacts.

8 (e) Rules and procedures for public notification of actions taken
9 and documents prepared.

10 (f) Definition of terms relevant to the implementation of this
11 chapter including the establishment of a list of elements of the
12 environment. Analysis of environmental considerations under RCW
13 43.21C.030(2) may be required only for those subjects listed as
14 elements of the environment (or portions thereof). The list of
15 elements of the environment shall consist of the "natural" and "built"
16 environment. The elements of the built environment shall consist of
17 public services and utilities (such as water, sewer, schools, fire and
18 police protection), transportation, environmental health (such as
19 explosive materials and toxic waste), and land and shoreline use
20 (including housing, and a description of the relationships with land
21 use and shoreline plans and designations, including population).

22 (g) Rules for determining the obligations and powers under this
23 chapter of two or more branches of government involved in the same
24 project significantly affecting the quality of the environment.

25 (h) Methods to assure adequate public awareness of the preparation
26 and issuance of detailed statements required by RCW 43.21C.030(2)(c).

27 (i) To prepare rules for projects setting forth the time limits
28 within which the governmental entity responsible for the action shall
29 comply with the provisions of this chapter.

30 (j) Rules for utilization of a detailed statement for more than one
31 action and rules improving environmental analysis of nonproject
32 proposals and encouraging better interagency coordination and
33 integration between this chapter and other environmental laws.

34 (k) Rules relating to actions which shall be exempt from the
35 provisions of this chapter in situations of emergency.

36 (l) Rules relating to the use of environmental documents in
37 planning and decision making and the implementation of the substantive
38 policies and requirements of this chapter, including procedures for
39 appeals under this chapter.

1 (m) Rules and procedures that provide for the integration of
2 environmental review with project review as provided in section 107 of
3 this act. The rules and procedures shall be jointly developed with the
4 department of community, trade, and economic development and shall be
5 applicable to the preparation of environmental documents for actions in
6 counties, cities, and towns planning under RCW 36.70A.040. The rules
7 and procedures shall also include criteria to analyze the consistency
8 of project actions, including planned actions under RCW 43.21C.031(2),
9 with development regulations adopted under chapter 36.70A RCW, or in
10 the absence of applicable development regulations, the appropriate
11 elements of a comprehensive plan or subarea plan adopted under chapter
12 36.70A RCW. Ordinances or procedures adopted by a county, city, or
13 town to implement the provisions of section 107 of this act prior to
14 the effective date of rules adopted under this subsection (1)(m) shall
15 continue to be effective until the adoption of any new or revised
16 ordinances or procedures that may be required. If any revisions are
17 required as a result of rules adopted under this subsection (1)(m),
18 those revisions shall be made within the time limits specified in RCW
19 43.21C.120.

20 (2) In exercising its powers, functions, and duties under this
21 section, the department may:

22 (a) Consult with the state agencies and with representatives of
23 science, industry, agriculture, labor, conservation organizations,
24 state and local governments and other groups, as it deems advisable;
25 and

26 (b) Utilize, to the fullest extent possible, the services,
27 facilities, and information (including statistical information) of
28 public and private agencies, organizations, and individuals, in order
29 to avoid duplication of effort and expense, overlap, or conflict with
30 similar activities authorized by law and performed by established
31 agencies.

32 (3) Rules adopted pursuant to this section shall be subject to the
33 review procedures of chapter 34.05 RCW ((34.05.538 and 34.05.240)).

34 **Sec. 111.** RCW 43.21C.080 and 1977 ex.s. c 278 s 1 are each amended
35 to read as follows:

36 (1) Notice of any action taken by a governmental agency may be
37 publicized by the acting governmental agency, the applicant for, or the
38 proponent of such action, in substantially the form as set forth in

1 (~~subsection (3) of this section and in the following manner~~) rules
2 adopted under RCW 43.21C.110:

3 (a) By publishing notice on the same day of each week for two
4 consecutive weeks in a legal newspaper of general circulation in the
5 area where the property which is the subject of the action is located;

6 (b) By filing notice of such action with the department of ecology
7 at its main office in Olympia prior to the date of the last newspaper
8 publication; and

9 (c) Except for those actions which are of a nonproject nature, by
10 one of the following methods which shall be accomplished prior to the
11 date of (~~last~~) first newspaper publication;

12 (i) Mailing to the latest recorded real property owners, as shown
13 by the records of the county treasurer, who share a common boundary
14 line with the property upon which the project is proposed through
15 United States mail, first class, postage prepaid.

16 (ii) Posting of the notice in a conspicuous manner on the property
17 upon which the project is to be constructed.

18 (2)(a) Except as otherwise provided in RCW 43.21C.075(5)(a), any
19 action to set aside, enjoin, review, or otherwise challenge any such
20 governmental action or subsequent governmental action for which notice
21 is given as provided in subsection (1) of this section on grounds of
22 noncompliance with the provisions of this chapter shall be commenced
23 within (~~thirty~~) twenty-one days from the date of last newspaper
24 publication of the notice pursuant to subsection (1) of this section,
25 or be barred((: ~~PROVIDED, HOWEVER, That the time period within which~~
26 an action shall be commenced shall be ninety days (i) for projects to
27 be performed by a governmental agency or to be performed under
28 government contract, or (ii) for thermal power plant projects:
29 PROVIDED FURTHER, That)).

30 (b) Any subsequent governmental action on the proposal for which
31 notice has been given as provided in subsection (1) of this section
32 shall not be set aside, enjoined, reviewed, or otherwise challenged on
33 grounds of noncompliance with the provisions of RCW 43.21C.030(2)(a)
34 through (h) unless there has been a substantial change in the proposal
35 between the time of the first governmental action and the subsequent
36 governmental action that is likely to have adverse environmental
37 impacts beyond the range of impacts previously analyzed, or unless the
38 action now being considered was identified in an earlier detailed

1 statement or declaration of nonsignificance as being one which would
2 require further environmental evaluation.

3 ~~((b) Any action to challenge a subsequent governmental action~~
4 ~~based upon any provisions of this chapter shall be commenced within~~
5 ~~thirty days from the date of last newspaper publication of the~~
6 ~~subsequent governmental action except (i) for projects to be performed~~
7 ~~by a governmental agency or to be performed under governmental~~
8 ~~contract, or (ii) for thermal power plant projects which shall be~~
9 ~~challenged within ninety days from the date of last newspaper~~
10 ~~publication of the subsequent governmental action, or be barred.~~

11 ~~(3) The form for such notice of action shall be issued by the~~
12 ~~department of ecology and shall be made available by the governmental~~
13 ~~agency taking an action subject to being publicized pursuant to this~~
14 ~~section, by the county auditor, and/or the city clerk to the project~~
15 ~~applicant or proposer. The form of such notice shall be substantially~~
16 ~~as follows:~~

17 NOTICE OF ACTION BY

18 ~~.....~~

19 ~~(Government agency or entity)~~

20 Pursuant to the provisions of chapter 43.21C RCW, notice is hereby
21 given that:

22 The ~~..... (Government agency or entity) did on~~
23 ~~..... (date), take the action described below.~~

24 Any action to set aside, enjoin, review, or otherwise challenge
25 such action on the grounds of noncompliance with the provisions of
26 chapter 43.21C RCW (State Environmental Policy Act) shall be commenced
27 within ~~..... days or be barred.~~

28 The action taken by ~~..... (Government agency or~~
29 ~~entity), notice of which is hereby given, was as follows:~~

30 (1) ~~..... (Here insert description of action taken such~~
31 ~~as: Adoption Ordinance No.; Issued Building Permit; Approved~~
32 ~~preliminary (or final) plat, etc.)~~

33 (2) ~~..... (Here insert brief description of the~~
34 ~~complete project or proposal.)~~

35 (3) Said action pertained to property commonly known as:
36 ~~.....~~
37 ~~.....~~

1
2
3 ~~(Sufficient description to locate property, but complete legal~~
4 ~~description not required)~~
5 ~~(4) Pertinent documents may be examined during regular business~~
6 ~~hours at the office of: located at:~~
7
8 ~~(Location, including room number)~~
9
10 ~~(Name of government agency, proponent, or applicant giving notice)~~
11 Filed by
12 ~~(Signature of individual and capacity in which such individual is~~
13 ~~signing))~~

14 **Sec. 112.** RCW 43.21C.900 and 1971 ex.s. c 109 s 7 are each amended
15 to read as follows:

16 This chapter shall be known and may be cited as the "State
17 Environmental Policy Act (~~of 1971~~)" or "SEPA".

18 **Sec. 113.** RCW 36.70A.030 and 1994 c 307 s 2 and 1994 c 257 s 5 are
19 each reenacted and amended to read as follows:

20 Unless the context clearly requires otherwise, the definitions in
21 this section apply throughout this chapter.

22 (1) "Adopt a comprehensive land use plan" means to enact a new
23 comprehensive land use plan or to update an existing comprehensive land
24 use plan.

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

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

33 (4) "Comprehensive land use plan," "comprehensive plan," or "plan"
34 means a generalized coordinated land use policy statement of the
35 governing body of a county or city that is adopted pursuant to this
36 chapter.

1 (5) "Critical areas" include the following areas and ecosystems:
2 (a) Wetlands; (b) areas with a critical recharging effect on aquifers
3 used for potable water; (c) fish and wildlife habitat conservation
4 areas; (d) frequently flooded areas; and (e) geologically hazardous
5 areas.

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

8 ~~(7) ((For purposes of RCW 36.70A.065 and 36.70A.440, "development~~
9 ~~permit application" means any application for a development proposal~~
10 ~~for a use that could be permitted under a plan adopted pursuant to this~~
11 ~~chapter and is consistent with the underlying land use and zoning,~~
12 ~~including but not limited to building permits, subdivisions, binding~~
13 ~~site plans, planned unit developments, conditional uses or other~~
14 ~~applications pertaining to land uses, but shall not include rezones,~~
15 ~~proposed amendments to comprehensive plans or the adoption or amendment~~
16 ~~of development regulations.~~

17 ~~(8))~~ "Development regulations" means ~~((any))~~ the controls placed
18 on development or land use activities by a county or city, including,
19 but not limited to, zoning ordinances, critical areas ordinances,
20 shoreline master programs, official controls, planned unit development
21 ordinances, subdivision ordinances, and binding site plan ordinances
22 together with any amendments thereto. Development regulations do not
23 include decisions to approve project permit applications, as defined in
24 section 202 of this act, even though such decisions may be expressed in
25 a resolution or ordinance of the legislative body of the county or
26 city.

27 ~~((+9))~~ (8) "Forest land" means land primarily devoted to growing
28 trees for long-term commercial timber production on land that can be
29 economically and practically managed for such production, including
30 Christmas trees subject to the excise tax imposed under RCW 84.33.100
31 through 84.33.140, and that has long-term commercial significance. In
32 determining whether forest land is primarily devoted to growing trees
33 for long-term commercial timber production on land that can be
34 economically and practically managed for such production, the following
35 factors shall be considered: (a) The proximity of the land to urban,
36 suburban, and rural settlements; (b) surrounding parcel size and the
37 compatibility and intensity of adjacent and nearby land uses; (c) long-
38 term local economic conditions that affect the ability to manage for

1 timber production; and (d) the availability of public facilities and
2 services conducive to conversion of forest land to other uses.

3 ~~((10))~~ (9) "Geologically hazardous areas" means areas that
4 because of their susceptibility to erosion, sliding, earthquake, or
5 other geological events, are not suited to the siting of commercial,
6 residential, or industrial development consistent with public health or
7 safety concerns.

8 ~~((11))~~ (10) "Long-term commercial significance" includes the
9 growing capacity, productivity, and soil composition of the land for
10 long-term commercial production, in consideration with the land's
11 proximity to population areas, and the possibility of more intense
12 uses of the land.

13 ~~((12))~~ (11) "Minerals" include gravel, sand, and valuable
14 metallic substances.

15 ~~((13))~~ (12) "Public facilities" include streets, roads, highways,
16 sidewalks, street and road lighting systems, traffic signals, domestic
17 water systems, storm and sanitary sewer systems, parks and recreational
18 facilities, and schools.

19 ~~((14))~~ (13) "Public services" include fire protection and
20 suppression, law enforcement, public health, education, recreation,
21 environmental protection, and other governmental services.

22 ~~((15))~~ (14) "Urban growth" refers to growth that makes intensive
23 use of land for the location of buildings, structures, and impermeable
24 surfaces to such a degree as to be incompatible with the primary use of
25 such land for the production of food, other agricultural products, or
26 fiber, or the extraction of mineral resources. When allowed to spread
27 over wide areas, urban growth typically requires urban governmental
28 services. "Characterized by urban growth" refers to land having urban
29 growth located on it, or to land located in relationship to an area
30 with urban growth on it as to be appropriate for urban growth.

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

33 ~~((17))~~ (16) "Urban governmental services" include those
34 governmental services historically and typically delivered by cities,
35 and include storm and sanitary sewer systems, domestic water systems,
36 street cleaning services, fire and police protection services, public
37 transit services, and other public utilities associated with urban
38 areas and normally not associated with nonurban areas.

1 (~~(18)~~) (17) "Wetland" or "wetlands" means areas that are
2 inundated or saturated by surface water or ground water at a frequency
3 and duration sufficient to support, and that under normal circumstances
4 do support, a prevalence of vegetation typically adapted for life in
5 saturated soil conditions. Wetlands generally include swamps, marshes,
6 bogs, and similar areas. Wetlands do not include those artificial
7 wetlands intentionally created from nonwetland sites, including, but
8 not limited to, irrigation and drainage ditches, grass-lined swales,
9 canals, detention facilities, wastewater treatment facilities, farm
10 ponds, and landscape amenities. (~~However,~~) Wetlands may include
11 those artificial wetlands intentionally created from nonwetland areas
12 created to mitigate conversion of wetlands(~~(, if permitted by the~~
13 ~~county or city)~~).

14 NEW SECTION. **Sec. 114.** A new section is added to chapter 36.70A
15 RCW to read as follows:

16 (1) In designating and protecting critical areas under this
17 chapter, counties and cities shall include the best available science
18 in developing policies and development regulations to protect the
19 functions and values of critical areas. In addition, counties and
20 cities shall give special consideration to conservation or protection
21 measures necessary to preserve or enhance anadromous fisheries.

22 (2) If it determines that advice from scientific or other experts
23 is necessary or will be of substantial assistance in reaching its
24 decision, a growth management hearings board may retain scientific or
25 other expert advice to assist in reviewing a petition under RCW
26 36.70A.290 that involves critical areas.

27 **Sec. 115.** RCW 36.70A.140 and 1990 1st ex.s. c 17 s 14 are each
28 amended to read as follows:

29 Each county and city that is required or chooses to plan under RCW
30 36.70A.040 shall establish and broadly disseminate to the public a
31 public participation program identifying procedures providing for early
32 and continuous public participation in the development and amendment of
33 comprehensive land use plans and development regulations implementing
34 such plans. The procedures shall provide for broad dissemination of
35 proposals and alternatives, opportunity for written comments, public
36 meetings after effective notice, provision for open discussion,
37 communication programs, information services, and consideration of and

1 response to public comments. In enacting legislation in response to
2 the board's decision pursuant to RCW 36.70A.300 declaring part or all
3 of a comprehensive plan or development regulation invalid, the county
4 or city shall provide for public participation that is appropriate and
5 effective under the circumstances presented by the board's order.
6 Errors in exact compliance with the established program and procedures
7 shall not render the comprehensive land use plan or development
8 regulations invalid if the spirit of the program and procedures is
9 observed.

10 **Sec. 116.** RCW 36.70A.300 and 1991 sp.s. c 32 s 11 are each amended
11 to read as follows:

12 (1) The board shall issue a final order within one hundred eighty
13 days of receipt of the petition for review, or, when multiple petitions
14 are filed, within one hundred eighty days of receipt of the last
15 petition that is consolidated. Such a final order shall be based
16 exclusively on whether or not a state agency, county, or city is in
17 compliance with the requirements of this chapter, chapter 90.58 RCW as
18 it relates to adoption or amendment of shoreline master programs, or
19 chapter 43.21C RCW as it relates to plans, development regulations, and
20 amendments thereto, adopted under RCW 36.70A.040 or chapter 90.58 RCW.
21 In the final order, the board shall either: (a) Find that the state
22 agency, county, or city is in compliance with the requirements of this
23 chapter or chapter 90.58 RCW as it relates to the adoption or amendment
24 of shoreline master programs; or (b) find that the state agency,
25 county, or city is not in compliance with the requirements of this
26 chapter or chapter 90.58 RCW as it relates to the adoption or amendment
27 of shoreline master programs, in which case the board shall remand the
28 matter to the affected state agency, county, or city and specify a
29 reasonable time not in excess of one hundred eighty days within which
30 the state agency, county, or city shall comply with the requirements of
31 this chapter.

32 (2) A finding of noncompliance and an order of remand shall not
33 affect the validity of comprehensive plans and development regulations
34 during the period of remand, unless the board's final order also:

35 (a) Includes a determination, supported by findings of fact and
36 conclusions of law, that the continued validity of the plan or
37 regulation would substantially interfere with the fulfillment of the
38 goals of this chapter; and

1 (b) Specifies the particular part or parts of the plan or
2 regulation that are determined to be invalid, and the reasons for their
3 invalidity.

4 (3) A determination of invalidity shall:

5 (a) Be prospective in effect and shall not extinguish rights that
6 vested under state or local law before the date of the board's order;
7 and

8 (b) Subject any development application that would otherwise vest
9 after the date of the board's order to the legislation that both is
10 enacted in response to the order of remand and determined by the board
11 pursuant to RCW 36.70A.330 to comply with the requirements of this
12 chapter.

13 (4) If the ordinance that adopts a plan or development regulation
14 under this chapter includes a savings clause intended to revive prior
15 policies or regulations in the event the new plan or regulations are
16 determined to be invalid, the board shall determine under subsection
17 (2) of this section whether the prior policies or regulations are valid
18 during the period of remand.

19 (5) Any party aggrieved by a final decision of the hearings board
20 may appeal the decision as provided in RCW 34.05.514 to ((Thurston
21 county)) superior court within thirty days of the final order of the
22 board.

23 **Sec. 117.** RCW 36.70A.330 and 1991 sp.s. c 32 s 14 are each amended
24 to read as follows:

25 (1) After the time set for complying with the requirements of this
26 chapter under RCW 36.70A.300(1)(b) has expired, or at an earlier time
27 upon the motion of a county or city subject to a determination of
28 invalidity under RCW 36.70A.300, the board(~~(, on its own motion or~~
29 motion of the petitioner,)) shall set a hearing for the purpose of
30 determining whether the state agency, county, or city is in compliance
31 with the requirements of this chapter.

32 (2) The board shall conduct a hearing and issue a finding of
33 compliance or noncompliance with the requirements of this chapter. A
34 person with standing to challenge the legislation enacted in response
35 to the board's final order may participate in the hearing along with
36 the petitioner and the state agency, city, or county. A hearing under
37 this subsection shall be given the highest priority of business to be
38 conducted by the board, and a finding shall be issued within forty-five

1 days of the filing of the motion under subsection (1) of this section
2 with the board.

3 (3) If the board finds that the state agency, county, or city is
4 not in compliance, the board shall transmit its finding to the
5 governor. The board may recommend to the governor that the sanctions
6 authorized by this chapter be imposed. The board shall also reconsider
7 its final order and decide:

8 (a) If a determination of invalidity has been made, whether such a
9 determination should be rescinded or modified under the standards in
10 RCW 36.70A.300(2); or

11 (b) If no determination of invalidity has been made, whether one
12 now should be made under the standards in RCW 36.70A.300(2).

13 The board shall schedule additional hearings as appropriate
14 pursuant to subsections (1) and (2) of this section.

15 **Sec. 118.** RCW 90.58.020 and 1992 c 105 s 1 are each amended to
16 read as follows:

17 The legislature finds that the shorelines of the state are among
18 the most valuable and fragile of its natural resources and that there
19 is great concern throughout the state relating to their utilization,
20 protection, restoration, and preservation. In addition it finds that
21 ever increasing pressures of additional uses are being placed on the
22 shorelines necessitating increased coordination in the management and
23 development of the shorelines of the state. The legislature further
24 finds that much of the shorelines of the state and the uplands adjacent
25 thereto are in private ownership; that unrestricted construction on the
26 privately owned or publicly owned shorelines of the state is not in the
27 best public interest; and therefore, coordinated planning is necessary
28 in order to protect the public interest associated with the shorelines
29 of the state while, at the same time, recognizing and protecting
30 private property rights consistent with the public interest. There is,
31 therefor, a clear and urgent demand for a planned, rational, and
32 concerted effort, jointly performed by federal, state, and local
33 governments, to prevent the inherent harm in an uncoordinated and
34 piecemeal development of the state's shorelines.

35 It is the policy of the state to provide for the management of the
36 shorelines of the state by planning for and fostering all reasonable
37 and appropriate uses. This policy is designed to insure the
38 development of these shorelines in a manner which, while allowing for

1 limited reduction of rights of the public in the navigable waters, will
2 promote and enhance the public interest. This policy contemplates
3 protecting against adverse effects to the public health, the land and
4 its vegetation and wildlife, and the waters of the state and their
5 aquatic life, while protecting generally public rights of navigation
6 and corollary rights incidental thereto.

7 The legislature declares that the interest of all of the people
8 shall be paramount in the management of shorelines of state-wide
9 significance. The department, in adopting guidelines for shorelines of
10 state-wide significance, and local government, in developing master
11 programs for shorelines of state-wide significance, shall give
12 preference to uses in the following order of preference which:

13 (1) Recognize and protect the state-wide interest over local
14 interest;

15 (2) Preserve the natural character of the shoreline;

16 (3) Result in long term over short term benefit;

17 (4) Protect the resources and ecology of the shoreline;

18 (5) Increase public access to publicly owned areas of the
19 shorelines;

20 (6) Increase recreational opportunities for the public in the
21 shoreline;

22 (7) Provide for any other element as defined in RCW 90.58.100
23 deemed appropriate or necessary.

24 In the implementation of this policy the public's opportunity to
25 enjoy the physical and aesthetic qualities of natural shorelines of the
26 state shall be preserved to the greatest extent feasible consistent
27 with the overall best interest of the state and the people generally.
28 To this end uses shall be preferred which are consistent with control
29 of pollution and prevention of damage to the natural environment, or
30 are unique to or dependent upon use of the state's shoreline.
31 Alterations of the natural condition of the shorelines of the state, in
32 those limited instances when authorized, shall be given priority for
33 single family residences and their appurtenant structures, ports,
34 shoreline recreational uses including but not limited to parks,
35 marinas, piers, and other improvements facilitating public access to
36 shorelines of the state, industrial and commercial developments which
37 are particularly dependent on their location on or use of the
38 shorelines of the state and other development that will provide an
39 opportunity for substantial numbers of the people to enjoy the

1 shorelines of the state. Alterations of the natural condition of the
2 shorelines and (~~wetlands~~) shorelands of the state shall be recognized
3 by the department. Shorelines and (~~wetlands~~) shorelands of the state
4 shall be appropriately classified and these classifications shall be
5 revised when circumstances warrant regardless of whether the change in
6 circumstances occurs through man-made causes or natural causes. Any
7 areas resulting from alterations of the natural condition of the
8 shorelines and (~~wetlands~~) shorelands of the state no longer meeting
9 the definition of "shorelines of the state" shall not be subject to the
10 provisions of chapter 90.58 RCW.

11 Permitted uses in the shorelines of the state shall be designed and
12 conducted in a manner to minimize, insofar as practical, any resultant
13 damage to the ecology and environment of the shoreline area and any
14 interference with the public's use of the water.

15 **Sec. 119.** RCW 90.58.030 and 1987 c 474 s 1 are each amended to
16 read as follows:

17 As used in this chapter, unless the context otherwise requires, the
18 following definitions and concepts apply:

19 (1) Administration:

20 (a) "Department" means the department of ecology;

21 (b) "Director" means the director of the department of ecology;

22 (c) "Local government" means any county, incorporated city, or town
23 which contains within its boundaries any lands or waters subject to
24 this chapter;

25 (d) "Person" means an individual, partnership, corporation,
26 association, organization, cooperative, public or municipal
27 corporation, or agency of the state or local governmental unit however
28 designated;

29 (e) "Hearing board" means the shoreline hearings board established
30 by this chapter.

31 (2) Geographical:

32 (a) "Extreme low tide" means the lowest line on the land reached by
33 a receding tide;

34 (b) "Ordinary high water mark" on all lakes, streams, and tidal
35 water is that mark that will be found by examining the bed and banks
36 and ascertaining where the presence and action of waters are so common
37 and usual, and so long continued in all ordinary years, as to mark upon
38 the soil a character distinct from that of the abutting upland, in

1 respect to vegetation as that condition exists on June 1, 1971, as it
2 may naturally change thereafter, or as it may change thereafter in
3 accordance with permits issued by a local government or the department:
4 PROVIDED, That in any area where the ordinary high water mark cannot be
5 found, the ordinary high water mark adjoining salt water shall be the
6 line of mean higher high tide and the ordinary high water mark
7 adjoining fresh water shall be the line of mean high water;

8 (c) "Shorelines of the state" are the total of all "shorelines" and
9 "shorelines of state-wide significance" within the state;

10 (d) "Shorelines" means all of the water areas of the state,
11 including reservoirs, and their associated ((wetlands)) shorelands,
12 together with the lands underlying them; except (i) shorelines of
13 state-wide significance; (ii) shorelines on segments of streams
14 upstream of a point where the mean annual flow is twenty cubic feet per
15 second or less and the wetlands associated with such upstream segments;
16 and (iii) shorelines on lakes less than twenty acres in size and
17 wetlands associated with such small lakes;

18 (e) "Shorelines of state-wide significance" means the following
19 shorelines of the state:

20 (i) The area between the ordinary high water mark and the western
21 boundary of the state from Cape Disappointment on the south to Cape
22 Flattery on the north, including harbors, bays, estuaries, and inlets;

23 (ii) Those areas of Puget Sound and adjacent salt waters and the
24 Strait of Juan de Fuca between the ordinary high water mark and the
25 line of extreme low tide as follows:

26 (A) Nisqually Delta--from DeWolf Bight to Tatsolo Point,

27 (B) Birch Bay--from Point Whitehorn to Birch Point,

28 (C) Hood Canal--from Tala Point to Foulweather Bluff,

29 (D) Skagit Bay and adjacent area--from Brown Point to Yokeko Point,
30 and

31 (E) Padilla Bay--from March Point to William Point;

32 (iii) Those areas of Puget Sound and the Strait of Juan de Fuca and
33 adjacent salt waters north to the Canadian line and lying seaward from
34 the line of extreme low tide;

35 (iv) Those lakes, whether natural, artificial, or a combination
36 thereof, with a surface acreage of one thousand acres or more measured
37 at the ordinary high water mark;

38 (v) Those natural rivers or segments thereof as follows:

1 (A) Any west of the crest of the Cascade range downstream of a
2 point where the mean annual flow is measured at one thousand cubic feet
3 per second or more,

4 (B) Any east of the crest of the Cascade range downstream of a
5 point where the annual flow is measured at two hundred cubic feet per
6 second or more, or those portions of rivers east of the crest of the
7 Cascade range downstream from the first three hundred square miles of
8 drainage area, whichever is longer;

9 (vi) Those ~~((wetlands))~~ shorelands associated with (i), (ii), (iv),
10 and (v) of this subsection (2)(e);

11 (f) "~~((Wetlands))~~ Shorelands" or "~~((wetland))~~ shoreland areas"
12 means those lands extending landward for two hundred feet in all
13 directions as measured on a horizontal plane from the ordinary high
14 water mark; floodways and contiguous floodplain areas landward two
15 hundred feet from such floodways; and all ~~((marshes, bogs, swamps,))~~
16 wetlands and river deltas associated with the streams, lakes, and tidal
17 waters which are subject to the provisions of this chapter; the same to
18 be designated as to location by the department of ecology(~~(:—PROVIDED,~~
19 ~~That))~~). Any county or city may determine that portion of a one-
20 hundred-year-flood plain to be included in its master program as long
21 as such portion includes, as a minimum, the floodway and the adjacent
22 land extending landward two hundred feet therefrom;

23 (g) "Floodway" means those portions of the area of a river valley
24 lying streamward from the outer limits of a watercourse upon which
25 flood waters are carried during periods of flooding that occur with
26 reasonable regularity, although not necessarily annually, said floodway
27 being identified, under normal condition, by changes in surface soil
28 conditions or changes in types or quality of vegetative ground cover
29 condition. The floodway shall not include those lands that can
30 reasonably be expected to be protected from flood waters by flood
31 control devices maintained by or maintained under license from the
32 federal government, the state, or a political subdivision of the state;

33 (h) "Wetlands" means areas that are inundated or saturated by
34 surface water or ground water at a frequency and duration sufficient to
35 support, and that under normal circumstances do support, a prevalence
36 of vegetation typically adapted for life in saturated soil conditions.
37 Wetlands generally include swamps, marshes, bogs, and similar areas.
38 Wetlands do not include those artificial wetlands intentionally created
39 from nonwetland sites, including, but not limited to, irrigation and

1 drainage ditches, grass-lined swales, canals, detention facilities,
2 wastewater treatment facilities, farm ponds, and landscape amenities.
3 Wetlands may include those artificial wetlands intentionally created
4 from nonwetland areas to mitigate the conversion of other wetlands.

5 (3) Procedural terms:

6 (a) "Guidelines" means those standards adopted to implement the
7 policy of this chapter for regulation of use of the shorelines of the
8 state prior to adoption of master programs. Such standards shall also
9 provide criteria to local governments and the department in developing
10 master programs;

11 (b) "Master program" shall mean the comprehensive use plan for a
12 described area, and the use regulations together with maps, diagrams,
13 charts, or other descriptive material and text, a statement of desired
14 goals, and standards developed in accordance with the policies
15 enunciated in RCW 90.58.020;

16 (c) "State master program" is the cumulative total of all master
17 programs approved or adopted by the department of ecology;

18 (d) "Development" means a use consisting of the construction or
19 exterior alteration of structures; dredging; drilling; dumping;
20 filling; removal of any sand, gravel, or minerals; bulkheading; driving
21 of piling; placing of obstructions; or any project of a permanent or
22 temporary nature which interferes with the normal public use of the
23 surface of the waters overlying lands subject to this chapter at any
24 state of water level;

25 (e) "Substantial development" shall mean any development of which
26 the total cost or fair market value exceeds two thousand five hundred
27 dollars, or any development which materially interferes with the normal
28 public use of the water or shorelines of the state; except that the
29 following shall not be considered substantial developments for the
30 purpose of this chapter:

31 (i) Normal maintenance or repair of existing structures or
32 developments, including damage by accident, fire, or elements;

33 (ii) Construction of the normal protective bulkhead common to
34 single family residences;

35 (iii) Emergency construction necessary to protect property from
36 damage by the elements;

37 (iv) Construction and practices normal or necessary for farming,
38 irrigation, and ranching activities, including agricultural service
39 roads and utilities on (~~wetlands~~) shorelands, and the construction

1 and maintenance of irrigation structures including but not limited to
2 head gates, pumping facilities, and irrigation channels(~~(:—PROVIDED,~~
3 ~~That)~~). A feedlot of any size, all processing plants, other activities
4 of a commercial nature, alteration of the contour of the ((~~wetlands~~))
5 shorelands by leveling or filling other than that which results from
6 normal cultivation, shall not be considered normal or necessary farming
7 or ranching activities. A feedlot shall be an enclosure or facility
8 used or capable of being used for feeding livestock hay, grain, silage,
9 or other livestock feed, but shall not include land for growing crops
10 or vegetation for livestock feeding and/or grazing, nor shall it
11 include normal livestock wintering operations;

12 (v) Construction or modification of navigational aids such as
13 channel markers and anchor buoys;

14 (vi) Construction on ((~~wetlands~~)) shorelands by an owner, lessee,
15 or contract purchaser of a single family residence for his own use or
16 for the use of his family, which residence does not exceed a height of
17 thirty-five feet above average grade level and which meets all
18 requirements of the state agency or local government having
19 jurisdiction thereof, other than requirements imposed pursuant to this
20 chapter;

21 (vii) Construction of a dock, including a community dock, designed
22 for pleasure craft only, for the private noncommercial use of the
23 owner, lessee, or contract purchaser of single and multiple family
24 residences, the cost of which does not exceed two thousand five hundred
25 dollars;

26 (viii) Operation, maintenance, or construction of canals,
27 waterways, drains, reservoirs, or other facilities that now exist or
28 are hereafter created or developed as a part of an irrigation system
29 for the primary purpose of making use of system waters, including
30 return flow and artificially stored ground water for the irrigation of
31 lands;

32 (ix) The marking of property lines or corners on state owned lands,
33 when such marking does not significantly interfere with normal public
34 use of the surface of the water;

35 (x) Operation and maintenance of any system of dikes, ditches,
36 drains, or other facilities existing on September 8, 1975, which were
37 created, developed, or utilized primarily as a part of an agricultural
38 drainage or diking system(~~(+~~

1 ~~(xi) Any action commenced prior to December 31, 1982, pertaining to~~
2 ~~(A) the restoration of interim transportation services as may be~~
3 ~~necessary as a consequence of the destruction of the Hood Canal bridge,~~
4 ~~including, but not limited to, improvements to highways, development of~~
5 ~~park and ride facilities, and development of ferry terminal facilities~~
6 ~~until a new or reconstructed Hood Canal bridge is open to traffic; and~~
7 ~~(B) the reconstruction of a permanent bridge at the site of the~~
8 ~~original Hood Canal bridge)).~~

9 **Sec. 120.** RCW 90.58.050 and 1971 ex.s. c 286 s 5 are each amended
10 to read as follows:

11 This chapter establishes a cooperative program of shoreline
12 management between local government and the state. Local government
13 shall have the primary responsibility for initiating the planning
14 required by this chapter and administering the regulatory program
15 consistent with the policy and provisions of this chapter. The
16 department shall act primarily in a supportive and review capacity with
17 ~~((primary))~~ an emphasis on providing assistance to local government and
18 on insuring compliance with the policy and provisions of this chapter.

19 **Sec. 121.** RCW 90.58.060 and 1971 ex.s. c 286 s 6 are each amended
20 to read as follows:

21 ~~((Within one hundred twenty days from June 1, 1971,))~~ The
22 department shall ~~((submit to local governments proposed))~~ periodically
23 review and adopt guidelines consistent with RCW 90.58.020, containing
24 the elements specified in RCW 90.58.100 for:

25 (a) Development of master programs for regulation of the uses of
26 shorelines; and

27 (b) Development of master programs for regulation of the uses of
28 shorelines of state-wide significance.

29 (2) Before adopting or amending guidelines under this section, the
30 department shall provide an opportunity for public review and comment
31 as follows:

32 (a) The department shall mail copies of the proposal to all cities,
33 counties, and federally recognized Indian tribes, and to any other
34 person who has requested a copy, and shall publish the proposed
35 guidelines in the Washington state register. Comments shall be
36 submitted in writing to the department within sixty days from ((receipt
37 of such proposed guidelines, local governments shall submit to the

1 department in writing proposed changes, if any, and comments upon the
2 proposed guidelines.

3 ~~(3) Thereafter and within one hundred twenty days from the~~
4 ~~submission of such proposed guidelines to local governments, the~~
5 ~~department, after review and consideration of the comments and~~
6 ~~suggestions submitted to it, shall resubmit final proposed guidelines.~~

7 ~~(4) Within sixty days thereafter public hearings shall be held by))~~
8 ~~the date the proposal has been published in the register.~~

9 (b) The department ((in Olympia and Spokane, at which interested
10 public and private parties shall have the opportunity)) shall hold at
11 least four public hearings on the proposal in different locations
12 throughout the state to provide a reasonable opportunity for residents
13 in all parts of the state to present statements and views on the
14 proposed guidelines. Notice of ((such)) the hearings shall be
15 published at least once in each of the three weeks immediately
16 preceding the hearing in one or more newspapers of general circulation
17 in each county of the state. If an amendment to the guidelines
18 addresses an issue limited to one geographic area, the number and
19 location of hearings may be adjusted consistent with the intent of this
20 subsection to assure all parties a reasonable opportunity to comment on
21 the proposed amendment. The department shall accept written comments
22 on the proposal during the sixty-day public comment period and for
23 seven days after the final public hearing.

24 (c) At the conclusion of the public comment period, the department
25 shall review the comments received and modify the proposal consistent
26 with the provisions of this chapter. The proposal shall then be
27 published for adoption pursuant to the provisions of chapter 34.05 RCW.

28 ~~((5) Within ninety days following such public hearings, the~~
29 ~~department at a public hearing to be held in Olympia shall adopt~~
30 ~~guidelines.))~~ (3) The department may propose amendments to the
31 guidelines not more than once each year. At least once every five
32 years the department shall conduct a review of the guidelines pursuant
33 to the procedures outlined in subsection (2) of this section.

34 **Sec. 122.** RCW 90.58.080 and 1974 ex.s. c 61 s 1 are each amended
35 to read as follows:

36 Local governments ((are directed with regard to shorelines of the
37 state within their various jurisdictions as follows:

1 ~~(1) To complete within eighteen months after June 1, 1971, a~~
2 ~~comprehensive inventory of such shorelines. Such inventory shall~~
3 ~~include but not be limited to the general ownership patterns of the~~
4 ~~lands located therein in terms of public and private ownership, a~~
5 ~~survey of the general natural characteristics thereof, present uses~~
6 ~~conducted therein and initial projected uses thereof;~~

7 ~~(2) To~~) shall develop or amend, within twenty-four months after
8 the adoption of guidelines as provided in RCW 90.58.060, a master
9 program for regulation of uses of the shorelines of the state
10 consistent with the required elements of the guidelines adopted by the
11 department.

12 **Sec. 123.** RCW 90.58.090 and 1971 ex.s. c 286 s 9 are each amended
13 to read as follows:

14 (1) A master program((s or segments thereof)), segment of a master
15 program, or an amendment to a master program shall become effective
16 when ((adopted or)) approved by the department ((as appropriate)).
17 Within the time period provided in RCW 90.58.080, each local government
18 shall have submitted a master program, either totally or by segments,
19 for all shorelines of the state within its jurisdiction to the
20 department for review and approval.

21 (2) Upon receipt of a proposed master program or amendment, the
22 department shall:

23 (a) Provide notice to and opportunity for written comment by all
24 interested parties of record as a part of the local government review
25 process for the proposal and to all persons, groups, and agencies that
26 have requested in writing notice of proposed master programs or
27 amendments generally or for a specific area, subject matter, or issue.
28 The comment period shall be at least thirty days, unless the department
29 determines that the level of complexity or controversy involved
30 supports a shorter period;

31 (b) In the department's discretion, conduct a public hearing during
32 the thirty-day comment period in the jurisdiction proposing the master
33 program or amendment;

34 (c) Within fifteen days after the close of public comment, request
35 the local government to review the issues identified by the public,
36 interested parties, groups, and agencies and provide a written response
37 as to how the proposal addresses the identified issues;

1 (d) Within thirty days after receipt of the local government
2 response pursuant to (c) of this subsection, make written findings and
3 conclusions regarding the consistency of the proposal with the policy
4 of RCW 90.58.020 and the applicable guidelines, provide a response to
5 the issues identified in (c) of this subsection, and either approve the
6 proposal as submitted, recommend specific changes necessary to make the
7 proposal approvable, or deny approval of the proposal in those
8 instances where no alteration of the proposal appears likely to
9 accomplish the purposes for which it was submitted and the requirements
10 of this chapter. The written findings and conclusions shall be
11 provided to the local government, all interested persons, parties,
12 groups, and agencies of record on the proposal;

13 (e) If the department recommends changes to the proposed master
14 program or amendment, within thirty days after the department mails the
15 written findings and conclusions to the local government, the local
16 government may:

17 (i) Agree to the proposed changes. The receipt by the department
18 of the written notice of agreement constitutes final action by the
19 department approving the amendment; or

20 (ii) Submit an alternative proposal. If, in the opinion of the
21 department, the alternative is consistent with the purpose and intent
22 of the changes originally submitted by the department and with this
23 chapter it shall approve the changes and provide written notice to all
24 recipients of the written findings and conclusions. If the department
25 determines the proposal is not consistent with the purpose and intent
26 of the changes proposed by the department, the department may resubmit
27 the proposal for public and agency review pursuant to this section or
28 reject the proposal.

29 ~~((1) As to those segments of the master program relating to~~
30 ~~shorelines, they shall be approved by))~~

31 (3) The department shall approve the segment of a master program
32 relating to shorelines unless it determines that the submitted segments
33 are not consistent with the policy of RCW 90.58.020 and the applicable
34 guidelines. ((If approval is denied, the department shall state within
35 ninety days from the date of submission in detail the precise facts
36 upon which that decision is based, and shall submit to the local
37 government suggested modifications to the program to make it consistent
38 with said policy and guidelines. The local government shall have
39 ninety days after it receives recommendations from the department to

1 ~~make modifications designed to eliminate the inconsistencies and to~~
2 ~~resubmit the program to the department for approval. Any resubmitted~~
3 ~~program shall take effect when and in such form and content as is~~
4 ~~approved by the department.~~

5 ~~(2) As to))~~ (4) The department shall approve those segments of the
6 master program relating to shorelines of state-wide significance ((the
7 department shall have full authority following review and evaluation of
8 the submission by local government to develop and adopt an alternative
9 to the local government's proposal if in the department's opinion the
10 program submitted does not)) only after determining the program
11 provides the optimum implementation of the policy of this chapter to
12 satisfy the state-wide interest. ((If the submission by local
13 government is not approved, the department shall suggest modifications
14 to the local government within ninety days from receipt of the
15 submission. The local government shall have ninety days after it
16 receives said modifications to consider the same and resubmit a master
17 program to the department. Thereafter, the department shall adopt the
18 resubmitted program or, if the department determines that said program
19 does not provide for optimum implementation, it may develop and adopt
20 an alternative as hereinbefore provided.)) If the department does not
21 approve a segment of a local government master program relating to a
22 shoreline of state-wide significance, the department may develop and by
23 rule adopt an alternative to the local government s proposal.

24 ~~((+3+))~~ (5) In the event a local government has not complied with
25 the requirements of RCW 90.58.070 it may thereafter upon written notice
26 to the department elect to adopt a master program for the shorelines
27 within its jurisdiction, in which event it shall comply with the
28 provisions established by this chapter for the adoption of a master
29 program for such shorelines.

30 Upon approval of such master program by the department it shall
31 supersede such master program as may have been adopted by the
32 department for such shorelines.

33 (6) A master program or amendment to a master program takes effect
34 when and in such form as approved or adopted by the department. The
35 department shall maintain a record of each master program, the action
36 taken on any proposal for adoption or amendment of the master program,
37 and any appeal of the department's action. The department's approved
38 document of record constitutes the official master program.

1 **Sec. 124.** RCW 90.58.100 and 1992 c 105 s 2 are each amended to
2 read as follows:

3 (1) The master programs provided for in this chapter, when adopted
4 (~~and~~) or approved by the department(~~(, as appropriate,)~~) shall
5 constitute use regulations for the various shorelines of the state. In
6 preparing the master programs, and any amendments thereto, the
7 department and local governments shall to the extent feasible:

8 (a) Utilize a systematic interdisciplinary approach which will
9 insure the integrated use of the natural and social sciences and the
10 environmental design arts;

11 (b) Consult with and obtain the comments of any federal, state,
12 regional, or local agency having any special expertise with respect to
13 any environmental impact;

14 (c) Consider all plans, studies, surveys, inventories, and systems
15 of classification made or being made by federal, state, regional, or
16 local agencies, by private individuals, or by organizations dealing
17 with pertinent shorelines of the state;

18 (d) Conduct or support such further research, studies, surveys, and
19 interviews as are deemed necessary;

20 (e) Utilize all available information regarding hydrology,
21 geography, topography, ecology, economics, and other pertinent data;

22 (f) Employ, when feasible, all appropriate, modern scientific data
23 processing and computer techniques to store, index, analyze, and manage
24 the information gathered.

25 (2) The master programs shall include, when appropriate, the
26 following:

27 (a) An economic development element for the location and design of
28 industries, transportation facilities, port facilities, tourist
29 facilities, commerce and other developments that are particularly
30 dependent on their location on or use of the shorelines of the state;

31 (b) A public access element making provision for public access to
32 publicly owned areas;

33 (c) A recreational element for the preservation and enlargement of
34 recreational opportunities, including but not limited to parks,
35 tidelands, beaches, and recreational areas;

36 (d) A circulation element consisting of the general location and
37 extent of existing and proposed major thoroughfares, transportation
38 routes, terminals, and other public utilities and facilities, all
39 correlated with the shoreline use element;

1 (e) A use element which considers the proposed general distribution
2 and general location and extent of the use on shorelines and adjacent
3 land areas for housing, business, industry, transportation,
4 agriculture, natural resources, recreation, education, public buildings
5 and grounds, and other categories of public and private uses of the
6 land;

7 (f) A conservation element for the preservation of natural
8 resources, including but not limited to scenic vistas, aesthetics, and
9 vital estuarine areas for fisheries and wildlife protection;

10 (g) An historic, cultural, scientific, and educational element for
11 the protection and restoration of buildings, sites, and areas having
12 historic, cultural, scientific, or educational values;

13 (h) An element that gives consideration to the state-wide interest
14 in the prevention and minimization of flood damages; and

15 (i) Any other element deemed appropriate or necessary to effectuate
16 the policy of this chapter.

17 (3) The master programs shall include such map or maps, descriptive
18 text, diagrams and charts, or other descriptive material as are
19 necessary to provide for ease of understanding.

20 (4) Master programs will reflect that state-owned shorelines of the
21 state are particularly adapted to providing wilderness beaches,
22 ecological study areas, and other recreational activities for the
23 public and will give appropriate special consideration to same.

24 (5) Each master program shall contain provisions to allow for the
25 varying of the application of use regulations of the program, including
26 provisions for permits for conditional uses and variances, to insure
27 that strict implementation of a program will not create unnecessary
28 hardships or thwart the policy enumerated in RCW 90.58.020. Any such
29 varying shall be allowed only if extraordinary circumstances are shown
30 and the public interest suffers no substantial detrimental effect. The
31 concept of this subsection shall be incorporated in the rules adopted
32 by the department relating to the establishment of a permit system as
33 provided in RCW 90.58.140(3).

34 (6) Each master program shall contain standards governing the
35 protection of single family residences and appurtenant structures
36 against damage or loss due to shoreline erosion. The standards shall
37 govern the issuance of substantial development permits for shoreline
38 protection, including structural methods such as construction of
39 bulkheads, and nonstructural methods of protection. The standards

1 shall provide for methods which achieve effective and timely protection
2 against loss or damage to single family residences and appurtenant
3 structures due to shoreline erosion. The standards shall provide a
4 preference for permit issuance for measures to protect single family
5 residences occupied prior to January 1, 1992, where the proposed
6 measure is designed to minimize harm to the shoreline natural
7 environment.

8 **Sec. 125.** RCW 90.58.120 and 1989 c 175 s 182 are each amended to
9 read as follows:

10 All rules, regulations, (~~(master programs)~~) designations, and
11 guidelines, issued by the department, and master programs and
12 amendments adopted by the department pursuant to RCW 90.58.070(2) or
13 90.58.090(4) shall be adopted or approved in accordance with the
14 provisions of RCW 34.05.310 through 34.05.395 insofar as such
15 provisions are not inconsistent with the provisions of this chapter.
16 In addition:

17 (1) Prior to the (~~(approval or)~~) adoption by the department of a
18 master program, or portion thereof pursuant to RCW 90.58.070(2) or
19 90.58.090(4), at least one public hearing shall be held in each county
20 affected by a program or portion thereof for the purpose of obtaining
21 the views and comments of the public. Notice of each such hearing
22 shall be published at least once in each of the three weeks immediately
23 preceding the hearing in one or more newspapers of general circulation
24 in the county in which the hearing is to be held.

25 (2) All guidelines, regulations, designations, or master programs
26 adopted or approved under this chapter shall be available for public
27 inspection at the office of the department or the appropriate county
28 (~~(auditor)~~) and city (~~(clerk)~~). The terms "adopt" and "approve" for
29 purposes of this section, shall include modifications and rescission of
30 guidelines.

31 **Sec. 126.** RCW 90.58.140 and 1992 c 105 s 3 are each amended to
32 read as follows:

33 (1) A development shall not be undertaken on the shorelines of the
34 state unless it is consistent with the policy of this chapter and,
35 after adoption or approval, as appropriate, the applicable guidelines,
36 rules, or master program.

1 (2) A substantial development shall not be undertaken on shorelines
2 of the state without first obtaining a permit from the government
3 entity having administrative jurisdiction under this chapter.

4 A permit shall be granted:

5 (a) From June 1, 1971, until such time as an applicable master
6 program has become effective, only when the development proposed is
7 consistent with: (i) The policy of RCW 90.58.020; and (ii) after their
8 adoption, the guidelines and rules of the department; and (iii) so far
9 as can be ascertained, the master program being developed for the area;

10 (b) After adoption or approval, as appropriate, by the department
11 of an applicable master program, only when the development proposed is
12 consistent with the applicable master program and ~~((the provisions of))~~
13 this chapter ~~((90.58-RCW))~~.

14 (3) The local government shall establish a program, consistent with
15 rules adopted by the department, for the administration and enforcement
16 of the permit system provided in this section. The administration of
17 the system so established shall be performed exclusively by the local
18 government.

19 (4) Except as otherwise specifically provided in subsection
20 ~~((+13))~~ (11) of this section, the local government shall require
21 notification of the public of all applications for permits governed by
22 any permit system established pursuant to subsection (3) of this
23 section by ensuring that~~((+~~

24 ~~(a) A notice of such an application is published at least once a
25 week on the same day of the week for two consecutive weeks in a legal
26 newspaper of general circulation within the area in which the
27 development is proposed; and~~

28 ~~(b) Additional~~) notice of ~~((such an))~~ the application is given by
29 at least one of the following methods:

30 ~~((+i))~~ (a) Mailing of the notice to the latest recorded real
31 property owners as shown by the records of the county assessor within
32 at least three hundred feet of the boundary of the property upon which
33 the substantial development is proposed;

34 ~~((+ii))~~ (b) Posting of the notice in a conspicuous manner on the
35 property upon which the project is to be constructed; or

36 ~~((+iii))~~ (c) Any other manner deemed appropriate by local
37 authorities to accomplish the objectives of reasonable notice to
38 adjacent landowners and the public.

1 The notices shall include a statement that any person desiring to
2 submit written comments concerning an application, or desiring to
3 receive ~~((a copy))~~ notification of the final ~~((order))~~ decision
4 concerning an application as expeditiously as possible after the
5 issuance of the ~~((order))~~ decision, may submit the comments or requests
6 for ~~((orders))~~ decisions to the local government within thirty days of
7 the last date the notice is to be published pursuant to ~~((subsection~~
8 ~~(a) of))~~ this subsection. The local government shall forward, in a
9 timely manner following the issuance of ~~((an order))~~ a decision, a copy
10 of the ~~((order))~~ decision to each person who submits a request for the
11 ~~((order))~~ decision.

12 If a hearing is to be held on an application, notices of such a
13 hearing shall include a statement that any person may submit oral or
14 written comments on an application at the hearing.

15 (5) The system shall include provisions to assure that construction
16 pursuant to a permit will not begin or be authorized until ~~((thirty))~~
17 twenty-one days from the date the ~~((final order))~~ permit decision was
18 filed as provided in subsection (6) of this section; or until all
19 review proceedings are terminated if the proceedings were initiated
20 within ~~((thirty))~~ twenty-one days from the date of filing as defined in
21 subsection (6) of this section except as follows:

22 (a) In the case of any permit issued to the state of Washington,
23 department of transportation, for the construction and modification of
24 SR 90 (I-90) on or adjacent to Lake Washington, the construction may
25 begin after thirty days from the date of filing, and the permits are
26 valid until December 31, 1995;

27 (b) Construction may be commenced within thirty days after the date
28 of the appeal of the board's decision is filed if a permit is granted
29 by the local government and (i) the granting of the permit is appealed
30 to the shorelines hearings board within ~~((thirty))~~ twenty-one days of
31 the date of filing, (ii) the hearings board approves the granting of
32 the permit by the local government or approves a portion of the
33 substantial development for which the local government issued the
34 permit, and (iii) an appeal for judicial review of the hearings board
35 decision is filed pursuant to chapter 34.05 RCW~~((, the permittee))~~.
36 The appellant may request, within ten days of the filing of the appeal
37 with the court, a hearing before the court to determine whether
38 construction ~~((may begin))~~ pursuant to the permit approved by the
39 hearings board or to a revised permit issued pursuant to the order of

1 the hearings board should not commence. If, at the conclusion of the
2 hearing, the court finds that construction pursuant to such a permit
3 would ~~((not))~~ involve a significant, irreversible damaging of the
4 environment, the court ~~((may allow))~~ shall prohibit the permittee ~~((to~~
5 ~~begin))~~ from commencing the construction pursuant to the approved or
6 revised permit ~~((as the court deems appropriate. The court may require~~
7 ~~the permittee to post bonds, in the name of the local government that~~
8 ~~issued the permit, sufficient to remove the substantial development or~~
9 ~~to restore the environment if the permit is ultimately disapproved by~~
10 ~~the courts, or to alter the substantial development if the alteration~~
11 ~~is ultimately ordered by the courts))~~ until all review proceedings are
12 final. Construction pursuant to a permit revised at the direction of
13 the hearings board may begin only on that portion of the substantial
14 development for which the local government had originally issued the
15 permit, and construction pursuant to such a revised permit on other
16 portions of the substantial development may not begin until after all
17 review proceedings are terminated. In such a hearing before the court,
18 the burden of proving whether the construction may involve significant
19 irreversible damage to the environment and demonstrating whether such
20 construction would or would not be appropriate is on the appellant;

21 (c) ~~((If a permit is granted by the local government and the~~
22 ~~granting of the permit is appealed directly to the superior court for~~
23 ~~judicial review pursuant to the proviso in RCW 90.58.180(1), the~~
24 ~~permittee may request the court to remand the appeal to the shorelines~~
25 ~~hearings board, in which case the appeal shall be so remanded and~~
26 ~~construction pursuant to such a permit shall be governed by the~~
27 ~~provisions of subsection (b) of this subsection or may otherwise begin~~
28 ~~after review proceedings before the hearings board are terminated if~~
29 ~~judicial review is not thereafter requested pursuant to chapter 34.05~~
30 ~~RCW;~~

31 (d)) If the permit is for a substantial development meeting the
32 requirements of subsection ~~((+13))~~ (11) of this section, construction
33 pursuant to that permit may not begin or be authorized until ~~((thirty))~~
34 twenty-one days from the date the ~~((final order))~~ permit decision was
35 filed as provided in subsection (6) of this section.

36 If a permittee begins construction pursuant to subsections (a),
37 (b), or (c) ~~((, or (d))~~) of this subsection, the construction is begun
38 at the permittee's own risk. If, as a result of judicial review, the
39 courts order the removal of any portion of the construction or the

1 restoration of any portion of the environment involved or require the
2 alteration of any portion of a substantial development constructed
3 pursuant to a permit, the permittee is barred from recovering damages
4 or costs involved in adhering to such requirements from the local
5 government that granted the permit, the hearings board, or any
6 appellant or intervener.

7 (6) Any (~~ruling~~) decision on an application for a permit under
8 the authority of this section, whether it is an approval or a denial,
9 shall, concurrently with the transmittal of the ruling to the
10 applicant, be filed with the department and the attorney general. With
11 regard to a permit other than a permit governed by subsection (~~(12)~~)
12 (10) of this section, "date of filing" as used herein means the date of
13 actual receipt by the department. With regard to a permit for a
14 variance or a conditional use, "date of filing" means the date a
15 decision of the department rendered on the permit pursuant to
16 subsection (~~(12)~~) (10) of this section is transmitted by the
17 department to the local government. The department shall notify in
18 writing the local government and the applicant of the date of filing.

19 (7) Applicants for permits under this section have the burden of
20 proving that a proposed substantial development is consistent with the
21 criteria that must be met before a permit is granted. In any review of
22 the granting or denial of an application for a permit as provided in
23 RCW 90.58.180 (1) and (2), the person requesting the review has the
24 burden of proof.

25 (8) Any permit may, after a hearing with adequate notice to the
26 permittee and the public, be rescinded by the issuing authority upon
27 the finding that a permittee has not complied with conditions of a
28 permit. If the department is of the opinion that noncompliance exists,
29 the department shall provide written notice to the local government and
30 the permittee. If the department is of the opinion that the
31 noncompliance continues to exist thirty days after the date of the
32 notice, and the local government has taken no action to rescind the
33 permit, the department may petition the hearings board for a rescission
34 of the permit upon written notice of the petition to the local
35 government and the permittee if the request by the department is made
36 to the hearings board within fifteen days of the termination of the
37 thirty-day notice to the local government.

1 (9) The holder of a certification from the governor pursuant to
2 chapter 80.50 RCW shall not be required to obtain a permit under this
3 section.

4 ~~(10) ((A permit shall not be required for any development on
5 shorelines of the state included within a preliminary or final plat
6 approved by the applicable state agency or local government before
7 April 1, 1971, if:~~

8 ~~(a) The final plat was approved after April 13, 1961, or the
9 preliminary plat was approved after April 30, 1969; and~~

10 ~~(b) The development is completed within two years after June 1,
11 1971.~~

12 ~~(11) The applicable state agency or local government is authorized
13 to approve a final plat with respect to shorelines of the state
14 included within a preliminary plat approved after April 30, 1969, and
15 before April 1, 1971: PROVIDED, That any substantial development
16 within the platted shorelines of the state is authorized by a permit
17 granted pursuant to this section, or does not require a permit as
18 provided in subsection (10) of this section, or does not require a
19 permit because of substantial development occurred before June 1, 1971.~~

20 ~~(12)) Any permit for a variance or a conditional use by local
21 government under approved master programs must be submitted to the
22 department for its approval or disapproval.~~

23 ~~((13)) (11)(a) An application for a substantial development
24 permit for a limited utility extension or for the construction of a
25 bulkhead or other measures to protect a single family residence and its
26 appurtenant structures from shoreline erosion shall be subject to the
27 following procedures:~~

28 ~~(i) The public comment period under subsection (4) of this section
29 shall be twenty days. The notice provided under subsection (4) of this
30 section shall state the manner in which the public may obtain a copy of
31 the local government decision on the application no later than two days
32 following its issuance;~~

33 ~~(ii) The local government shall issue its decision to grant or deny
34 the permit within twenty-one days of the last day of the comment period
35 specified in (i) of this subsection; and~~

36 ~~(iii) If there is an appeal of the decision to grant or deny the
37 permit to the local government legislative authority, the appeal shall
38 be finally determined by the legislative authority within thirty days.~~

1 (b) For purposes of this section, a limited utility extension means
2 the extension of a utility service that:

3 (i) Is categorically exempt under chapter 43.21C RCW for one or
4 more of the following: Natural gas, electricity, telephone, water, or
5 sewer;

6 (ii) Will serve an existing use in compliance with this chapter;
7 and

8 (iii) Will not extend more than twenty-five hundred linear feet
9 within the shorelines of the state.

10 **Sec. 127.** RCW 90.58.180 and 1994 c 253 s 3 are each amended to
11 read as follows:

12 (1) Any person aggrieved by the granting, denying, or rescinding of
13 a permit on shorelines of the state pursuant to RCW 90.58.140 may seek
14 review from the shorelines hearings board by filing a ~~((request for the~~
15 ~~same))~~ petition for review within ~~((thirty))~~ twenty-one days of the
16 date of filing as defined in RCW 90.58.140(6).

17 ~~((Concurrently with))~~ Within seven days of the filing of any
18 ~~((request))~~ petition for review with the board as provided in this
19 section pertaining to a final ~~((order))~~ decision of a local government,
20 the ~~((requestor))~~ petitioner shall ~~((file a copy))~~ serve copies of
21 ~~((his or her request with))~~ the petition on the department and the
22 office of the attorney general. ~~((If it appears to the department or~~
23 ~~the attorney general that the requestor has valid reasons to seek~~
24 ~~review, either the department or the attorney general may certify the~~
25 ~~request within thirty days after its receipt to the shorelines hearings~~
26 ~~board following which the board shall then, but not otherwise, review~~
27 ~~the matter covered by the requestor. The failure to obtain such~~
28 ~~certification shall not preclude the requestor from obtaining a review~~
29 ~~in the superior court under any right to review otherwise available to~~
30 ~~the requestor.))~~ The department and the attorney general may intervene
31 to protect the public interest and insure that the provisions of this
32 chapter are complied with at any time within fifteen days from the date
33 of the receipt by the department or the attorney general of a copy of
34 the ~~((request))~~ petition for review filed pursuant to this section.
35 The shorelines hearings board shall ~~((initially))~~ schedule review
36 proceedings on ~~((such requests))~~ the petition for review without regard
37 as to whether ~~((such requests have or have not been certified or as to~~
38 ~~whether))~~ the period for the department or the attorney general to

1 intervene has or has not expired(~~(, unless such review is to begin~~
2 ~~within thirty days of such scheduling. If at the end of the thirty day~~
3 ~~period for certification neither the department nor the attorney~~
4 ~~general has certified a request for review, the hearings board shall~~
5 ~~remove the request from its review schedule))).~~

6 (2) The department or the attorney general may obtain review of any
7 final (~~(order)~~) decision granting a permit, or granting or denying an
8 application for a permit issued by a local government by filing a
9 written (~~(request)~~) petition with the shorelines hearings board and the
10 appropriate local government within (~~(thirty)~~) twenty-one days from the
11 date the final (~~(order)~~) decision was filed as provided in RCW
12 90.58.140(6).

13 (3) The review proceedings authorized in subsections (1) and (2) of
14 this section are subject to the provisions of chapter 34.05 RCW
15 pertaining to procedures in adjudicative proceedings. Judicial review
16 of such proceedings of the shorelines hearings board is governed by
17 chapter 34.05 RCW. The board shall issue its decision on the appeal
18 authorized under subsections (1) and (2) of this section within one
19 hundred eighty days after the date the petition is filed with the board
20 or a petition to intervene is filed by the department or the attorney
21 general, whichever is later. The time period may be waived by the
22 parties or may be extended by the board for a period of thirty days
23 upon a showing of good cause.

24 (~~(A local government may appeal to the shorelines hearings~~
25 ~~board)) Any person may appeal any rules, regulations, or guidelines
26 adopted or approved by the department within thirty days of the date of
27 the adoption or approval. The board shall make a final decision within
28 sixty days following the hearing held thereon.~~

29 (~~(If the board)~~) (5) The board shall find the rule, regulation, or
30 guideline to be valid and enter a final decision to that effect unless
31 it determines that the rule, regulation, or guideline:

32 (a) Is clearly erroneous in light of the policy of this chapter; or

33 (b) Constitutes an implementation of this chapter in violation of
34 constitutional or statutory provisions; or

35 (c) Is arbitrary and capricious; or

36 (d) Was developed without fully considering and evaluating all
37 material submitted to the department (~~(by the local government)~~) during
38 public review and comment; or

39 (e) Was not adopted in accordance with required procedures(~~(?)~~).

1 (6) If the board makes a determination under subsection (5) (a)
2 through (e) of this section, it shall enter a final decision declaring
3 the rule, regulation, or guideline invalid, remanding the rule,
4 regulation, or guideline to the department with a statement of the
5 reasons in support of the determination, and directing the department
6 to adopt, after a thorough consultation with the affected local
7 government and any other interested party, a new rule, regulation, or
8 guideline consistent with the board's decision. (~~Unless the board~~
9 ~~makes one or more of the determinations as hereinbefore provided, the~~
10 ~~board shall find the rule, regulation, or guideline to be valid and~~
11 ~~enter a final decision to that effect.~~

12 ~~(5) Rules, regulations, and guidelines)~~ (7) A decision of the
13 board on the validity of a rule, regulation, or guideline shall be
14 subject to review in superior court, if authorized pursuant to ((RCW
15 34.05.570(2). No review shall be granted by a superior court on
16 petition from a local government unless the local government shall
17 first have obtained review under subsection (4) of this section and the
18 petition for court review is)) chapter 34.05 RCW. A petition for
19 review of the decision of the shorelines hearings board on a rule,
20 regulation, or guideline shall be filed within ((three months)) thirty
21 days after the date of final decision by the shorelines hearings board.

22 **Sec. 128.** RCW 90.58.190 and 1989 c 175 s 184 are each amended to
23 read as follows:

24 ~~(1) ((The department and each local government shall periodically~~
25 ~~review any master programs under its jurisdiction and make such~~
26 ~~adjustments thereto as are necessary. Any adjustments proposed by a~~
27 ~~local government to its master program shall be forwarded to the~~
28 ~~department for review. The department shall approve, reject, or~~
29 ~~propose modification to the adjustment. If the department either~~
30 ~~rejects or proposes modification to the master program adjustment, it~~
31 ~~shall provide substantive written comments as to why the proposal is~~
32 ~~being rejected or modified.)) The appeal of the department s decision~~
33 to adopt a master program or amendment pursuant to RCW 90.58.070(2) or
34 90.58.090(4) is governed by RCW 34.05.510 through 34.05.598.

35 (2)(a) The department's decision to approve, reject, or modify a
36 proposed master program or amendment adopted by a local government
37 planning under RCW 36.70A.040 shall be appealed to the growth
38 management hearings board with jurisdiction over the local government.

1 The appeal shall be initiated by filing a petition as provided in RCW
2 36.70A.250 through 36.70A.320.

3 (b) If the appeal to the growth management hearings board concerns
4 shorelines, the growth management hearings board shall review the
5 proposed master program or amendment for compliance with the
6 requirements of this chapter and chapter 36.70A RCW, the policy of RCW
7 90.58.020 and the applicable guidelines, and chapter 43.21C RCW as it
8 relates to the adoption of master programs and amendments under chapter
9 90.58 RCW.

10 (c) If the appeal to the growth management hearings board concerns
11 a shoreline of state-wide significance, the board shall uphold the
12 decision by the department unless the board, by clear and convincing
13 evidence, determines that the decision of the department is
14 inconsistent with the policy of RCW 90.58.020 and the applicable
15 guidelines.

16 (d) The appellant has the burden of proof in all appeals to the
17 growth management hearings board under this subsection.

18 (e) Any party aggrieved by a final decision of a growth management
19 hearings board under this subsection may appeal the decision to
20 superior court as provided in RCW 36.70A.300.

21 ~~((Any local government aggrieved by))~~ (3)(a) The department's
22 decision to approve, reject, or modify a proposed master program or
23 master program ((adjustment may appeal the department's decision))
24 amendment by a local government not planning under RCW 36.70A.040 shall
25 be appealed to the shorelines hearings board by filing a petition
26 within thirty days of the date of the department s written notice to
27 the local government of the department s decision to approve, reject,
28 or modify a proposed master program or master program amendment as
29 provided in RCW 90.58.090(2).

30 (b) In an appeal relating to shorelines, the shorelines hearings
31 board shall review the proposed master program or master program
32 ((adjustment)) amendment and, after full consideration of the
33 presentations of the local government and the department, shall
34 determine the validity of the local government's ((adjustment)) master
35 program or amendment in light of the policy of RCW 90.58.020 and the
36 applicable guidelines.

37 (c) In an appeal relating to shorelines of state-wide significance,
38 the shorelines hearings board shall uphold the decision by the
39 department unless ((a local government shall)) the board determines, by

1 clear and convincing evidence (~~and argument, persuade the board~~) that
2 the decision of the department is inconsistent with the policy of RCW
3 90.58.020 and the applicable guidelines.

4 (d) Review by the shorelines hearings board shall be considered an
5 adjudicative proceeding under chapter 34.05 RCW, the Administrative
6 Procedure Act. The aggrieved local government shall have the burden of
7 proof in all such reviews.

8 (e) Whenever possible, the review by the shorelines hearings board
9 shall be heard within the county where the land subject to the proposed
10 master program or master program (~~adjustment~~) amendment is primarily
11 located. The department and any local government aggrieved by a final
12 decision of the hearings board may appeal the decision to (~~the~~)
13 superior court (~~of Thurston county~~) as provided in chapter 34.05 RCW.

14 (~~(+3)~~) (4) A master program amendment shall become effective after
15 the approval of the department or after the decision of the shorelines
16 hearings board to uphold the master program or master program
17 (~~adjustment~~) amendment, provided that the board may remand the master
18 program or master program adjustment to the local government or the
19 department for modification prior to the final adoption of the master
20 program or master program (~~adjustment~~) amendment.

21 **Sec. 129.** RCW 34.05.461 and 1989 c 175 s 19 are each amended to
22 read as follows:

23 (1) Except as provided in subsection (2) of this section:

24 (a) If the presiding officer is the agency head or one or more
25 members of the agency head, the presiding officer may enter an initial
26 order if further review is available within the agency, or a final
27 order if further review is not available;

28 (b) If the presiding officer is a person designated by the agency
29 to make the final decision and enter the final order, the presiding
30 officer shall enter a final order; and

31 (c) If the presiding officer is one or more administrative law
32 judges, the presiding officer shall enter an initial order.

33 (2) With respect to agencies exempt from chapter 34.12 RCW or an
34 institution of higher education, the presiding officer shall transmit
35 a full and complete record of the proceedings, including such comments
36 upon demeanor of witnesses as the presiding officer deems relevant, to
37 each agency official who is to enter a final or initial order after
38 considering the record and evidence so transmitted.

1 (3) Initial and final orders shall include a statement of findings
2 and conclusions, and the reasons and basis therefor, on all the
3 material issues of fact, law, or discretion presented on the record,
4 including the remedy or sanction and, if applicable, the action taken
5 on a petition for a stay of effectiveness. Any findings based
6 substantially on credibility of evidence or demeanor of witnesses shall
7 be so identified. Findings set forth in language that is essentially
8 a repetition or paraphrase of the relevant provision of law shall be
9 accompanied by a concise and explicit statement of the underlying
10 evidence of record to support the findings. The order shall also
11 include a statement of the available procedures and time limits for
12 seeking reconsideration or other administrative relief. An initial
13 order shall include a statement of any circumstances under which the
14 initial order, without further notice, may become a final order.

15 (4) Findings of fact shall be based exclusively on the evidence of
16 record in the adjudicative proceeding and on matters officially noticed
17 in that proceeding. Findings shall be based on the kind of evidence on
18 which reasonably prudent persons are accustomed to rely in the conduct
19 of their affairs. Findings may be based on such evidence even if it
20 would be inadmissible in a civil trial. However, the presiding officer
21 shall not base a finding exclusively on such inadmissible evidence
22 unless the presiding officer determines that doing so would not unduly
23 abridge the parties' opportunities to confront witnesses and rebut
24 evidence. The basis for this determination shall appear in the order.

25 (5) Where it bears on the issues presented, the agency's
26 experience, technical competency, and specialized knowledge may be used
27 in the evaluation of evidence.

28 (6) If a person serving or designated to serve as presiding officer
29 becomes unavailable for any reason before entry of the order, a
30 substitute presiding officer shall be appointed as provided in RCW
31 34.05.425. The substitute presiding officer shall use any existing
32 record and may conduct any further proceedings appropriate in the
33 interests of justice.

34 (7) The presiding officer may allow the parties a designated time
35 after conclusion of the hearing for the submission of memos, briefs, or
36 proposed findings.

37 (8)(a) Except as otherwise provided in (b) of this subsection,
38 initial or final orders shall be served in writing within ninety days
39 after conclusion of the hearing or after submission of memos, briefs,

1 or proposed findings in accordance with subsection (7) of this section
2 unless this period is waived or extended for good cause shown.

3 (b) This subsection does not apply to the final order of the
4 shorelines hearings board on appeal under RCW 90.58.180(3).

5 (9) The presiding officer shall cause copies of the order to be
6 served on each party and the agency.

7 **Sec. 130.** RCW 34.05.514 and 1994 c 257 s 23 are each amended to
8 read as follows:

9 (1) Except as provided in subsection (2) of this section ((and RCW
10 36.70A.300(3))), proceedings for review under this chapter shall be
11 instituted by filing a petition in the superior court, at the
12 petitioner's option, for (a) Thurston county, (b) the county of the
13 petitioner's residence or principal place of business, or (c) in any
14 county where the property owned by the petitioner and affected by the
15 contested decision is located.

16 (2) For proceedings involving institutions of higher education, the
17 petition shall be filed either in the county in which the principal
18 office of the institution involved is located or in the county of a
19 branch campus if the action involves such branch.

20 NEW SECTION. **Sec. 131.** A new section is added to chapter 36.70A
21 RCW to read as follows:

22 (1) For shorelines of the state, the goals and policies of the
23 shoreline management act as set forth in RCW 90.58.020 are added as one
24 of the goals of this chapter as set forth in RCW 36.70A.020. The goals
25 and policies of a shoreline master program for a county or city
26 approved under chapter 90.58 RCW shall be considered an element of the
27 county or city's comprehensive plan. All other portions of the
28 shoreline master program for a county or city adopted under chapter
29 90.58 RCW, including use regulations, shall be considered a part of the
30 county or city's development regulations.

31 (2) The shoreline master program shall be adopted pursuant to the
32 procedures of chapter 90.58 RCW rather than the procedures set forth in
33 this chapter for the adoption of a comprehensive plan or development
34 regulations.

35 **Sec. 132.** RCW 36.70A.130 and 1990 1st ex.s. c 17 s 13 are each
36 amended to read as follows:

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

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

7 (2)(a) Each county and city shall establish and broadly disseminate
8 to the public a public participation program identifying procedures
9 whereby proposed amendments or revisions of the comprehensive plan are
10 considered by the governing body of the county or city no more
11 frequently than once every year except under the following
12 circumstances:

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

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

16 (b) All proposals shall be considered by the governing body
17 concurrently so the cumulative effect of the various proposals can be
18 ascertained. However, after appropriate public participation a county
19 or city may adopt amendments or revisions to its comprehensive plan
20 that conform with this chapter whenever an emergency exists or to
21 resolve an appeal of a comprehensive plan filed with a growth
22 management hearings board or with the court.

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

37 **Sec. 133.** RCW 36.70A.280 and 1994 c 249 s 31 are each amended to
38 read as follows:

1 (1) A growth management hearings board shall hear and determine
2 only those petitions alleging either:

3 (a) That a state agency, county, or city planning under this
4 chapter is not in compliance with the requirements of this chapter,
5 chapter 90.58 RCW as it relates to the adoption of shoreline master
6 programs or amendments thereto, or chapter 43.21C RCW as it relates to
7 plans, development regulations, or amendments, adopted under RCW
8 36.70A.040 or chapter 90.58 RCW; or

9 (b) That the twenty-year growth management planning population
10 projections adopted by the office of financial management pursuant to
11 RCW 43.62.035 should be adjusted.

12 (2) A petition may be filed only by the state, a county or city
13 that plans under this chapter, a person who has either appeared before
14 the county or city regarding the matter on which a review is being
15 requested or is certified by the governor within sixty days of filing
16 the request with the board, or a person qualified pursuant to RCW
17 34.05.530.

18 (3) For purposes of this section "person" means any individual,
19 partnership, corporation, association, governmental subdivision or unit
20 thereof, or public or private organization or entity of any character.

21 (4) When considering a possible adjustment to a growth management
22 planning population projection prepared by the office of financial
23 management, a board shall consider the implications of any such
24 adjustment to the population forecast for the entire state.

25 The rationale for any adjustment that is adopted by a board must be
26 documented and filed with the office of financial management within ten
27 working days after adoption.

28 If adjusted by a board, a county growth management planning
29 population projection shall only be used for the planning purposes set
30 forth in this chapter and shall be known as a "board adjusted
31 population projection". None of these changes shall affect the
32 official state and county population forecasts prepared by the office
33 of financial management, which shall continue to be used for state
34 budget and planning purposes.

35 **Sec. 134.** RCW 36.70A.290 and 1994 c 257 s 2 and 1994 c 249 s 26
36 are each reenacted and amended to read as follows:

1 (1) All requests for review to a growth management hearings board
2 shall be initiated by filing a petition that includes a detailed
3 statement of issues presented for resolution by the board.

4 (2) All petitions relating to whether or not an adopted
5 comprehensive plan, development regulation, or permanent amendment
6 thereto, is in compliance with the goals and requirements of this
7 chapter or chapter 90.58 or 43.21C RCW must be filed within sixty days
8 after publication by the legislative bodies of the county or city.

9 (a) Except as provided in (c) of this subsection, the date of
10 publication for a city shall be the date the city publishes the
11 ordinance, or summary of the ordinance, adopting the comprehensive plan
12 or development regulations, or amendment thereto, as is required to be
13 published.

14 (b) Promptly after adoption, a county shall publish a notice that
15 it has adopted the comprehensive plan or development regulations, or
16 amendment thereto.

17 Except as provided in (c) of this subsection, for purposes of this
18 section the date of publication for a county shall be the date the
19 county publishes the notice that it has adopted the comprehensive plan
20 or development regulations, or amendment thereto.

21 (c) For local governments planning under RCW 36.70A.040, promptly
22 after approval or disapproval of a local government s shoreline master
23 program or amendment thereto by the department of ecology as provided
24 in RCW 90.58.090, the local government shall publish a notice that the
25 shoreline master program or amendment thereto has been approved or
26 disapproved by the department of ecology. For purposes of this
27 section, the date of publication for the adoption or amendment of a
28 shoreline master program is the date the local government publishes
29 notice that the shoreline master program or amendment thereto has been
30 approved or disapproved by the department of ecology.

31 (3) Unless the board dismisses the petition as frivolous or finds
32 that the person filing the petition lacks standing, the board shall,
33 within ten days of receipt of the petition, set a time for hearing the
34 matter.

35 (4) The board shall base its decision on the record developed by
36 the city, county, or the state and supplemented with additional
37 evidence if the board determines that such additional evidence would be
38 necessary or of substantial assistance to the board in reaching its
39 decision.

1 (5) The board, shall consolidate, when appropriate, all petitions
2 involving the review of the same comprehensive plan or the same
3 development regulation or regulations.

4 **Sec. 135.** RCW 36.70A.320 and 1991 sp.s. c 32 s 13 are each amended
5 to read as follows:

6 (1) Except as provided in subsection (2) of this section,
7 comprehensive plans and development regulations, and amendments
8 thereto, adopted under this chapter are presumed valid upon adoption.
9 In any petition under this chapter, the board, after full consideration
10 of the petition, shall determine whether there is compliance with the
11 requirements of this chapter. In making its determination, the board
12 shall consider the criteria adopted by the department under RCW
13 36.70A.190(4). The board shall find compliance unless it finds by a
14 preponderance of the evidence that the state agency, county, or city
15 erroneously interpreted or applied this chapter.

16 (2) The shoreline element of a comprehensive plan and the
17 applicable development regulations adopted by a county or city shall
18 take effect as provided in chapter 90.58 RCW.

19 **Sec. 136.** RCW 82.02.090 and 1990 1st ex.s. c 17 s 48 are each
20 amended to read as follows:

21 Unless the context clearly requires otherwise, the following
22 definitions shall apply ~~((in RCW 82.02.050 through 82.02.090))~~
23 throughout this chapter:

24 (1) "Development activity" means any construction or expansion of
25 a building, structure, or use, any change in use of a building or
26 structure, or any changes in the use of land, that creates additional
27 demand and need for public facilities.

28 (2) "Development approval" means any written authorization from a
29 county, city, or town which authorizes the commencement of development
30 activity.

31 (3) "Environmental analysis" means review under chapter 43.21C RCW
32 of environmental impacts of an action required or authorized by chapter
33 36.70A RCW.

34 (4) "Impact fee" means a payment of money imposed upon development
35 as a condition of development approval to pay for public facilities
36 needed to serve new growth and development, and that is reasonably
37 related to the new development that creates additional demand and need

1 for public facilities, that is a proportionate share of the cost of the
2 public facilities, and that is used for facilities that reasonably
3 benefit the new development. "Impact fee" does not include a
4 reasonable permit or application fee.

5 ~~((+4))~~ (5) "Owner" means the owner of record of real property,
6 although when real property is being purchased under a real estate
7 contract, the purchaser shall be considered the owner of the real
8 property if the contract is recorded.

9 ~~((+5))~~ (6) "Proportionate share" means that portion of the cost of
10 public facility improvements that are reasonably related to the service
11 demands and needs of new development.

12 ~~((+6))~~ (7) "Project improvements" mean site improvements and
13 facilities that are planned and designed to provide service for a
14 particular development project and that are necessary for the use and
15 convenience of the occupants or users of the project, and are not
16 system improvements. No improvement or facility included in a capital
17 facilities plan approved by the governing body of the county, city, or
18 town shall be considered a project improvement.

19 ~~((+7))~~ (8) "Public facilities" means the following capital
20 facilities owned or operated by government entities: (a) Public
21 streets and roads; (b) publicly owned parks, open space, and recreation
22 facilities; (c) school facilities; and (d) fire protection facilities
23 in jurisdictions that are not part of a fire district.

24 ~~((+8))~~ (9) "Service area" means a geographic area defined by a
25 county, city, town, or intergovernmental agreement in which a defined
26 set of public facilities provide service to development within the
27 area. Service areas shall be designated on the basis of sound planning
28 or engineering principles.

29 ~~((+9))~~ (10) "System improvements" mean public facilities that are
30 included in the capital facilities plan and are designed to provide
31 service to service areas within the community at large, in contrast to
32 project improvements.

33 NEW SECTION. **Sec. 137.** A new section is added to chapter 82.02
34 RCW to read as follows:

35 Except only as expressly provided in RCW 67.28.180 and 67.28.190
36 and the provisions of chapter 82.14 RCW, the state preempts the field
37 of imposing taxes upon retail sales of tangible personal property, the
38 use of tangible personal property, parimutuel wagering authorized

1 pursuant to RCW 67.16.060, conveyances, and cigarettes, and no county,
2 town, or other municipal subdivision shall have the right to impose
3 taxes of that nature.

4 **Sec. 138.** RCW 82.02.020 and 1990 1st ex.s. c 17 s 42 are each
5 amended to read as follows:

6 ~~((Except only as expressly provided in RCW 67.28.180 and 67.28.190~~
7 ~~and the provisions of chapter 82.14 RCW, the state preempts the field~~
8 ~~of imposing taxes upon retail sales of tangible personal property, the~~
9 ~~use of tangible personal property, parimutuel wagering authorized~~
10 ~~pursuant to RCW 67.16.060, conveyances, and cigarettes, and no county,~~
11 ~~town, or other municipal subdivision shall have the right to impose~~
12 ~~taxes of that nature.)) (1) Except as provided in ((RCW 82.02.050~~
13 ~~through 82.02.090)) this chapter, ((no)) a county, city, town, or other
14 municipal corporation shall not impose any tax, fee, or charge, either
15 direct or indirect, on the construction or reconstruction of
16 residential buildings, commercial buildings, industrial buildings, or
17 on any other building or building space or appurtenance thereto, or on
18 the development, subdivision, classification, or reclassification of
19 land. However, this section does not preclude dedications of land or
20 easements within the proposed development or plat which the county,
21 city, town, or other municipal corporation can demonstrate are
22 reasonably necessary as a direct result of the proposed development or
23 plat to which the dedication of land or easement is to apply.~~

24 (2) This section does not prohibit voluntary agreements with
25 ~~((counties, cities, towns))~~ a county, city, town, or other municipal
26 corporation~~((s))~~ that allows a payment in lieu of a dedication of land
27 or to mitigate a direct impact that has been identified as a
28 consequence of a proposed development, subdivision, or plat. A local
29 government shall not use such voluntary agreements for local off-site
30 transportation improvements within the geographic boundaries of the
31 area or areas covered by an adopted transportation program authorized
32 by chapter 39.92 RCW. Any such voluntary agreement is subject to the
33 following provisions:

34 ~~((1))~~ (a) The payment shall be held in a reserve account and may
35 only be expended to fund a capital improvement agreed upon by the
36 parties to mitigate the identified, direct impact;

37 ~~((2))~~ (b) The payment shall be expended in all cases within five
38 years of collection; and

1 (~~(3)~~) (c) Any payment not so expended shall be refunded with
2 interest at the rate applied to judgments to the property owners of
3 record at the time of the refund; however, if the payment is not
4 expended within five years due to delay attributable to the developer,
5 the payment shall be refunded without interest.

6 (~~(No)~~) (3) A county, city, town, or other municipal corporation
7 shall not require any payment as part of such a voluntary agreement
8 which the county, city, town, or other municipal corporation cannot
9 establish is reasonably necessary as a direct result of the proposed
10 development or plat.

11 (4)(a) Nothing in this section prohibits cities, towns, counties,
12 or other municipal corporations from collecting reasonable fees from an
13 applicant for a permit or other governmental approval to cover the cost
14 to the city, town, county, or other municipal corporation of processing
15 applications, inspecting and reviewing plans, or preparing detailed
16 statements required by chapter 43.21C RCW.

17 (b) This section does not limit the existing authority of any
18 county, city, town, or other municipal corporation to impose special
19 assessments on property specifically benefitted thereby in the manner
20 prescribed by law.

21 (c) Nothing in this section prohibits counties, cities, or towns
22 from imposing or permits counties, cities, or towns to impose water,
23 sewer, natural gas, drainage utility, and drainage system charges(~~(+
24 PROVIDED, That)~~). No such charge (~~(shall)~~) may exceed the
25 proportionate share of such utility or system's capital costs which the
26 county, city, or town can demonstrate are attributable to the property
27 being charged(~~(+ PROVIDED FURTHER, That)~~). These provisions shall not
28 be interpreted to expand or contract any existing authority of
29 counties, cities, or towns to impose such charges.

30 (d) Nothing in this section prohibits a transportation benefit
31 district from imposing fees or charges authorized in RCW 36.73.120 nor
32 prohibits the legislative authority of a county, city, or town from
33 approving the imposition of such fees within a transportation benefit
34 district.

35 (e) Nothing in this section prohibits counties, cities, or towns
36 from imposing transportation impact fees authorized pursuant to chapter
37 39.92 RCW.

1 (f) Nothing in this section prohibits counties, cities, or towns
2 from requiring property owners to provide relocation assistance to
3 tenants under RCW 59.18.440 and 59.18.450.

4 (5) This section does not apply to special purpose districts formed
5 and acting pursuant to Titles 54, 56, 57, or 87 RCW, nor is the
6 authority conferred by these titles affected.

7 NEW SECTION. **Sec. 139.** (1) The legislature finds that:

8 (a) As of the effective date of this section, twenty-nine counties
9 and two hundred eight cities are conducting comprehensive planning
10 under the growth management act, chapter 36.70A RCW, which together
11 comprise over ninety percent of the state's population;

12 (b) Comprehensive plans for many of the jurisdictions were due by
13 July 1, 1994, and the remaining jurisdictions must complete plans under
14 due dates ranging from October 1994 to September 1997;

15 (c) Concurrently with these comprehensive planning activities,
16 local governments must conduct several other planning requirements
17 under the growth management act, such as the adoption of capital
18 facilities plans, urban growth areas, and development regulations;

19 (d) Local governments must also comply with the state environmental
20 policy act, chapter 43.21C RCW, in the development of comprehensive
21 plans and development regulations;

22 (e) The combined activities of comprehensive planning and the state
23 environmental policy act present a serious fiscal burden upon local
24 governments; and

25 (f) Detailed environmental analysis integrated with comprehensive
26 plans, subarea plans, and development regulations will facilitate
27 planning for and managing growth, allow greater protection of the
28 environment, and benefit both the general public and private property
29 owners.

30 (2) In order to provide financial assistance to cities and counties
31 planning under chapter 36.70A RCW and to improve the usefulness of
32 plans and integrated environmental analyses, the legislature has
33 created the fund described in section 140 of this act.

34 NEW SECTION. **Sec. 140.** A new section is added to chapter 36.70A
35 RCW to read as follows:

36 The growth management planning and environmental review fund is
37 hereby established in the state treasury. Moneys may be placed in the

1 fund from the proceeds of bond sales, tax revenues, budget transfers,
2 federal appropriations, gifts, or any other lawful source. Moneys in
3 the fund may be spent only after appropriation. Moneys in the fund
4 shall be used to make grants to local governments for the purposes set
5 forth in section 107 of this act, RCW 43.21C.031, or section 141 of
6 this act.

7 NEW SECTION. **Sec. 141.** A new section is added to chapter 36.70A
8 RCW to read as follows:

9 (1) The department of community, trade, and economic development
10 shall provide management services for the fund created by section 140
11 of this act. The department by rule shall establish procedures for
12 fund management.

13 (2) A grant may be awarded to a county or city that is required to
14 or has chosen to plan under RCW 36.70A.040 and that is qualified
15 pursuant to this section. The grant shall be provided to assist a
16 county or city in paying for the cost of conducting detailed
17 environmental analysis prepared and integrated with a comprehensive
18 plan, subarea plan, or neighborhood plan and development regulations.

19 (3) In order to qualify for a grant, a county or city shall:

20 (a) Demonstrate that it will prepare an environmental analysis
21 pursuant to chapter 43.21C RCW that is integrated with a comprehensive
22 plan, subarea plan, or neighborhood plan and development regulations;

23 (b) Address environmental impacts and consequences, alternatives,
24 and mitigation measures in sufficient detail to allow the analysis to
25 be adopted in whole or in part by subsequent applicants for development
26 permits within the geographic area analyzed in the plan;

27 (c) Include mechanisms in the plan to monitor the consequences of
28 growth as it occurs in the plan area and provide ongoing data to update
29 the plan and environmental analysis; and

30 (d) Be making substantial progress towards compliance with the
31 requirements of this chapter. A county or city that is more than six
32 months out of compliance with a requirement of this chapter is deemed
33 not to be making substantial progress towards compliance.

34 (4) In awarding grants, the department shall give preference to
35 proposals that include one or more of the following elements:

36 (a) Local funding, including financial participation by the private
37 sector, or a public/private partnering approach;

1 (b) If the local funding includes funding provided by other state
2 functional planning programs, including open space planning and
3 watershed or basin planning, the functional plan shall be integrated
4 into and be consistent with the comprehensive plan;

5 (c) Comprehensive and subarea plan proposals that are designed to
6 identify and monitor system capacities for elements of the built
7 environment, and to the extent appropriate, of the natural environment;

8 (d) Programs to improve the efficiency and effectiveness of the
9 permitting process by greater reliance on integrated plans;

10 (e) Programs for effective citizen and neighborhood involvement
11 that contribute to greater certainty that planning decisions will be
12 implemented; and

13 (f) Plans that identify environmental impacts and establish
14 mitigation measures that provide effective means to satisfy concurrency
15 requirements and establish project consistency with the plans.

16 NEW SECTION. **Sec. 142.** Capitalization of the growth management
17 planning and environmental review fund shall be made by:

18 (1) A transfer of four million dollars from the public works
19 assistance account; and

20 (2) A transfer of two million dollars from the transportation fund.

21 NEW SECTION. **Sec. 143.** RCW 82.02.020, 82.02.050, 82.02.060,
22 82.02.070, 82.02.080, 82.02.090, and 82.02.100 are each recodified as
23 sections within a new chapter created in Title 82 RCW.

24 NEW SECTION. **Sec. 144.** RCW 90.58.145 and 1979 ex.s. c 84 s 4 are
25 each repealed.

26 **PART II - PERMITTING**

27 NEW SECTION. **Sec. 201.** The legislature finds and declares the
28 following:

29 (1) As the number of environmental laws and development regulations
30 has increased for land uses and development, so has the number of
31 required local land use permits, each with its own separate approval
32 process.

33 (2) The increasing number of local and state land use permits and
34 separate environmental review processes required by agencies has

1 generated continuing potential for conflict, overlap, and duplication
2 between the various permit and review processes.

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

8 NEW SECTION. **Sec. 202.** Unless the context clearly requires
9 otherwise, the definitions in this section apply throughout this
10 chapter.

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

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

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

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

37 (5) "Public meeting" means an informal meeting, hearing, workshop,
38 or other public gathering of people to obtain comments from the public

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

9 NEW SECTION. **Sec. 203.** Not later than March 31, 1996, each local
10 government shall provide by ordinance or resolution for review of
11 project permit applications to achieve the following objectives:

12 (1) Combine the environmental review process, both procedural and
13 substantive, with the procedure for review of project permits;

14 (2) Except as provided in RCW 43.21C.075(3), provide for no more
15 than one open record hearing and one closed record appeal; and

16 (3) Require a uniform twenty-one day appeal period for judicial
17 appeals as provided in section 305 of this act.

18 NEW SECTION. **Sec. 204.** Not later than March 31, 1996, each local
19 government planning under RCW 36.70A.040 shall establish by ordinance
20 or resolution an integrated and consolidated project permit process
21 that may be included in its development regulations. In addition to
22 the elements required by section 203 of this act, the process shall
23 include the following elements:

24 (1) A determination of completeness to the applicant as required by
25 RCW 36.70A.440 (as recodified by this act);

26 (2) A notice of application to the public and agencies with
27 jurisdiction as required by section 212 of this act;

28 (3) Except as provided in section 215 of this act, an optional
29 consolidated project permit review process as provided in section 213
30 of this act. The review process shall provide for no more than one
31 consolidated open record hearing and one closed record appeal. If an
32 open record predecision hearing is provided prior to the decision on a
33 project permit, the process shall not allow a subsequent open record
34 appeal hearing;

35 (4) Provision allowing for any public meeting or required open
36 record hearing to be combined with any public meeting or open record
37 hearing that may be held on the project by another local, state,

1 regional, federal, or other agency, in accordance with provisions of
2 sections 210 and 212 of this act;

3 (5) A single report stating all the decisions made as of the date
4 of the report on all project permits included in the consolidated
5 permit process that do not require an open record predecision hearing.
6 The report shall state any mitigation required or proposed under the
7 development regulations or the agency's authority under RCW 43.21C.060.
8 The report may be the local permit. If a threshold determination other
9 than a determination of significance has not been issued previously by
10 the local government, the report shall include or append this
11 determination.

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

21 (7) A notice of decision as required by section 214 of this act and
22 issued within the time period provided in RCW 36.70A.065 (as recodified
23 by this act) and section 210 of this act;

24 (8) Completion of project review by the local government, including
25 environmental review and public review and any appeals to the local
26 government, within any applicable time periods under section 210 of
27 this act; and

28 (9) Any other provisions not inconsistent with the requirements of
29 this chapter or chapter 43.21C RCW.

30 **Sec. 205.** RCW 36.70A.440 and 1994 c 257 s 4 are each amended to
31 read as follows:

32 ~~((Each city and county))~~ (1) Within twenty-eight days after
33 receiving a project permit application, a local government planning
34 pursuant to RCW 36.70A.040 shall~~((, within twenty working days of~~
35 ~~receiving a development permit application as defined in RCW~~
36 ~~36.70A.030(7),))~~ mail or provide in person a written ~~((notice))~~
37 determination to the applicant, stating either:

38 (a) That the application is complete; or

1 **(b)** That the application is incomplete and what is necessary to
2 make the application complete.

3 **(2)(a)** An application shall be deemed complete under this section
4 if the local government does not provide a written determination to the
5 applicant that the application is incomplete as provided in subsection
6 (1)(b) of this section.

7 **(b)** Within fourteen days after an applicant has submitted to a
8 local government additional information identified by the local
9 government as being necessary for a complete application, the local
10 government shall notify the applicant whether the application is
11 complete or what additional information is necessary.

12 **(3)** To the extent known by the ~~((city or county))~~ local government,
13 the ~~((notice))~~ local government shall identify other agencies of local,
14 state, or federal governments that may have jurisdiction over some
15 aspect of the application.

16 **Sec. 206.** RCW 36.70A.065 and 1994 c 257 s 3 are each amended to
17 read as follows:

18 Development regulations adopted pursuant to RCW 36.70A.040 shall
19 establish time periods consistent with section 210 of this act for
20 local government actions on specific ~~((development))~~ project permit
21 applications and provide timely and predictable procedures to determine
22 whether a completed ~~((development))~~ project permit application meets
23 the requirements of those development regulations. Such development
24 regulations shall specify the contents of a completed ~~((development))~~
25 project permit application necessary for the application of such time
26 periods and procedures.

27 **Sec. 207.** RCW 36.70A.065 and 1994 c 257 s 3 are each amended to
28 read as follows:

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

1 NEW SECTION. **Sec. 208.** The amendments to RCW 36.70A.065 contained
2 in section 206 of this act shall expire July 1, 1998.

3 NEW SECTION. **Sec. 209.** Section 207 of this act shall take effect
4 July 1, 1998.

5 NEW SECTION. **Sec. 210.** (1) Except as otherwise provided in
6 subsection (2) of this section, a local government planning under RCW
7 36.70A.040 shall issue its notice of final decision within one hundred
8 twenty days after the local government notifies the applicant for a
9 project that the application is complete, as provided in RCW 36.70A.440
10 (as recodified by this act). In determining the number of days that
11 have elapsed after the local government has notified the applicant that
12 the application is complete, the following periods shall be excluded:

13 (a) Any period during which the applicant has been requested by the
14 local government to correct plans, perform required studies, or provide
15 additional required information. The period shall be calculated from
16 the date the local government notifies the applicant of the need for
17 additional information until the earlier of the date the local
18 government determines whether the additional information satisfies the
19 request for information or fourteen days after the date the information
20 has been provided to the local government. If the local government
21 determines the information is insufficient, it shall notify the
22 applicant of the deficiencies;

23 (b) Any period during which an environmental impact statement is
24 being prepared following a determination of significance pursuant to
25 chapter 43.21C RCW, if the local government by ordinance or resolution
26 has established time periods for completion of environmental impact
27 statements, or if the local government and the applicant in writing
28 agree to a time period for completion of an environmental impact
29 statement;

30 (c) Any period for administrative appeals of project permits, if an
31 open record appeal hearing or a closed record appeal, or both, are
32 allowed. The local government by ordinance or resolution shall
33 establish a time period to consider and decide such appeals. The time
34 period shall not exceed: (i) Ninety days for an open record appeal
35 hearing; and (ii) sixty days for a closed record appeal. The parties
36 to an appeal may agree to extend these time periods; and

1 (d) Any extension of time mutually agreed upon by the applicant and
2 the local government.

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

5 (a) Requires an amendment to the comprehensive plan or a
6 development regulation;

7 (b) Requires approval of a new fully contained community as
8 provided in RCW 36.70A.350, a master planned resort as provided in RCW
9 36.70A.360, or the siting of an essential public facility as provided
10 in RCW 36.70A.200; or

11 (c) Requires substantial revisions to the project proposal, in
12 which case the time period shall start from the date at which the
13 revised project application is determined to be complete under RCW
14 36.70A.440 (as recodified by this act).

15 (3) A project permit application is complete for purposes of this
16 section and section 205 of this act when it meets the procedural
17 submission requirements of the local government and is sufficient for
18 continued processing even though additional information may be required
19 or project modifications may be undertaken subsequently. The
20 determination of completeness shall not preclude the local government
21 from requesting additional information or studies either at the time of
22 the notice of completeness or subsequently if new information is
23 required or substantial changes in the proposed action occur.

24 (4) The notice of completeness may include the following as
25 optional information:

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

28 (b) A preliminary determination of consistency, as provided under
29 section 105 of this act; or

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

31 (5) A local government may require the applicant for a project
32 permit to designate a single person or entity to receive notice
33 required by this section.

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

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

3 **Sec. 211.** RCW 43.21C.033 and 1992 c 208 s 1 are each amended to
4 read as follows:

5 (1) Except as provided in subsection (2) of this section, the
6 responsible official shall make a threshold determination on a
7 completed application within ninety days after the application and
8 supporting documentation are complete. The applicant may request an
9 additional thirty days for the threshold determination. The
10 governmental entity responsible for making the threshold determination
11 shall by rule, resolution, or ordinance adopt standards, consistent
12 with rules adopted by the department to implement this chapter, for
13 determining when an application and supporting documentation are
14 complete.

15 (2) This section shall not apply to a city, town, or county that:

16 (a) By ordinance adopted prior to April 1, 1992, has adopted
17 procedures to integrate permit and land use decisions with the
18 requirements of this chapter; or

19 (b) Is planning under RCW 36.70A.040 and is subject to the
20 requirements of section 210 of this act.

21 NEW SECTION. **Sec. 212.** (1) Not later than April 1, 1996, a local
22 government planning under RCW 36.70A.040 shall provide a notice of
23 application to the public and the departments and agencies with
24 jurisdiction as provided in this section. If a local government has
25 made a determination of significance under chapter 43.21C RCW
26 concurrently with the notice of application, the notice of application
27 shall be combined with the determination of significance and scoping
28 notice. Nothing in this section prevents a determination of
29 significance and scoping notice from being issued prior to the notice
30 of application.

31 (2) The notice of application shall be provided within fourteen
32 days after the determination that the application is complete as
33 provided in RCW 36.70A.440 (as recodified by this act) and include the
34 following in whatever sequence or format the local government deems
35 appropriate:

36 (a) The date of application, the date of the notice of completion
37 for the application, and the date of the notice of application;

1 (b) The proposed project action and the project permits included in
2 the application and, if applicable, any studies requested under RCW
3 36.70A.440 (as recodified by this act) or section 210 of this act;

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

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

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

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

22 (g) A statement of the preliminary determination, if one has been
23 made at the time of notice, of those development regulations that will
24 be used for project mitigation and of consistency as provided in
25 section 105 of this act; and

26 (h) Any other information determined appropriate by the local
27 government.

28 (3) If an open record predecision hearing will be held or is
29 required for the requested project permits, the notice of application
30 shall be provided at least fifteen days prior to the open record
31 hearing.

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

1 (a) Posting the property for site-specific proposals;

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

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

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

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

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

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

32 (7) A local government may combine any hearing on a project permit
33 with any hearing that may be held by another local, state, regional,
34 federal, or other agency provided that the hearing is held within the
35 geographic boundary of the local government. Hearings shall be
36 combined if requested by an applicant, as long as the joint hearing can
37 be held within the time periods specified in section 210 of this act or
38 the applicant agrees to the schedule in the event that additional time
39 is needed in order to combine the hearings. All agencies of the state

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

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

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

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

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

18 NEW SECTION. **Sec. 213.** (1) Each local government planning under
19 RCW 36.70A.040 shall establish a permit review process that provides
20 for the integrated and consolidated review and decision on two or more
21 project permits relating to a proposed project action, including a
22 single application review and approval process covering all project
23 permits requested by an applicant for all or part of a project action
24 and a designated permit coordinator. If an applicant elects the
25 consolidated permit review process, the notice of completion, notice of
26 application, and notice of final decision must include all project
27 permits being reviewed through the consolidated permit review process.

28 (2) Consolidated permit review may provide different procedures for
29 different categories of project permits, but if a project action
30 requires project permits from more than one category, the local
31 government shall provide for consolidated permit review with a single
32 open record hearing and no more than one closed record appeal as
33 provided in section 204 of this act. Each local government shall
34 determine which project permits are subject to an open record hearing
35 and a closed record appeal. Examples of categories of project permits
36 include but are not limited to:

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

4 (b) Permits that require environmental review, but no open record
5 predecision hearing; and

6 (c) Permits that require a threshold determination and an open
7 record predecision hearing and may provide for a closed record appeal
8 to a hearing body or officer or to the local government legislative
9 body.

10 (3) A local government is not required to provide for
11 administrative appeals. If provided, an administrative appeal of the
12 project decision, combined with any environmental determinations, shall
13 be filed within fourteen days after the notice of the decision or after
14 other notice that the decision has been made and is appealable. The
15 local government shall extend the appeal period for an additional seven
16 days, if state or local rules adopted pursuant to chapter 43.21C RCW
17 allow public comment on a determination of nonsignificance issued as
18 part of the appealable project permit decision.

19 (4) The applicant for a project permit is deemed to be a
20 participant in any comment period, open record hearing, and closed
21 record appeal.

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

33 (6) Each local government planning under RCW 36.70A.040 shall adopt
34 procedures for administrative interpretation of its development
35 regulations.

36 NEW SECTION. **Sec. 214.** A local government planning under RCW
37 36.70A.040 shall provide a notice of decision that also includes a
38 statement of any threshold determination made under chapter 43.21C RCW

1 and the procedures for administrative appeal, if any. The notice of
2 decision may be a copy of the report or decision. The notice shall be
3 provided to the applicant and to any person who, prior to the rendering
4 of the decision, requested notice of the decision. The notice of
5 decision shall include procedures for administrative appeal, if any.
6 The local government may publish or otherwise provide for additional
7 notice of its decision as provided in section 212(4) of this act.

8 NEW SECTION. **Sec. 215.** A local government by ordinance or
9 resolution may exclude the following project permits from the
10 provisions of RCW 36.70A.440 (as recodified by this act), 36.70A.065
11 (as recodified by this act), sections 204, 210, and 212 through 214 of
12 this act:

13 (1) Lot line or boundary adjustments, and building and other
14 construction permits categorically exempt from environmental review
15 under chapter 43.21C RCW or similar administrative approvals; and

16 (2) Landmark designations, street vacations, or other approvals
17 relating to the use of public areas or facilities, or other project
18 permits, whether administrative or quasi-judicial, that the local
19 government by ordinance or resolution has determined present special
20 circumstances that warrant a review process different from that
21 provided in RCW 36.70A.440 (as recodified by this act), 36.70A.065 (as
22 recodified by this act), sections 204, 210, and 212 through 214 of this
23 act.

24 NEW SECTION. **Sec. 216.** A local government not planning under RCW
25 36.70A.040 may incorporate some or all of the provisions of sections
26 204, 210, and 212 through 214 of this act and RCW 36.70A.065 and
27 36.70A.440 (as recodified by this act) into its procedures for review
28 of project permits or other project actions.

29 NEW SECTION. **Sec. 217.** (1) Each local government is encouraged to
30 adopt further project review provisions to provide prompt, coordinated
31 review and ensure accountability to applicants and the public,
32 including expedited review for project permit applications for projects
33 that are consistent with adopted development regulations and within the
34 capacity of system-wide infrastructure improvements.

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

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

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

9 NEW SECTION. **Sec. 218.** A new section is added to chapter 64.40
10 RCW to read as follows:

11 A local government is not liable for damages under this chapter due
12 to the local government s failure to make a final decision within the
13 time limits established in section 210 of this act.

14 **Sec. 219.** RCW 58.17.090 and 1981 c 293 s 5 are each amended to
15 read as follows:

16 (1) Upon receipt of an application for preliminary plat approval
17 the administrative officer charged by ordinance with responsibility for
18 administration of regulations pertaining to platting and subdivisions
19 shall provide public notice and set a date for a public hearing.
20 Except as provided in section 212 of this act, at a minimum, notice of
21 the hearing shall be given in the following manner:

22 ~~((+1))~~ (a) Notice shall be published not less than ten days prior
23 to the hearing in a newspaper of general circulation within the county
24 and a newspaper of general circulation in the area where the real
25 property which is proposed to be subdivided is located; and

26 ~~((+2))~~ (b) Special notice of the hearing shall be given to
27 adjacent landowners by any other reasonable method local authorities
28 deem necessary. Adjacent landowners are the owners of real property,
29 as shown by the records of the county assessor, located within three
30 hundred feet of any portion of the boundary of the proposed
31 subdivision. If the owner of the real property which is proposed to be
32 subdivided owns another parcel or parcels of real property which lie
33 adjacent to the real property proposed to be subdivided, notice under
34 this subsection (1)(b) shall be given to owners of real property
35 located within three hundred feet of any portion of the boundaries of
36 such adjacently located parcels of real property owned by the owner of
37 the real property proposed to be subdivided.

1 (2) All hearings shall be public. All hearing notices shall
2 include a description of the location of the proposed subdivision. The
3 description may be in the form of either a vicinity location sketch or
4 a written description other than a legal description.

5 **Sec. 220.** RCW 58.17.092 and 1988 c 168 s 12 are each amended to
6 read as follows:

7 Any notice made under chapter 58.17 or 36.-- (the new chapter
8 created in section 251 of this act) RCW that identifies affected
9 property may identify this affected property without using a legal
10 description of the property including, but not limited to,
11 identification by an address, written description, vicinity sketch, or
12 other reasonable means.

13 **Sec. 221.** RCW 58.17.100 and 1981 c 293 s 6 are each amended to
14 read as follows:

15 If a city, town or county has established a planning commission or
16 planning agency in accordance with state law or local charter, such
17 commission or agency shall review all preliminary plats and make
18 recommendations thereon to the city, town or county legislative body to
19 assure conformance of the proposed subdivision to the general purposes
20 of the comprehensive plan and to planning standards and specifications
21 as adopted by the city, town or county. Reports of the planning
22 commission or agency shall be advisory only: PROVIDED, That the
23 legislative body of the city, town or county may, by ordinance, assign
24 to such commission or agency, or any department official or group of
25 officials, such administrative functions, powers and duties as may be
26 appropriate, including the holding of hearings, and recommendations for
27 approval or disapproval of preliminary plats of proposed subdivisions.

28 Such recommendation shall be submitted to the legislative body not
29 later than fourteen days following action by the hearing body. Upon
30 receipt of the recommendation on any preliminary plat the legislative
31 body shall at its next public meeting set the date for the public
32 meeting where it shall consider the recommendations of the hearing body
33 and may adopt or reject the recommendations of such hearing body based
34 on the record established at the public hearing. If, after considering
35 the matter at a public meeting, the legislative body deems a change in
36 the planning commission's or planning agency's recommendation approving
37 or disapproving any preliminary plat is necessary, (~~the change of the~~

1 ~~recommendation shall not be made until~~) the legislative body shall
2 ~~((conduct a public hearing and thereupon))~~ adopt its own
3 recommendations and approve or disapprove the preliminary plat. ~~((Such~~
4 ~~public hearing may be held before a committee constituting a majority~~
5 ~~of the legislative body. If the hearing is before a committee, the~~
6 ~~committee shall report its recommendations on the matter to the~~
7 ~~legislative body for final action.))~~

8 Every decision or recommendation made under this section shall be
9 in writing and shall include findings of fact and conclusions to
10 support the decision or recommendation.

11 A record of all public meetings and public hearings shall be kept
12 by the appropriate city, town or county authority and shall be open to
13 public inspection.

14 Sole authority to approve final plats, and to adopt or amend
15 platting ordinances shall reside in the legislative bodies.

16 **Sec. 222.** RCW 58.17.330 and 1994 c 257 s 6 are each amended to
17 read as follows:

18 (1) As an alternative to those provisions of this chapter requiring
19 a planning commission to hear and issue recommendations for plat
20 approval, the county or city legislative body may adopt a hearing
21 examiner system and shall specify by ordinance the legal effect of the
22 decisions made by the examiner. ~~((Except as provided in subsection (2)~~
23 ~~of this section,))~~ The legal effect of such decisions shall include one
24 of the following:

25 (a) The decision may be given the effect of a recommendation to the
26 legislative body;

27 (b) The decision may be given the effect of an administrative
28 decision appealable within a specified time limit to the legislative
29 body; or

30 (c) The decision may be given the effect of a final decision of the
31 legislative body.

32 The legislative authority shall prescribe procedures to be followed by
33 a hearing examiner.

34 (2) ~~((The legislative body shall specify the legal effect of a~~
35 ~~hearing examiner's procedural determination under the state~~
36 ~~environmental policy act, as defined in RCW 43.21C.075(3)(a). It may~~
37 ~~have the effect under subsection (1) (a) or (b) of this section, or may~~
38 ~~be given the effect of a final decision of the legislative body.~~

1 (3)) Each final decision of a hearing examiner shall be in writing
2 and shall include findings and conclusions, based on the record, to
3 support the decision. Each final decision of a hearing examiner,
4 unless a longer period is mutually agreed to by the applicant and the
5 hearing examiner, shall be rendered within ten working days following
6 conclusion of all testimony and hearings.

7 NEW SECTION. **Sec. 223.** The legislature finds that the lack of
8 certainty in the approval of development projects can result in a waste
9 of public and private resources, escalate housing costs for consumers
10 and discourage the commitment to comprehensive planning which would
11 make maximum efficient use of resources at the least economic cost to
12 the public. Assurance to a development project applicant that upon
13 government approval the project may proceed in accordance with existing
14 policies and regulations, and subject to conditions of approval, all as
15 set forth in a development agreement, will strengthen the public
16 planning process, encourage private participation and comprehensive
17 planning, and reduce the economic costs of development. Further, the
18 lack of public facilities and services is a serious impediment to
19 development of new housing and commercial uses. Project applicants and
20 local governments may include provisions and agreements whereby
21 applicants are reimbursed over time for financing public facilities.
22 It is the intent of the legislature by sections 224 through 228 of this
23 act to allow local governments and owners and developers of real
24 property to enter into development agreements.

25 NEW SECTION. **Sec. 224.** (1) A local government may enter into a
26 development agreement with a person having ownership or control of real
27 property within its jurisdiction. A city may enter into a development
28 agreement for real property outside its boundaries as part of a
29 proposed annexation or a service agreement. A development agreement
30 must set forth the development standards and other provisions that
31 shall apply to and govern and vest the development, use, and mitigation
32 of the development of the real property for the duration specified in
33 the agreement. A development agreement shall be consistent with
34 applicable development regulations adopted by a local government
35 planning under chapter 36.70A RCW.

36 (2) Sections 223 through 226 of this act do not affect the validity
37 of a contract rezone, concomitant agreement, annexation agreement, or

1 other agreement in existence on the effective date of sections 223
2 through 226 of this act, or adopted under separate authority, that
3 includes some or all of the development standards provided in
4 subsection (3) of this section.

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

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

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

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

14 (d) Design standards such as maximum heights, setbacks, drainage
15 and water quality requirements, landscaping, and other development
16 features;

17 (e) Affordable housing;

18 (f) Parks and open space preservation;

19 (g) Phasing;

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

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

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

23 (4) The execution of a development agreement is a proper exercise
24 of county and city police power and contract authority. A development
25 agreement may obligate a party to fund or provide services,
26 infrastructure, or other facilities. A development agreement shall
27 reserve authority to impose new or different regulations to the extent
28 required by a serious threat to public health and safety.

29 NEW SECTION. **Sec. 225.** Unless amended or terminated, a
30 development agreement is enforceable during its term by a party. A
31 development agreement and the development standards in the agreement
32 govern during the term of the agreement, or for all or that part of the
33 build-out period specified in the agreement, and may not be subject to
34 an amendment to a zoning ordinance or development standard or
35 regulation or a new zoning ordinance or development standard or
36 regulation adopted after the effective date of the agreement. A permit
37 or approval issued by the county or city after the execution of the

1 development agreement must be consistent with the development
2 agreement.

3 NEW SECTION. **Sec. 226.** A development agreement may be recorded
4 with the real property records of the county in which the property is
5 located. During the term of the development agreement, the agreement
6 is binding on and will inure to the benefit of the parties and their
7 successors, including a city that assumes jurisdiction through
8 incorporation or annexation of the area covering the property covered
9 by the development agreement.

10 NEW SECTION. **Sec. 227.** A county or city shall only approve a
11 development agreement by ordinance or resolution after a public
12 hearing. The county or city legislative body or a planning commission,
13 hearing examiner, or other body designated by the legislative body to
14 conduct the public hearing may conduct the hearing. If the development
15 agreement relates to a project permit application, the provisions of
16 chapter 36.-- RCW (sections 301 through 315 of this act) shall apply to
17 the appeal of the decision on the development agreement.

18 NEW SECTION. **Sec. 228.** Nothing in sections 223 through 227 of
19 this act is intended to authorize local governments to impose impact
20 fees, inspection fees, or dedications or to require any other financial
21 contributions or mitigation measures except as expressly authorized by
22 other applicable provisions of state law.

23 **Sec. 229.** RCW 35.63.130 and 1994 c 257 s 8 are each amended to
24 read as follows:

25 (1) As an alternative to those provisions of this chapter relating
26 to powers or duties of the planning commission to hear and report on
27 any proposal to amend a zoning ordinance, the legislative body of a
28 city or county may adopt a hearing examiner system under which a
29 hearing examiner or hearing examiners may hear and decide applications
30 for amending the zoning ordinance when the amendment which is applied
31 for is not of general applicability. In addition, the legislative body
32 may vest in a hearing examiner the power to hear and decide those
33 issues it believes should be reviewed and decided by a hearing
34 examiner, including but not limited to:

1 (a) Applications for conditional uses, variances, subdivisions,
2 shoreline permits, or any other class of applications for or pertaining
3 to development of land or land use((s which the legislative body
4 believes should be reviewed and decided by a hearing examiner));

5 (b) Appeals of administrative decisions or determinations; and

6 (c) Appeals of administrative decisions or determinations pursuant
7 to chapter 43.21C RCW.

8 The legislative body shall prescribe procedures to be followed by
9 the hearing examiner.

10 (2) Each city or county legislative body electing to use a hearing
11 examiner pursuant to this section shall by ordinance specify the legal
12 effect of the decisions made by the examiner. ((Except as provided in
13 subsection (2) of this section,)) The legal effect of such decisions
14 may vary for the different classes of applications decided by the
15 examiner but shall include one of the following:

16 (a) The decision may be given the effect of a recommendation to the
17 legislative body;

18 (b) The decision may be given the effect of an administrative
19 decision appealable within a specified time limit to the legislative
20 body((-

21 ~~(2) The legislative body may specify the legal effect of a hearing~~
22 ~~examiner's procedural determination under the state environmental~~
23 ~~policy act, as defined in RCW 43.21C.075(3)(a). It may have the effect~~
24 ~~under subsection (1) (a) or (b) of this section, or)); or~~

25 (c) The decision may be given the effect of a final decision of the
26 legislative body.

27 (3) Each final decision of a hearing examiner shall be in writing
28 and shall include findings and conclusions, based on the record, to
29 support the decision. Such findings and conclusions shall also set
30 forth the manner in which the decision would carry out and conform to
31 the city's or county's comprehensive plan and the city's or county's
32 development regulations. Each final decision of a hearing examiner,
33 unless a longer period is mutually agreed to in writing by the
34 applicant and the hearing examiner, shall be rendered within ten
35 working days following conclusion of all testimony and hearings.

36 **Sec. 230.** RCW 35A.63.170 and 1994 c 257 s 7 are each amended to
37 read as follows:

1 (1) As an alternative to those provisions of this chapter relating
2 to powers or duties of the planning commission to hear and report on
3 any proposal to amend a zoning ordinance, the legislative body of a
4 city may adopt a hearing examiner system under which a hearing examiner
5 or hearing examiners may hear and decide applications for amending the
6 zoning ordinance when the amendment which is applied for is not of
7 general applicability. In addition, the legislative body may vest in
8 a hearing examiner the power to hear and decide those issues it
9 believes should be reviewed and decided by a hearing examiner,
10 including but not limited to:

11 (a) Applications for conditional uses, variances, subdivisions,
12 shoreline permits, or any other class of applications for or pertaining
13 to development of land or land use~~((s which the legislative body~~
14 ~~believes should be reviewed and decided by a hearing examiner))~~;

15 (b) Appeals of administrative decisions or determinations; and

16 (c) Appeals of administrative decisions or determinations pursuant
17 to chapter 43.21C RCW.

18 The legislative body shall prescribe procedures to be followed by
19 a hearing examiner. If the legislative authority vests in a hearing
20 examiner the authority to hear and decide variances, then the
21 provisions of RCW 35A.63.110 shall not apply to the city.

22 (2) Each city legislative body electing to use a hearing examiner
23 pursuant to this section shall by ordinance specify the legal effect of
24 the decisions made by the examiner. ~~((Except as provided in subsection~~
25 ~~(2) of this section,))~~ The legal effect of such decisions may vary for
26 the different classes of applications decided by the examiner but shall
27 include one of the following:

28 (a) The decision may be given the effect of a recommendation to the
29 legislative body;

30 (b) The decision may be given the effect of an administrative
31 decision appealable within a specified time limit to the legislative
32 body(~~(-~~

33 ~~(2) The legislative body shall specify the legal effect of a~~
34 ~~hearing examiner's procedural determination under the state~~
35 ~~environmental policy act, as defined in RCW 43.21C.075(3)(a). It may~~
36 ~~have the effect under subsection (1) (a) or (b) of this section, or))~~;
37 or

38 (c) The decision may be given the effect of a final decision of the
39 legislative body.

1 (3) Each final decision of a hearing examiner shall be in writing
2 and shall include findings and conclusions, based on the record, to
3 support the decision. Such findings and conclusions shall also set
4 forth the manner in which the decision would carry out and conform to
5 the city's comprehensive plan and the city's development regulations.
6 Each final decision of a hearing examiner, unless a longer period is
7 mutually agreed to in writing by the applicant and the hearing
8 examiner, shall be rendered within ten working days following
9 conclusion of all testimony and hearings.

10 **Sec. 231.** RCW 36.70.970 and 1994 c 257 s 9 are each amended to
11 read as follows:

12 (1) As an alternative to those provisions of this chapter relating
13 to powers or duties of the planning commission to hear and issue
14 recommendations on applications for plat approval and applications for
15 amendments to the zoning ordinance, the county legislative authority
16 may adopt a hearing examiner system under which a hearing examiner or
17 hearing examiners may hear and issue decisions on proposals for plat
18 approval and for amendments to the zoning ordinance when the amendment
19 which is applied for is not of general applicability. In addition, the
20 legislative authority may vest in a hearing examiner the power to hear
21 and decide those issues it believes should be reviewed and decided by
22 a hearing examiner, including but not limited to:

23 (a) Applications for conditional uses (~~applications~~), variances
24 (~~applications~~), (~~applications for~~) shoreline permits, or any other
25 class of applications for or pertaining to development of land or land
26 use(~~s~~);

27 (b) Appeals of administrative decisions or determinations; and

28 (c) Appeals of administrative decisions or determinations pursuant
29 to chapter 43.21C RCW.

30 The legislative authority shall prescribe procedures to be followed
31 by a hearing examiner.

32 Any county which vests in a hearing examiner the authority to hear
33 and decide conditional uses and variances shall not be required to have
34 a zoning adjuster or board of adjustment.

35 (2) Each county legislative authority electing to use a hearing
36 examiner pursuant to this section shall by ordinance specify the legal
37 effect of the decisions made by the examiner. (~~Except as provided in~~
38 ~~subsection (2) of this section,~~) Such legal effect may vary for the

1 different classes of applications decided by the examiner but shall
2 include one of the following:

3 (a) The decision may be given the effect of a recommendation to the
4 legislative authority;

5 (b) The decision may be given the effect of an administrative
6 decision appealable within a specified time limit to the legislative
7 authority((

8 ~~(2) The legislative authority may specify the legal effect of a
9 hearing examiner's procedural determination under the state
10 environmental policy act, as defined in RCW 43.21C.075(3)(a). It may
11 have the effect under subsection (1) (a) or (b) of this section, or))i
12 or~~

13 (c) The decision may be given the effect of a final decision of the
14 legislative authority.

15 (3) Each final decision of a hearing examiner shall be in writing
16 and shall include findings and conclusions, based on the record, to
17 support the decision. Such findings and conclusions shall also set
18 forth the manner in which the decision would carry out and conform to
19 the county's comprehensive plan and the county's development
20 regulations. Each final decision of a hearing examiner, unless a
21 longer period is mutually agreed to in writing by the applicant and the
22 hearing examiner, shall be rendered within ten working days following
23 conclusion of all testimony and hearings.

24 NEW SECTION. Sec. 232. The legislature hereby finds and declares:

25 (1) Washington's environmental protection programs have established
26 strict standards to reduce pollution and protect the public health and
27 safety and the environment. The single-purpose programs instituted to
28 achieve these standards have been successful in many respects, and have
29 produced significant gains in protecting Washington's environment in
30 the face of substantial population growth.

31 (2) Continued progress to achieve the environmental standards in
32 the face of continued population growth will require greater
33 coordination between the single-purpose environmental programs and more
34 efficient operation of these programs overall. Pollution must be
35 prevented and controlled and not simply transferred to another media or
36 another place. This goal can only be achieved by maintaining the
37 current environmental protection standards and by greater integration
38 of the existing programs.

1 (3) As the number of environmental laws and regulations have grown
2 in Washington, so have the number of permits required of business and
3 government. This regulatory burden has significantly added to the cost
4 and time needed to obtain essential permits in Washington. The
5 increasing number of individual permits and permit authorities has
6 generated the continuing potential for conflict, overlap, and
7 duplication between the various state, local, and federal permits.

8 (4) To ensure that local needs and environmental conditions receive
9 the proper attention, the issuance and renewal of permits should
10 continue to be made, to the extent feasible, at the regional and local
11 levels of the environmental programs.

12 (5) The purpose of this chapter is to require the department of
13 ecology to institute new, efficient procedures that will assist
14 businesses and public agencies in complying with the environmental
15 quality laws in an expedited fashion, without reducing protection of
16 public health and safety and the environment.

17 (6) Those procedures need to provide a permit process that promotes
18 effective dialogue and ensures ease in the transfer and clarification
19 of technical information, while preventing duplication. It is
20 necessary that the procedures establish a process for preliminary and
21 ongoing meetings between the applicant, the consolidated permit agency,
22 and the participating permit agencies, but do not preclude the
23 applicant or participating permit agencies from individually
24 coordinating with each other.

25 (7) It is necessary, to the maximum extent practicable, that the
26 procedures established in this chapter ensure that the consolidated
27 permit agency process and applicable permit requirements and criteria
28 are integrated and run concurrently, rather than consecutively.

29 (8) It is necessary to provide a reliable and consolidated source
30 of information concerning the environmental and land use laws and
31 procedures that apply to any given proposal. This information is to be
32 current and encompass all state and local jurisdictions. To the extent
33 possible, it is to encompass federal jurisdictions and functions, as
34 well.

35 (9) The process shall provide an optional process by which a
36 project proponent may obtain active coordination of all applicable
37 regulatory and land-use permitting procedures. This process is not to
38 replace individual laws, or diminish the substantive decision-making
39 role of individual jurisdictions. Rather it is to provide

1 predictability, administrative consolidation, and, where possible,
2 consolidation of appeal processes.

3 (10) The process shall provide consolidated, effective, and easier
4 opportunities for members of the public to receive information and
5 present their views about proposed projects.

6 NEW SECTION. **Sec. 233.** Unless the context clearly requires
7 otherwise, the definitions in this section apply throughout this
8 chapter.

9 (1) "Center" means the permit assistance center established in the
10 commission by section 234 of this act.

11 (2) "Commission" means the Washington independent regulatory
12 affairs commission created in chapter . . . , Laws of 1995 (Senate Bill
13 No. 6037).

14 (3) "Consolidated permit agency" means the permit agency that has
15 the greatest overall jurisdiction over a project.

16 (4) "Participating permit agency" means a permit agency, other than
17 the consolidated permit agency, that is responsible for the issuance of
18 a permit for a project.

19 (5) "Permit" means any license, certificate, registration, permit,
20 or other form of authorization required by a permit agency to engage in
21 a particular activity.

22 (6) "Permit agency" means:

23 (a) The department of ecology, an air pollution control authority,
24 the department of natural resources, the department of fish and
25 wildlife, and the department of health; and

26 (b) Any other state or federal agency or county, city, or town that
27 participates at the request of the permit applicant and upon the
28 agency's agreement to be subject to this chapter.

29 (7) "Project" means an activity, the conduct of which requires a
30 permit from two or more permit agencies.

31 NEW SECTION. **Sec. 234.** The permit assistance center is
32 established within the commission. The center shall:

33 (1) Publish and keep current one or more handbooks containing lists
34 and explanations of all permit laws. The center shall coordinate with
35 the business assistance center in providing and maintaining this
36 information to applicants and others. To the extent possible, the
37 handbook shall include relevant federal and tribal laws. A state

1 agency or local government shall provide a reasonable number of copies
2 of application forms, statutes, ordinances, rules, handbooks, and other
3 informational material requested by the center and shall otherwise
4 fully cooperate with the center. The center shall seek the cooperation
5 of relevant federal agencies and tribal governments;

6 (2) Establish, and make known, a point of contact for distribution
7 of the handbook and advice to the public as to its interpretation in
8 any given case;

9 (3) Work closely and cooperatively with the business license center
10 and the business assistance center in providing efficient and
11 nonduplicative service to the public; and

12 (4) Provide a permit coordination training program designed to:

13 (a) Educate project facilitators as to the role and requirements of
14 all jurisdictions;

15 (b) Share permit coordination experiences;

16 (c) Improve the quality and efficiency of project facilitation; and

17 (d) Certify project facilitators.

18 NEW SECTION. **Sec. 235.** (1) Not later than January 1, 1996, the
19 center shall establish by rule an administrative process for the
20 designation of a consolidated permit agency for a project.

21 (2) The administrative process shall consist of the establishment
22 of guidelines for designating the consolidated permit agency for a
23 project. If a permit agency is the lead agency for purposes of chapter
24 43.21C RCW, that permit agency shall be the consolidated permit agency.
25 In other cases, the guidelines shall require that at least the
26 following factors be considered in determining which permit agency has
27 the greatest overall jurisdiction over the project:

28 (a) The types of facilities or activities that make up the project;

29 (b) The types of public health and safety and environmental
30 concerns that should be considered in issuing permits for the project;

31 (c) The environmental medium that may be affected by the project,
32 the extent of those potential effects, and the environmental protection
33 measures that may be taken to prevent the occurrence of, or to
34 mitigate, those potential effects;

35 (d) The regulatory activity that is of greatest importance in
36 preventing or mitigating the effects that the project may have on
37 public health and safety or the environment; and

1 (e) The statutory and regulatory requirements that apply to the
2 project and the complexity of those requirements.

3 NEW SECTION. **Sec. 236.** Upon the request of a project applicant,
4 the center shall appoint a project facilitator to assist the applicant
5 in determining which regulatory requirements, processes, and permits
6 may be required for development and operation of the proposed project.
7 The project facilitator shall provide the information to the applicant
8 and explain the options available to the applicant in obtaining the
9 required permits. If the applicant requests, the center shall
10 designate a coordinating permit agency as provided in section 237 of
11 this act.

12 NEW SECTION. **Sec. 237.** (1) A permit applicant who requests the
13 designation of a consolidated permit agency shall provide the center
14 with a description of the project, a preliminary list of the permits
15 that the project may require, the identity of any public agency that
16 has been designated the lead agency for the project pursuant to chapter
17 43.21C RCW, and the identity of the participating permit agencies. The
18 center may request any information from the permit applicant that is
19 necessary to make the designation under this section, and may convene
20 a scoping meeting of the likely consolidated permit agency and
21 participating permit agencies in order to make that designation.

22 (2) The consolidated permit agency shall serve as the main point of
23 contact for the permit applicant with regard to the processing of the
24 consolidated permit process for the project and shall manage the
25 procedural aspects of that processing consistent with existing laws
26 governing the consolidated permit agency and participating permit
27 agencies, and with the procedures agreed to by those agencies in
28 accordance with section 238 of this act. In carrying out these
29 responsibilities, the consolidated permit agency shall ensure that the
30 permit applicant has all the information needed to apply for all the
31 component permits that are incorporated in the consolidated permit
32 process for the project, coordinate the review of those permits by the
33 respective participating permit agencies, ensure that timely permit
34 decisions are made by the participating permit agencies, and assist in
35 resolving any conflict or inconsistency among the permit requirements
36 and conditions that are to be imposed by the participating permit
37 agencies with regard to the project. The coordinating permit agency

1 shall keep in contact with the applicant as well as other permit
2 agencies in order to assure that the process is progressing as
3 scheduled. The coordinating permit agency shall recommend appropriate
4 alternatives that may be more efficient and identify potential problems
5 to successful completion of the process.

6 (3) This chapter shall not be construed to limit or abridge the
7 powers and duties granted to a participating permit agency under the
8 law that authorizes or requires the agency to issue a permit for a
9 project. Each participating permit agency shall retain its authority
10 to make all decisions on all nonprocedural matters with regard to the
11 respective component permit that is within its scope of its
12 responsibility, including, but not limited to, the determination of
13 permit application completeness, permit approval or approval with
14 conditions, or permit denial. The consolidated permit agency may not
15 substitute its judgment for that of a participating permit agency on
16 any such nonprocedural matters.

17 NEW SECTION. **Sec. 238.** (1) Within twenty-one days of the date
18 that the consolidated permit agency is designated, it shall convene a
19 meeting with the permit applicant for the project and the participating
20 permit agencies. The meeting agenda shall include at least all of the
21 following matters:

22 (a) A determination of the permits that are required for the
23 project;

24 (b) A review of the permit application forms and other application
25 requirements of the agencies that are participating in the consolidated
26 permit process;

27 (c)(i) A determination of the timelines that will be used by the
28 consolidated permit agency and each participating permit agency to make
29 permit decisions, including the time periods required to determine if
30 the permit applications are complete, to review the application or
31 applications, and to process the component permits, and the timelines
32 that will be used by the consolidated permit agency to aggregate the
33 component permits into, and to issue the consolidated permit process.
34 In the development of this time line, full attention shall be given to
35 achieving the maximum efficiencies possible through concurrent studies,
36 consolidated applications, hearings, and comment periods. Except as
37 provided in (c)(ii) of this subsection, the timelines established under
38 this subsection, with the assent of the consolidated permit agency and

1 each participating permit agency, shall commit the consolidated permit
2 agency and each participating permit agency to act on the component
3 permit within time periods that are different than those required by
4 other applicable provisions of law.

5 (ii) An accelerated time period for the consideration of a permit
6 application may not be set if that accelerated time period would be
7 inconsistent with, or in conflict with, any time period or series of
8 time periods set by statute for that consideration, or with any
9 statute, rule, or regulation, or adopted state policy, standard, or
10 guideline that requires any of the following:

11 (A) Other agencies, interested persons, federally recognized Indian
12 tribes, or the public to be given adequate notice of the application;

13 (B) Other agencies to be given a role in, or be allowed to
14 participate in, the decision to approve or disapprove the application;
15 or

16 (C) Interested persons or the public to be provided the opportunity
17 to challenge, comment on, or otherwise voice their concerns regarding
18 the application;

19 (d) The scheduling of any public hearings that are required to
20 issue permits for the project and a determination of the feasibility of
21 coordinating or consolidating any of those required public hearings;
22 and

23 (e) A discussion of fee arrangements for the consolidated permit
24 process, including an estimate of the costs allowed under section 241
25 of this act and the billing schedule.

26 (2) Each agency shall send at least one representative qualified to
27 make decisions concerning the applicability and timelines associated
28 with all permits administered by that jurisdiction. At the request of
29 the applicant, the consolidated permit agency shall notify any relevant
30 federal agency of the date of the meeting and invite that agency's
31 participation in the process.

32 (3) If a permit agency or the applicant foresees, at any time, that
33 it will be unable to meet its obligations under the agreement, it shall
34 notify the consolidated permit agency of the problem. The coordinating
35 permit agency shall notify the permit agencies and the applicant and,
36 upon agreement of all parties, adjust the schedule, or, if necessary,
37 schedule another work plan meeting.

38 (4) The consolidated permit agency may request any information from
39 the applicant that is necessary to comply with its obligations under

1 this section, consistent with the timelines set pursuant to this
2 section.

3 (5) A summary of the decisions made under this section shall be
4 made available for public review upon the filing of the consolidated
5 permit process application or permit applications.

6 NEW SECTION. **Sec. 239.** (1) The permit applicant may withdraw from
7 the consolidated permit process by submitting to the consolidated
8 permit agency a written request that the process be terminated. Upon
9 receipt of the request, the consolidated permit agency shall notify the
10 center and each participating permit agency that a consolidated permit
11 process is no longer applicable to the project.

12 (2) The permit applicant may submit a written request to the
13 consolidated permit agency that the permit applicant wishes a
14 participating permit agency to withdraw from participation on the basis
15 of a reasonable belief that the issuance of the consolidated permit
16 process would be accelerated if the participating permit agency
17 withdraws. In that event, the participating permit agency shall
18 withdraw from participation if the consolidated permit agency approves
19 the request.

20 NEW SECTION. **Sec. 240.** The consolidated permit agency shall
21 ensure that the participating permit agencies make all the permit
22 decisions that are necessary for the incorporation of the permits into
23 the consolidated permit process and act on the component permits within
24 the time periods established pursuant to section 238 of this act.

25 NEW SECTION. **Sec. 241.** (1) The consolidated permit agency may
26 enter into a written agreement with the applicant to recover from the
27 applicant the reasonable costs incurred by the consolidated permit
28 agency in carrying out the requirements of this chapter.

29 (2) The consolidated permit agency may recover only the costs of
30 performing those consolidated permit services and shall be negotiated
31 with the permit applicant in the meeting required pursuant to section
32 238 of this act. The billing process shall provide for accurate time
33 and cost accounting and may include a billing cycle that provides for
34 progress payments.

1 NEW SECTION. **Sec. 242.** A petition by the permit applicant for
2 review of an agency action in issuing, denying, or amending a permit,
3 or any portion of a consolidated permit agency permit, shall be
4 submitted by the permit applicant to the consolidated permit agency or
5 the participating permit agency having jurisdiction over that permit
6 and shall be processed in accordance with the procedures of that permit
7 agency. Within thirty days of receiving the petition, the consolidated
8 permit agency shall notify the other environmental agencies
9 participating in the original consolidated permit process.

10 NEW SECTION. **Sec. 243.** If an applicant petitions for a
11 significant amendment or modification to a consolidated permit process
12 application or any of its component permit applications, the
13 consolidated permit agency shall reconvene a meeting of the
14 participating permit agencies, conducted in accordance with section 238
15 of this act.

16 NEW SECTION. **Sec. 244.** If an applicant fails to provide
17 information required for the processing of the component permit
18 applications for a consolidated permit process or for the designation
19 of a consolidated permit agency, the time requirements of this chapter
20 shall be tolled until such time as the information is provided.

21 NEW SECTION. **Sec. 245.** (1) The center, by rule, shall establish
22 an expedited appeals process by which a petitioner or applicant may
23 appeal any failure by a permit agency to take timely action on the
24 issuance or denial of a permit in accordance with the time limits
25 established under this chapter.

26 (2) If the center finds that the time limits under appeal have been
27 violated without good cause, it shall establish a date certain by which
28 the permit agency shall act on the permit application with adequate
29 provision for the requirements of section 238(1)(c)(ii) (A) through (C)
30 of this act, and provide for the full reimbursement of any filing or
31 permit processing fees paid by the applicant to the permit agency for
32 the permit application under appeal.

33 NEW SECTION. **Sec. 246.** By December 1, 1997, the center shall
34 submit a report to the appropriate committees of both houses of the
35 legislature detailing the following information:

1 (1) The number of instances in which a consolidated permit agency
2 has been requested and used, and the disposition of those cases;

3 (2) The amount of time elapsed between an initial request by a
4 permit applicant for a consolidated permit process and the ultimate
5 approval or disapproval of the permits included in the process;

6 (3) The number of instances in which the expedited appeals process
7 was requested, and the disposition of those cases; and

8 (4) Potential conflicts and perceived inconsistencies among
9 existing statutes.

10 NEW SECTION. **Sec. 247.** The sum of seventy thousand dollars or as
11 much thereof as may be necessary, is appropriated for the biennium
12 ending June 30, 1997, from the general fund; the sum of ninety thousand
13 dollars, or as much thereof as may be necessary, is appropriated for
14 the biennium ending June 30, 1997, from the state toxics control
15 account; and the sum of fifty-five thousand dollars, or as much thereof
16 as may be necessary, is appropriated for the biennium ending June 30,
17 1997, from the air pollution control account to the Washington
18 independent regulatory affairs commission for the purposes of sections
19 232 through 246 of this act.

20 NEW SECTION. **Sec. 248.** A new section is added to chapter 43.131
21 RCW to read as follows:

22 The permit assistance center and its powers and duties shall be
23 terminated June 30, 1999, as provided in section 249 of this act.

24 NEW SECTION. **Sec. 249.** A new section is added to chapter 43.131
25 RCW to read as follows:

26 The following acts or parts of acts, as now existing or hereafter
27 amended, are each repealed, effective June 30, 2000:

28 (1) RCW 90.---.--- and 1995 c -- s 232 (section 232 of this act);

29 (2) RCW 90.---.--- and 1995 c -- s 233 (section 233 of this act);

30 (3) RCW 90.---.--- and 1995 c -- s 234 (section 234 of this act);

31 (4) RCW 90.---.--- and 1995 c -- s 235 (section 235 of this act);

32 (5) RCW 90.---.--- and 1995 c -- s 236 (section 236 of this act);

33 (6) RCW 90.---.--- and 1995 c -- s 237 (section 237 of this act);

34 (7) RCW 90.---.--- and 1995 c -- s 238 (section 238 of this act);

35 (8) RCW 90.---.--- and 1995 c -- s 239 (section 239 of this act);

36 (9) RCW 90.---.--- and 1995 c -- s 240 (section 240 of this act);

- 1 (10) RCW 90.---.--- and 1995 c -- s 241 (section 241 of this act);
2 (11) RCW 90.---.--- and 1995 c -- s 242 (section 242 of this act);
3 (12) RCW 90.---.--- and 1995 c -- s 243 (section 243 of this act);
4 (13) RCW 90.---.--- and 1995 c -- s 244 (section 244 of this act);
5 and
6 (14) RCW 90.---.--- and 1995 c -- s 245 (section 245 of this act).

7 NEW SECTION. **Sec. 250.** The following acts or parts of acts are
8 each repealed:

- 9 (1) RCW 90.62.010 and 1982 c 179 s 1, 1977 c 54 s 1, & 1973 1st
10 ex.s. c 185 s 1;
11 (2) RCW 90.62.020 and 1994 c 264 s 96, 1988 c 36 s 71, 1977 c 54 s
12 2, & 1973 1st ex.s. c 185 s 2;
13 (3) RCW 90.62.030 and 1973 1st ex.s. c 185 s 3;
14 (4) RCW 90.62.040 and 1990 c 137 s 1, 1977 c 54 s 3, & 1973 1st
15 ex.s. c 185 s 4;
16 (5) RCW 90.62.050 and 1977 c 54 s 4 & 1973 1st ex.s. c 185 s 5;
17 (6) RCW 90.62.060 and 1982 c 179 s 2, 1977 c 54 s 5, & 1973 1st
18 ex.s. c 185 s 6;
19 (7) RCW 90.62.070 and 1973 1st ex.s. c 185 s 7;
20 (8) RCW 90.62.080 and 1987 c 109 s 156, 1977 c 54 s 6, & 1973 1st
21 ex.s. c 185 s 8;
22 (9) RCW 90.62.090 and 1977 c 54 s 7 & 1973 1st ex.s. c 185 s 9;
23 (10) RCW 90.62.100 and 1977 c 54 s 8 & 1973 1st ex.s. c 185 s 10;
24 (11) RCW 90.62.110 and 1973 1st ex.s. c 185 s 11;
25 (12) RCW 90.62.120 and 1973 1st ex.s. c 185 s 12;
26 (13) RCW 90.62.130 and 1977 c 54 s 9;
27 (14) RCW 90.62.900 and 1973 1st ex.s. c 185 s 13;
28 (15) RCW 90.62.901 and 1973 1st ex.s. c 185 s 14;
29 (16) RCW 90.62.904 and 1973 1st ex.s. c 185 s 15;
30 (17) RCW 90.62.905 and 1973 1st ex.s. c 185 s 16;
31 (18) RCW 90.62.906 and 1973 1st ex.s. c 185 s 18;
32 (19) RCW 90.62.907 and 1973 1st ex.s. c 185 s 19; and
33 (20) RCW 90.62.908 and 1977 c 54 s 10.

34 NEW SECTION. **Sec. 251.** Sections 101, 105, 201 through 204, 210,
35 212 through 217, and 224 through 228 of this act shall constitute a new
36 chapter in Title 36 RCW.

1 NEW SECTION. **Sec. 302.** The purpose of this chapter is to reform
2 the process for judicial review of land use decisions made by local
3 jurisdictions, by establishing uniform, expedited appeal procedures and
4 uniform criteria for reviewing such decisions, in order to provide
5 consistent, predictable, and timely judicial review.

6 NEW SECTION. **Sec. 303.** Unless the context clearly requires
7 otherwise, the definitions in this section apply throughout this
8 chapter.

9 (1) "Land use decision" means a final determination by a local
10 jurisdiction's body or officer with the highest level of authority to
11 make the determination, including those with authority to hear appeals,
12 on:

13 (a) An application for a project permit or other governmental
14 approval required by law before real property may be improved,
15 developed, modified, sold, transferred, or used, but excluding
16 applications for permits or approvals to use, vacate, or transfer
17 streets, parks, and similar types of public property and excluding
18 applications for legislative approvals such as area-wide rezones and
19 annexations;

20 (b) An interpretative or declaratory decision regarding the
21 application to a specific property of zoning or other ordinances or
22 rules regulating the improvement, development, modification,
23 maintenance, or use of real property; and

24 (c) The enforcement by a local jurisdiction of ordinances
25 regulating the improvement, development, modification, maintenance, or
26 use of real property. However, when a local jurisdiction is required
27 by law to enforce the ordinances in a court of limited jurisdiction, a
28 petition may not be brought under this chapter.

29 (2) "Local jurisdiction" means a county, city, or incorporated
30 town.

31 (3) "Person" means an individual, partnership, corporation,
32 association, public or private organization, or governmental entity or
33 agency.

34 NEW SECTION. **Sec. 304.** (1) This chapter replaces the writ of
35 certiorari for appeal of land use decisions and shall be the exclusive
36 means of judicial review of land use decisions, except that this
37 chapter does not apply to:

1 (a) Judicial review of:

2 (i) Land use decisions made by bodies that are not part of a local
3 jurisdiction;

4 (ii) Land use decisions of a local jurisdiction that are subject to
5 review by a quasi-judicial body created by state law, such as the
6 shorelines hearings board or the growth management hearings board;

7 (b) Judicial review of applications for a writ of mandamus or
8 prohibition; or

9 (c) Claims provided by any law for monetary damages or
10 compensation. If one or more claims for damages or compensation are
11 set forth in the same complaint with a land use petition brought under
12 this chapter, the claims are not subject to the procedures and
13 standards, including deadlines, provided in this chapter for review of
14 the petition. The judge who hears the land use petition may, if
15 appropriate, preside at a trial for damages or compensation.

16 (2) The superior court civil rules govern procedural matters under
17 this chapter to the extent that the rules are consistent with this
18 chapter.

19 NEW SECTION. **Sec. 305.** (1) Proceedings for review under this
20 chapter shall be commenced by filing a land use petition in superior
21 court.

22 (2) A land use petition is barred, and the court may not grant
23 review, unless the petition is timely filed with the court and timely
24 served on the following persons who shall be parties to the review of
25 the land use petition:

26 (a) The local jurisdiction, which for purposes of the petition
27 shall be the jurisdiction's corporate entity and not an individual
28 decision maker or department;

29 (b) Each of the following persons if the person is not the
30 petitioner:

31 (i) Each person identified by name and address in the local
32 jurisdiction's written decision as an applicant for the permit or
33 approval at issue; and

34 (ii) Each person identified by name and address in the local
35 jurisdiction's written decision as an owner of the property at issue;

36 (c) If no person is identified in a written decision as provided in
37 (b) of this subsection, each person identified by name and address as
38 a taxpayer for the property at issue in the records of the county

1 assessor, based upon the description of the property in the
2 application; and

3 (d) Each person named in the written decision who filed an appeal
4 to a local jurisdiction quasi-judicial decision maker regarding the
5 land use decision at issue, unless the person has abandoned the appeal
6 or the person's claims were dismissed before the quasi-judicial
7 decision was rendered. Persons who later intervened or joined in the
8 appeal are not required to be made parties under this subsection.

9 (3) The petition is timely if it is filed and served on all parties
10 listed in subsection (2) of this section within twenty-one days of the
11 issuance of the land use decision.

12 (4) For the purposes of this section, the date on which a land use
13 decision is issued is:

14 (a) Three days after a written decision is mailed by the local
15 jurisdiction or, if not mailed, the date on which the local
16 jurisdiction provides notice that a written decision is publicly
17 available;

18 (b) If the land use decision is made by ordinance or resolution by
19 a legislative body sitting in a quasi-judicial capacity, the date the
20 body passes the ordinance or resolution; or

21 (c) If neither (a) nor (b) of this subsection applies, the date the
22 decision is entered into the public record.

23 (5) Service on the local jurisdiction must be by delivery of a copy
24 of the petition to the persons identified by or pursuant to RCW
25 4.28.080 to receive service of process. Service on other parties must
26 be in accordance with the superior court civil rules or by first class
27 mail to:

28 (a) The address stated in the written decision of the local
29 jurisdiction for each person made a party under subsection (2)(b) of
30 this section;

31 (b) The address stated in the records of the county assessor for
32 each person made a party under subsection (2)(c) of this section; and

33 (c) The address stated in the appeal to the quasi-judicial decision
34 maker for each person made a party under subsection (2)(d) of this
35 section.

36 (6) Service by mail is effective on the date of mailing and proof
37 of service shall be by affidavit or declaration under penalty of
38 perjury.

1 NEW SECTION. **Sec. 306.** If the applicant for the land use approval
2 is not the owner of the real property at issue, and if the owner is not
3 accurately identified in the records referred to in section 305(2) (b)
4 and (c) of this act, the applicant shall be responsible for promptly
5 securing the joinder of the owners. In addition, within fourteen days
6 after service each party initially named by the petitioner shall
7 disclose to the other parties the name and address of any person whom
8 such party knows may be needed for just adjudication of the petition,
9 and the petitioner shall promptly name and serve any such person whom
10 the petitioner agrees may be needed for just adjudication. If such a
11 person is named and served before the initial hearing, leave of court
12 for the joinder is not required, and the petitioner shall provide the
13 newly joined party with copies of the pleadings filed before the
14 party's joinder. Failure by the petitioner to name or serve, within
15 the time required by section 305(3) of this act, persons who are needed
16 for just adjudication but who are not identified in the records
17 referred to in section 305(2)(b) of this act, or in section 305(2)(c)
18 of this act if applicable, shall not deprive the court of jurisdiction
19 to hear the land use petition.

20 NEW SECTION. **Sec. 307.** Standing to bring a land use petition
21 under this chapter is limited to the following persons:

22 (1) The applicant and the owner of property to which the land use
23 decision is directed;

24 (2) Another person aggrieved or adversely affected by the land use
25 decision, or who would be aggrieved or adversely affected by a reversal
26 or modification of the land use decision. A person is aggrieved or
27 adversely affected within the meaning of this section only when all of
28 the following conditions are present:

29 (a) The land use decision has prejudiced or is likely to prejudice
30 that person;

31 (b) That person's asserted interests are among those that the local
32 jurisdiction was required to consider when it made the land use
33 decision;

34 (c) A judgment in favor of that person would substantially
35 eliminate or redress the prejudice to that person caused or likely to
36 be caused by the land use decision; and

37 (d) The petitioner has exhausted his or her administrative remedies
38 to the extent required by law.

1 NEW SECTION. **Sec. 308.** A land use petition must set forth:

2 (1) The name and mailing address of the petitioner;

3 (2) The name and mailing address of the petitioner's attorney, if
4 any;

5 (3) The name and mailing address of the local jurisdiction whose
6 land use decision is at issue;

7 (4) Identification of the decision-making body or officer, together
8 with a duplicate copy of the decision, or, if not a written decision,
9 a summary or brief description of it;

10 (5) Identification of each person to be made a party under section
11 305(2) (b) through (d) of this act;

12 (6) Facts demonstrating that the petitioner has standing to seek
13 judicial review under section 307 of this act;

14 (7) A separate and concise statement of each error alleged to have
15 been committed;

16 (8) A concise statement of facts upon which the petitioner relies
17 to sustain the statement of error; and

18 (9) A request for relief, specifying the type and extent of relief
19 requested.

20 NEW SECTION. **Sec. 309.** (1) Within seven days after the petition
21 is served on the parties identified in section 305(2) of this act, the
22 petitioner shall note, according to the local rules of superior court,
23 an initial hearing on jurisdictional and preliminary matters. This
24 initial hearing shall be set no sooner than thirty-five days and no
25 later than fifty days after the petition is served on the parties
26 identified in section 305(2) of this act.

27 (2) The parties shall note all motions on jurisdictional and
28 procedural issues for resolution at the initial hearing, except that a
29 motion to allow discovery may be brought sooner. Where confirmation of
30 motions is required, each party shall be responsible for confirming its
31 own motions.

32 (3) The defenses of lack of standing, untimely filing or service of
33 the petition, and failure to join persons needed for just adjudication
34 are waived if not raised by timely motion noted to be heard at the
35 initial hearing, unless the court allows discovery on such issues.

36 (4) The petitioner shall move the court for an order at the initial
37 hearing that sets the date on which the record must be submitted, sets

1 a briefing schedule, sets a discovery schedule if discovery is to be
2 allowed, and sets a date for the hearing or trial on the merits.

3 (5) The parties may waive the initial hearing by scheduling with
4 the court a date for the hearing or trial on the merits and filing a
5 stipulated order that resolves the jurisdictional and procedural issues
6 raised by the petition, including the issues identified in subsections
7 (3) and (4) of this section.

8 (6) A party need not file an answer to the petition.

9 NEW SECTION. **Sec. 310.** The court shall provide expedited review
10 of petitions filed under this chapter. The matter must be set for
11 hearing within sixty days of the date set for submitting the local
12 jurisdiction's record, absent a showing of good cause for a different
13 date or a stipulation of the parties.

14 NEW SECTION. **Sec. 311.** (1) A petitioner or other party may
15 request the court to stay or suspend an action by the local
16 jurisdiction or another party to implement the decision under review.
17 The request must set forth a statement of grounds for the stay and the
18 factual basis for the request.

19 (2) A court may grant a stay only if the court finds that:

20 (a) The party requesting the stay is likely to prevail on the
21 merits;

22 (b) Without the stay the party requesting it will suffer
23 irreparable harm;

24 (c) The grant of a stay will not substantially harm other parties
25 to the proceedings; and

26 (d) The request for the stay is timely in light of the
27 circumstances of the case.

28 (3) The court may grant the request for a stay upon such terms and
29 conditions, including the filing of security, as are necessary to
30 prevent harm to other parties from the stay.

31 NEW SECTION. **Sec. 312.** (1) Within forty-five days after entry of
32 an order to submit the record, or within such a further time as the
33 court allows or as the parties agree, the local jurisdiction shall
34 submit to the court a certified copy of the record for judicial review
35 of the land use decision, except that the petitioner shall prepare at

1 the petitioner's expense and submit a verbatim transcript of any
2 hearings held on the matter.

3 (2) If the parties agree, or upon order of the court, the record
4 shall be shortened or summarized to avoid reproduction and
5 transcription of portions of the record that are duplicative or not
6 relevant to the issues to be reviewed by the court.

7 (3) The petitioner shall pay the local jurisdiction the cost of
8 preparing the record before the local jurisdiction submits the record
9 to the court. Failure by the petitioner to timely pay the local
10 jurisdiction relieves the local jurisdiction of responsibility to
11 submit the record and is grounds for dismissal of the petition.

12 (4) If the relief sought by the petitioner is granted in whole or
13 in part the court shall equitably assess the cost of preparing the
14 record among the parties. In assessing costs the court shall take into
15 account the extent to which each party prevailed and the reasonableness
16 of the parties' conduct in agreeing or not agreeing to shorten or
17 summarize the record under subsection (2) of this section.

18 NEW SECTION. **Sec. 313.** (1) When the land use decision being
19 reviewed was made by a quasi-judicial body or officer who made factual
20 determinations in support of the decision and the parties to the quasi-
21 judicial proceeding had an opportunity consistent with due process to
22 make a record on the factual issues, judicial review of factual issues
23 and the conclusions drawn from the factual issues shall be confined to
24 the record created by the quasi-judicial body or officer, except as
25 provided in subsections (2) through (4) of this section.

26 (2) For decisions described in subsection (1) of this section, the
27 record may be supplemented by additional evidence only if the
28 additional evidence relates to:

29 (a) Grounds for disqualification of a member of the body or of the
30 officer that made the land use decision, when such grounds were unknown
31 by the petitioner at the time the record was created;

32 (b) Matters that were improperly excluded from the record after
33 being offered by a party to the quasi-judicial proceeding; or

34 (c) Matters that were outside the jurisdiction of the body or
35 officer that made the land use decision.

36 (3) For land use decisions other than those described in subsection
37 (1) of this section, the record for judicial review may be supplemented

1 by evidence of material facts that were not made part of the local
2 jurisdiction's record.

3 (4) The court may require or permit corrections of ministerial
4 errors or inadvertent omissions in the preparation of the record.

5 (5) The parties may not conduct pretrial discovery except with the
6 prior permission of the court, which may be sought by motion at any
7 time after service of the petition. The court shall not grant
8 permission unless the party requesting it makes a prima facie showing
9 of need. The court shall strictly limit discovery to what is necessary
10 for equitable and timely review of the issues that are raised under
11 subsections (2) and (3) of this section. If the court allows the
12 record to be supplemented, the court shall require the parties to
13 disclose before the hearing or trial on the merits the specific
14 evidence they intend to offer. If any party, or anyone acting on
15 behalf of any party, requests records under chapter 42.17 RCW relating
16 to the matters at issue, a copy of the request shall simultaneously be
17 given to all other parties and the court shall take such request into
18 account in fashioning an equitable discovery order under this section.

19 NEW SECTION. **Sec. 314.** (1) The superior court, acting without a
20 jury, shall review the record and such supplemental evidence as is
21 permitted under section 313 of this act. The court may grant relief
22 only if the party seeking relief has carried the burden of establishing
23 that one of the standards set forth in (a) through (f) of this
24 subsection has been met. The standards are:

25 (a) The body or officer that made the land use decision engaged in
26 unlawful procedure or failed to follow a prescribed process, unless the
27 error was harmless;

28 (b) The land use decision is an erroneous interpretation of the
29 law, after allowing for such deference as is due the construction of a
30 law by a local jurisdiction with expertise;

31 (c) The land use decision is not supported by evidence that is
32 substantial when viewed in light of the whole record before the court;

33 (d) The land use decision is a clearly erroneous application of the
34 law to the facts;

35 (e) The land use decision is outside the authority or jurisdiction
36 of the body or officer making the decision; or

37 (f) The land use decision violates the constitutional rights of the
38 party seeking relief.

1 (2) In order to grant relief under this chapter, it is not
2 necessary for the court to find that the local jurisdiction engaged in
3 arbitrary and capricious conduct. A grant of relief by itself may not
4 be deemed to establish liability for monetary damages or compensation.

5 NEW SECTION. **Sec. 315.** The court may affirm or reverse the land
6 use decision under review or remand it for modification or further
7 proceedings. If the decision is remanded for modification or further
8 proceedings, the court may make such an order as it finds necessary to
9 preserve the interests of the parties and the public, pending further
10 proceedings or action by the local jurisdiction.

11 **Sec. 316.** RCW 7.16.360 and 1989 c 175 s 38 are each amended to
12 read as follows:

13 This chapter does not apply to state agency action reviewable under
14 chapter 34.05 RCW or to land use decisions of local jurisdictions
15 reviewable under chapter 36.-- RCW (sections 301 through 315 of this
16 act).

17 **Sec. 317.** RCW 58.17.180 and 1983 c 121 s 5 are each amended to
18 read as follows:

19 Any decision approving or disapproving any plat shall be reviewable
20 (~~((for unlawful, arbitrary, capricious or corrupt action or nonaction by~~
21 ~~writ of review before the superior court of the county in which such~~
22 ~~matter is pending. Standing to bring the action is limited to the~~
23 ~~following parties:~~

24 ~~(1) The applicant or owner of the property on which the subdivision~~
25 ~~is proposed;~~

26 ~~(2) Any property owner entitled to special notice under RCW~~
27 ~~58.17.090;~~

28 ~~(3) Any property owner who deems himself aggrieved thereby and who~~
29 ~~will suffer direct and substantial impacts from the proposed~~
30 ~~subdivision.~~

31 Application for a writ of review shall be made to the court within
32 thirty days from any decision so to be reviewed. The cost of
33 transcription of all records ordered certified by the court for such
34 review shall be borne by the appellant)) under chapter 36.-- RCW
35 (sections 301 through 315 of this act).

1 NEW SECTION. **Sec. 402.** The commission shall consist of not more
2 than fourteen members. Eleven members of the commission shall be
3 appointed by the governor. Membership shall reflect the interests of
4 business, agriculture, labor, the environment, neighborhood groups,
5 other citizens, the legislature, cities, counties, and federally
6 recognized Indian tribes. Members shall have substantial experience in
7 matters relating to land use and environmental planning and regulation,
8 and shall have the ability to work toward cooperative solutions among
9 diverse interests. The director of the department of community, trade,
10 and economic development, or the director s designee, shall be a member
11 and shall serve as chair of the commission. The director of the
12 department of ecology, or the director s designee, and the secretary of
13 the department of transportation, or the secretary's designee, shall
14 also be members of the commission. Staff for the commission shall be
15 provided by the department of community, trade, and economic
16 development, with additional staff to be provided by other state
17 agencies and the legislature, as may be required. State agencies shall
18 provide the commission with information and assistance as needed.

19 NEW SECTION. **Sec. 403.** The commission shall convene commencing
20 June 1, 1995, and shall complete its work by June 30, 1998. The
21 commission shall submit a report to the governor and the legislature
22 stating its findings, conclusions, and recommendations not later than
23 November 1 of each year. The commission shall submit its final report
24 to the governor and the legislature not later than November 1, 1997.

25 NEW SECTION. **Sec. 404.** The commission shall:

26 (1) Consider the effectiveness of state and local government
27 efforts to consolidate and integrate the growth management act, the
28 state environmental policy act, the shoreline management act, and other
29 land use, planning, environmental, and permitting laws.

30 (2) Identify the revisions and modifications needed in state land
31 use, planning, and environmental law and practice to adequately plan
32 for growth and achieve economically and environmentally sustainable
33 development, to adequately assess environmental impacts of
34 comprehensive plans, development regulations, and growth, and to reduce
35 the time and cost of obtaining project permits.

36 (3) Draft a consolidated land use procedure, following these
37 guidelines:

1 (a) Conduct land use planning through the comprehensive planning
2 process under chapter 36.70A RCW rather than through review of
3 individual projects;

4 (b) Involve diverse sectors of the public in the planning process.
5 Early and informal environmental analysis should be incorporated into
6 planning and decision making;

7 (c) Recognize that different questions need to be answered and
8 different levels of detail applied at each planning phase, from the
9 initial development of plan concepts or plan elements to implementation
10 programs;

11 (d) Integrate and combine to the fullest extent possible the
12 processes, analysis, and documents currently required under chapters
13 36.70A and 43.21C RCW, so that subsequent plan decisions and subsequent
14 implementation will incorporate measures to promote the environmental,
15 economic, and other goals and to mitigate undesirable or unintended
16 adverse impacts on a community's quality of life;

17 (e) Focus environmental review and the level of detail needed for
18 different stages of plan and project decisions on the environmental
19 considerations most relevant to that stage of the process;

20 (f) Avoid duplicating review that has occurred for plan decisions
21 when specific projects are proposed;

22 (g) Use environmental review on projects to: (i) Review and
23 document consistency with comprehensive plans and development
24 regulations; (ii) provide prompt and coordinated review by agencies,
25 tribes, and the public on compliance with applicable environmental laws
26 and plans, including mitigation for site specific project impacts that
27 have not been considered and addressed at the plan or development
28 regulation level; and (iii) ensure accountability by local government
29 to applicants and the public for requiring and implementing mitigation
30 measures;

31 (h) Maintain or improve the quality of environmental analysis both
32 for plan and for project decisions, while integrating these analyses
33 with improved state and local planning and permitting processes;

34 (i) Examine existing land use and environmental permits for
35 necessity and utility. To the extent possible, existing permits should
36 be combined into fewer permits, assuring that the values and principles
37 intended to be protected by those permits remain protected; and

1 (j) Consolidate local government appeal processes to allow a single
2 appeal of permits at local government levels, a single state level
3 administrative appeal, and a final judicial appeal.

4 (4) These guidelines are intended to guide the work of the
5 commission, without limiting its charge to integrate and consolidate
6 Washington's land use and environmental laws into a single, manageable
7 statutory framework.

8 NEW SECTION. **Sec. 405.** Members of the commission shall be
9 reimbursed for travel expenses as provided in RCW 43.03.050 and
10 43.03.060.

11 NEW SECTION. **Sec. 406.** Sections 401 through 405 of this act shall
12 expire June 30, 1998.

13 **PART V - MISCELLANEOUS**

14 NEW SECTION. **Sec. 501.** If any provision of this act or its
15 application to any person or circumstance is held invalid, the
16 remainder of the act or the application of the provision to other
17 persons or circumstances is not affected.

18 NEW SECTION. **Sec. 502.** Part headings and the table of contents as
19 used in this act do not constitute any part of the law.

20 NEW SECTION. **Sec. 503.** Sections 401 through 406 of this act are
21 necessary for the immediate preservation of the public peace, health,
22 or safety, or support of the state government and its existing public
23 institutions, and shall take effect June 1, 1995.

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