

2 **ESB 6094** - H AMD TO H AMD (H-3356.2/97) **779 FAILED 4-27-97**
3 By Representative Romero

4

5 Strike everything after line 6 of the amendment and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 36.70A
8 RCW to read as follows:

9 In enacting the section 4(5), chapter . . ., Laws of 1997 (section
10 4(5) of this act) amendments to RCW 36.70A.070(5), the legislature
11 finds that chapter 36.70A RCW is intended to recognize the importance
12 of agriculture, forestry, and rural lands and rural character to
13 Washington's economy, its people, and its environment, while respecting
14 regional differences. Rural lands and rural-based economies, including
15 agriculture and forest uses that are located outside of designated
16 resource lands enhance the economic desirability of the state, help to
17 preserve traditional economic activities, and contribute to the state's
18 overall quality of life. The legislature also finds that in developing
19 its rural element under RCW 36.70A.070(5), a county should foster land
20 use patterns and develop a local vision of rural character that: Will
21 help preserve rural-based economies and traditional rural lifestyles;
22 will encourage the economic prosperity of rural residents; will foster
23 opportunities for small-scale, rural-based employment and
24 self-employment; will permit the operation of rural-based agricultural,
25 commercial, recreational, and tourist businesses that are consistent
26 with existing and planned land use patterns; be compatible with the use
27 of the land by wildlife and for fish and wildlife habitat; will foster
28 the private stewardship of the land and preservation of open space; and
29 will enhance the rural sense of community and quality of life. The
30 legislature recognizes that there will be a variety of interpretations
31 by counties of how best to implement a rural element, reflecting the
32 diverse needs and local circumstances found across the state. RCW
33 36.70A.070(5) provides a framework for local elected officials to make
34 these determinations. References to both wildlife and water are
35 intended in RCW 36.70A.030 and 36.70A.070 to acknowledge their
36 importance as features or components of rural character. It is

1 expected that these matters will be addressed in comprehensive plans,
2 but that counties may not necessarily need to adopt new regulations to
3 account adequately for them in establishing a pattern of land use and
4 development for rural areas.

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A RCW
6 to read as follows:

7 In amending RCW 36.70A.320(3) by section 14(3), chapter . . . , Laws
8 of 1997 (section 14(3) of this act), the legislature intends that the
9 boards apply a more deferential standard of review to actions of
10 counties and cities than the preponderance of the evidence standard
11 provided for under existing law. In recognition of the broad range of
12 discretion that may be exercised by counties and cities consistent with
13 the requirements of this chapter, the legislature intends for the
14 boards to grant deference to counties and cities in how they plan for
15 growth, consistent with the requirements and goals of this chapter.
16 Local comprehensive plans and development regulations require counties
17 and cities to balance priorities and options for action in full
18 consideration of local circumstances. The legislature finds that while
19 this chapter requires local planning to take place within a framework
20 of state goals and requirements, the ultimate burden and responsibility
21 for planning, harmonizing the planning goals of this chapter, and
22 implementing a county's or city's future rests with that community.

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

25 Unless the context clearly requires otherwise, the definitions in
26 this section apply throughout this chapter.

27 (1) "Adopt a comprehensive land use plan" means to enact a new
28 comprehensive land use plan or to update an existing comprehensive land
29 use plan.

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

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

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

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

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

12 (7) "Development regulations" or "regulation" means the controls
13 placed on development or land use activities by a county or city,
14 including, but not limited to, zoning ordinances, critical areas
15 ordinances, shoreline master programs, official controls, planned unit
16 development ordinances, subdivision ordinances, and binding site plan
17 ordinances together with any amendments thereto. A development
18 regulation does not include a decision to approve a project permit
19 application, as defined in RCW 36.70B.020, even though the decision may
20 be expressed in a resolution or ordinance of the legislative body of
21 the county or city.

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

36 (9) "Geologically hazardous areas" means areas that because of
37 their susceptibility to erosion, sliding, earthquake, or other
38 geological events, are not suited to the siting of commercial,

1 residential, or industrial development consistent with public health or
2 safety concerns.

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

7 (11) "Minerals" include gravel, sand, and valuable metallic
8 substances.

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

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

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

19 (a) In which open space, the natural landscape, and vegetation
20 predominate over the built environment;

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

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

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

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

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

31 (g) That are consistent with the protection of natural surface
32 water flows and ground water and surface water recharge and discharge
33 areas.

34 (15) "Rural development" refers to development outside the urban
35 growth area and outside agricultural, forest, and mineral resource
36 lands designated pursuant to RCW 36.70A.170. Rural development can
37 consist of a variety of uses and residential densities, including
38 clustered residential development, at levels that are consistent with
39 the preservation of rural character and the requirements of the rural

1 element. Rural development does not refer to agriculture or forestry
2 activities that may be conducted in rural areas.

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

11 (17) "Urban growth" refers to growth that makes intensive use of
12 land for the location of buildings, structures, and impermeable
13 surfaces to such a degree as to be incompatible with the primary use of
14 ((such)) land for the production of food, other agricultural products,
15 or fiber, or the extraction of mineral resources, rural uses, rural
16 development, and natural resource lands designated pursuant to RCW
17 36.70A.170. A pattern of more intensive rural development, as provided
18 in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread
19 over wide areas, urban growth typically requires urban governmental
20 services. "Characterized by urban growth" refers to land having urban
21 growth located on it, or to land located in relationship to an area
22 with urban growth on it as to be appropriate for urban growth.

23 ((+15+)) (18) "Urban growth areas" means those areas designated by
24 a county pursuant to RCW 36.70A.110.

25 ((+16+)) (19) "Urban governmental services" or "urban services"
26 include those ((governmental)) public services and public facilities at
27 an intensity historically and typically ((delivered by)) provided in
28 cities, ((and include)) specifically including storm and sanitary sewer
29 systems, domestic water systems, street cleaning services, fire and
30 police protection services, public transit services, and other public
31 utilities associated with urban areas and normally not associated with
32 ((nonurban)) rural areas.

33 ((+17+)) (20) "Wetland" or "wetlands" means areas that are
34 inundated or saturated by surface water or ground water at a frequency
35 and duration sufficient to support, and that under normal circumstances
36 do support, a prevalence of vegetation typically adapted for life in
37 saturated soil conditions. Wetlands generally include swamps, marshes,
38 bogs, and similar areas. Wetlands do not include those artificial
39 wetlands intentionally created from nonwetland sites, including, but

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

8 **Sec. 4.** RCW 36.70A.070 and 1996 c 239 s 1 are each amended to read
9 as follows:

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

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

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

32 (2) A housing element ensuring the vitality and character of
33 established residential neighborhoods that: (a) Includes an inventory
34 and analysis of existing and projected housing needs; (b) includes a
35 statement of goals, policies, objectives, and mandatory provisions for
36 the preservation, improvement, and development of housing, including
37 single-family residences; (c) identifies sufficient land for housing,
38 including, but not limited to, government-assisted housing, housing for

1 low-income families, manufactured housing, multifamily housing, and
2 group homes and foster care facilities; and (d) makes adequate
3 provisions for existing and projected needs of all economic segments of
4 the community.

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

17 (4) A utilities element consisting of the general location,
18 proposed location, and capacity of all existing and proposed utilities,
19 including, but not limited to, electrical lines, telecommunication
20 lines, and natural gas lines.

21 (5) Rural element. Counties shall include a rural element
22 including lands that are not designated for urban growth, agriculture,
23 forest, or mineral resources. The following provisions shall apply to
24 the rural element:

25 (a) Growth management act goals and local circumstances. Because
26 circumstances vary from county to county, in establishing patterns of
27 rural densities and uses, a county may consider local circumstances,
28 but shall develop a written record explaining how the rural element
29 harmonizes the planning goals in RCW 36.70A.020 and meets the
30 requirements of this chapter.

31 (b) Rural development. The rural element shall permit
32 ((appropriate land uses that are compatible with the rural character of
33 such lands and)) rural development, forestry, and agriculture in rural
34 areas. The rural element shall provide for a variety of rural
35 densities ((and)), uses ((and may also provide)), essential public
36 facilities, and rural governmental services needed to serve the
37 permitted densities and uses. Except as otherwise specifically
38 provided in this chapter, residential and nonresidential uses shall not
39 require urban services and nonresidential rural development, other than

1 cottage industries, shall be principally designed to serve and provide
2 jobs for the existing and projected rural population or serve existing
3 nonresidential uses. In order to achieve a variety of rural densities
4 and uses, counties may provide for clustering, density transfer, design
5 guidelines, conservation easements, and other innovative techniques
6 that will accommodate appropriate rural densities and uses that are not
7 characterized by urban growth and that are consistent with rural
8 character.

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

12 (i) Containing or otherwise controlling rural development;

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

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

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

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

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

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

37 (ii) The intensification of development on lots containing, or new
38 development of, small-scale recreational or tourist uses, including
39 commercial facilities to serve those recreational or tourist uses, that

1 rely on a rural location and setting, but that do not include
2 residential development. A small-scale recreation or tourist use is
3 not required to be principally designed to serve the existing and
4 projected rural population as required by (b) of this subsection.
5 Public services and public facilities shall be limited to those
6 necessary to serve the recreation or tourist use and shall be provided
7 in a manner that does not permit low-density sprawl;

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

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

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

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

37 (B) On the date the county adopted a resolution under RCW
38 36.70A.040(2), in a county that is planning under all of the provisions
39 of this chapter under RCW 36.70A.040(2); or

1 (C) On the date the office of financial management certifies the
2 county's population as provided in RCW 36.70A.040(5), in a county that
3 is planning under all of the provisions of this chapter pursuant to RCW
4 36.70A.040(5).

5 (e) Exception. This subsection shall not be interpreted to permit
6 in the rural area a major industrial development or a master planned
7 resort unless otherwise specifically permitted under RCW 36.70A.360 and
8 36.70A.365.

9 (6) A transportation element that implements, and is consistent
10 with, the land use element. The transportation element shall include
11 the following subelements:

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

13 (b) Facilities and services needs, including:

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

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

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

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

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

29 (c) Finance, including:

30 (i) An analysis of funding capability to judge needs against
31 probable funding resources;

32 (ii) A multiyear financing plan based on the needs identified in
33 the comprehensive plan, the appropriate parts of which shall serve as
34 the basis for the six-year street, road, or transit program required by
35 RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
36 35.58.2795 for public transportation systems;

37 (iii) If probable funding falls short of meeting identified needs,
38 a discussion of how additional funding will be raised, or how land use

1 assumptions will be reassessed to ensure that level of service
2 standards will be met;

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

6 (e) Demand-management strategies.

7 After adoption of the comprehensive plan by jurisdictions required
8 to plan or who choose to plan under RCW 36.70A.040, local jurisdictions
9 must adopt and enforce ordinances which prohibit development approval
10 if the development causes the level of service on a transportation
11 facility to decline below the standards adopted in the transportation
12 element of the comprehensive plan, unless transportation improvements
13 or strategies to accommodate the impacts of development are made
14 concurrent with the development. These strategies may include
15 increased public transportation service, ride sharing programs, demand
16 management, and other transportation systems management strategies.
17 For the purposes of this subsection (6) "concurrent with the
18 development" shall mean that improvements or strategies are in place at
19 the time of development, or that a financial commitment is in place to
20 complete the improvements or strategies within six years.

21 The transportation element described in this subsection, and the
22 six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for
23 counties, and RCW 35.58.2795 for public transportation systems, must be
24 consistent.

25 **Sec. 5.** RCW 36.70A.190 and 1991 sp.s. c 32 s 3 are each amended to
26 read as follows:

27 (1) The department shall establish a program of technical and
28 financial assistance and incentives to counties and cities to encourage
29 and facilitate the adoption, evaluation, refinement, and implementation
30 of comprehensive plans and development regulations throughout the
31 state. The department may provide technical assistance to neighborhood
32 and community organizations to encourage and facilitate the adoption
33 and implementation of comprehensive plans and development regulations.

34 (2) The department shall develop a priority list and establish
35 funding levels for planning and technical assistance grants both for
36 counties and cities that plan under RCW 36.70A.040. Priority for
37 assistance shall be based on a county's or city's population growth
38 rates, commercial and industrial development rates, the existence and

1 quality of a comprehensive plan and development regulations, and other
2 relevant factors.

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

14 (4) The department shall establish a program of technical
15 assistance:

16 (a) Utilizing department staff, the staff of other state agencies,
17 and the technical resources of counties and cities to help in the
18 development of comprehensive plans required under this chapter. The
19 technical assistance may include, but not be limited to, model land use
20 ordinances, regional education and training programs, and information
21 for local and regional inventories; and

22 (b) Adopting by rule procedural criteria to assist counties and
23 cities in adopting comprehensive plans and development regulations that
24 meet the goals and requirements of this chapter. These criteria shall
25 reflect regional and local variations and the diversity that exists
26 among different counties and cities that plan under this chapter.

27 (5) The department shall provide mediation services to resolve
28 disputes between counties and cities regarding, among other things,
29 coordination of regional issues and designation of urban growth areas.

30 (6) The department shall provide planning grants to enhance citizen
31 participation under RCW 36.70A.140.

32 NEW SECTION. **Sec. 6.** A new section is added to chapter 36.70A RCW
33 to read as follows:

34 (1) The public participation requirements of this chapter shall
35 include notice procedures that are reasonably calculated to provide
36 notice to property owners and other affected and interested
37 individuals, tribes, government agencies, businesses, and organizations

1 of proposed amendments to comprehensive plans and development
2 regulation. Examples of reasonable notice provisions include:

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

4 (b) Publishing notice in a newspaper of general circulation in the
5 county, city, or general area where the proposal is located or that
6 will be affected by the proposal;

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) Placing notices in appropriate regional, neighborhood, ethnic,
10 or trade journals; and

11 (e) Publishing notice in agency newsletters or sending notice to
12 agency mailing lists, including general lists or lists for specific
13 proposals or subject areas.

14 (2)(a) Except as otherwise provided in (b) of this subsection, if
15 the legislative body for a county or city chooses to consider a change
16 to an amendment to a comprehensive plan or development regulation, and
17 the change is proposed after the opportunity for review and comment has
18 passed under the county's or city's procedures, an opportunity for
19 review and comment on the proposed change shall be provided before the
20 local legislative body votes on the proposed change.

21 (b) An additional opportunity for public review and comment is not
22 required under (a) of this subsection if:

23 (i) An environmental impact statement has been prepared under
24 chapter 43.21C RCW for the pending resolution or ordinance and the
25 proposed change is within the range of alternatives considered in the
26 environmental impact statement;

27 (ii) The proposed change is within the scope of the alternatives
28 available for public comment;

29 (iii) The proposed change only corrects typographical errors,
30 corrects cross-references, makes address or name changes, or clarifies
31 language of a proposed ordinance or resolution without changing its
32 effect;

33 (iv) The proposed change is to a resolution or ordinance making a
34 capital budget decision as provided in RCW 36.70A.120; or

35 (v) The proposed change is to a resolution or ordinance enacting a
36 moratorium or interim control adopted under RCW 36.70A.390.

37 (3) This section is prospective in effect and does not apply to a
38 comprehensive plan, development regulation, or amendment adopted before
39 the effective date of this section.

1 **Sec. 7.** RCW 36.70A.130 and 1995 c 347 s 106 are each amended to
2 read as follows:

3 (1) Each comprehensive land use plan and development regulations
4 shall be subject to continuing (~~evaluation and~~) review and evaluation
5 by the county or city that adopted them. Not later than September 1,
6 2002, and at least every five years thereafter, a county or city shall
7 take action to review and, if needed, revise its comprehensive land use
8 plan and development regulations to ensure that the plan and
9 regulations are complying with the requirements of this chapter. The
10 review and evaluation required by this subsection may be combined with
11 the review required by subsection (3) of this section.

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

15 (2)(a) Each county and city shall establish and broadly disseminate
16 to the public a public participation program identifying procedures
17 whereby proposed amendments or revisions of the comprehensive plan are
18 considered by the governing body of the county or city no more
19 frequently than once every year except that amendments may be
20 considered more frequently under the following circumstances:

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

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

24 (iii) The amendment of the capital facilities element of a
25 comprehensive plan that occurs concurrently with the adoption or
26 amendment of a county or city budget.

27 (b) Except as otherwise provided in (a) of this subsection, all
28 proposals shall be considered by the governing body concurrently so the
29 cumulative effect of the various proposals can be ascertained.
30 However, after appropriate public participation a county or city may
31 adopt amendments or revisions to its comprehensive plan that conform
32 with this chapter whenever an emergency exists or to resolve an appeal
33 of a comprehensive plan filed with a growth management hearings board
34 or with the court.

35 (3) Each county that designates urban growth areas under RCW
36 36.70A.110 shall review, at least every ten years, its designated urban
37 growth area or areas, and the densities permitted within both the
38 incorporated and unincorporated portions of each urban growth area. In
39 conjunction with this review by the county, each city located within an

1 urban growth area shall review the densities permitted within its
2 boundaries, and the extent to which the urban growth occurring within
3 the county has located within each city and the unincorporated portions
4 of the urban growth areas. The county comprehensive plan designating
5 urban growth areas, and the densities permitted in the urban growth
6 areas by the comprehensive plans of the county and each city located
7 within the urban growth areas, shall be revised to accommodate the
8 urban growth projected to occur in the county for the succeeding
9 twenty-year period. The review required by this subsection may be
10 combined with the review and evaluation required by section 19 of this
11 act.

12 **Sec. 8.** RCW 36.70A.270 and 1996 c 325 s 1 are each amended to read
13 as follows:

14 Each growth management hearings board shall be governed by the
15 following rules on conduct and procedure:

16 (1) Any board member may be removed for inefficiency, malfeasance,
17 and misfeasance in office, under specific written charges filed by the
18 governor. The governor shall transmit such written charges to the
19 member accused and the chief justice of the supreme court. The chief
20 justice shall thereupon designate a tribunal composed of three judges
21 of the superior court to hear and adjudicate the charges. Removal of
22 any member of a board by the tribunal shall disqualify such member for
23 reappointment.

24 (2) Each board member shall receive reimbursement for travel
25 expenses incurred in the discharge of his or her duties in accordance
26 with RCW 43.03.050 and 43.03.060. If it is determined that the review
27 boards shall operate on a full-time basis, each member shall receive an
28 annual salary to be determined by the governor pursuant to RCW
29 43.03.040. If it is determined that a review board shall operate on a
30 part-time basis, each member shall receive compensation pursuant to RCW
31 43.03.250, provided such amount shall not exceed the amount that would
32 be set if they were a full-time board member. The principal office of
33 each board shall be located by the governor within the jurisdictional
34 boundaries of each board. The boards shall operate on either a part-
35 time or full-time basis, as determined by the governor.

36 (3) Each board member shall not: (a) Be a candidate for or hold
37 any other public office or trust; (b) engage in any occupation or
38 business interfering with or inconsistent with his or her duty as a

1 board member; and (c) for a period of one year after the termination of
2 his or her board membership, act in a representative capacity before
3 the board on any matter.

4 (4) A majority of each board shall constitute a quorum for making
5 orders or decisions, adopting rules necessary for the conduct of its
6 powers and duties, or transacting other official business, and may act
7 even though one position of the board is vacant. One or more members
8 may hold hearings and take testimony to be reported for action by the
9 board when authorized by rule or order of the board. The board shall
10 perform all the powers and duties specified in this chapter or as
11 otherwise provided by law.

12 (5) The board may appoint one or more hearing examiners to assist
13 the board in its hearing function, to make conclusions of law and
14 findings of fact and, if requested by the board, to make
15 recommendations to the board for decisions in cases before the board.
16 Such hearing examiners must have demonstrated knowledge of land use
17 planning and law. The boards shall specify in their joint rules of
18 practice and procedure, as required by subsection (7) of this section,
19 the procedure and criteria to be employed for designating hearing
20 examiners as a presiding officer. Hearing examiners selected by a
21 board shall meet the requirements of subsection (3) of this section.
22 The findings and conclusions of the hearing examiner shall not become
23 final until they have been formally approved by the board. This
24 authorization to use hearing examiners does not waive the requirement
25 of RCW 36.70A.300 that final orders be issued within one hundred eighty
26 days of board receipt of a petition.

27 (6) Each board shall make findings of fact and prepare a written
28 decision in each case decided by it, and such findings and decision
29 shall be effective upon being signed by two or more members of the
30 board and upon being filed at the board's principal office, and shall
31 be open for public inspection at all reasonable times.

32 (7) All proceedings before the board, any of its members, or a
33 hearing examiner appointed by the board shall be conducted in
34 accordance with such administrative rules of practice and procedure as
35 the boards jointly prescribe. All three boards shall jointly meet to
36 develop and adopt joint rules of practice and procedure, including
37 rules regarding expeditious and summary disposition of appeals. The
38 boards shall publish such rules and decisions they render and arrange
39 for the reasonable distribution of the rules and decisions. Except as

1 it conflicts with specific provisions of this chapter, the
2 administrative procedure act, chapter 34.05 RCW, and specifically
3 including the provisions of RCW 34.05.455 governing ex parte
4 communications, shall govern the practice and procedure of the boards.

5 (8) A board member or hearing examiner is subject to
6 disqualification under chapter 34.05 RCW. The joint rules of practice
7 of the boards shall establish procedures by which a party to a hearing
8 conducted before the board may file with the board a motion to
9 disqualify, with supporting affidavit, against a board member or
10 hearing examiner assigned to preside at the hearing.

11 (9) The members of the boards shall meet jointly on at least an
12 annual basis with the objective of sharing information that promotes
13 the goals and purposes of this chapter.

14 **Sec. 9.** RCW 36.70A.290 and 1995 c 347 s 109 are each amended to
15 read as follows:

16 (1) All requests for review to a growth management hearings board
17 shall be initiated by filing a petition that includes a detailed
18 statement of issues presented for resolution by the board. The board
19 shall render written decisions articulating the basis for its holdings.
20 The board shall not issue advisory opinions on issues not presented to
21 the board in the statement of issues, as modified by any prehearing
22 order.

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

28 (a) Except as provided in (c) of this subsection, the date of
29 publication for a city shall be the date the city publishes the
30 ordinance, or summary of the ordinance, adopting the comprehensive plan
31 or development regulations, or amendment thereto, as is required to be
32 published.

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

36 Except as provided in (c) of this subsection, for purposes of this
37 section the date of publication for a county shall be the date the

1 county publishes the notice that it has adopted the comprehensive plan
2 or development regulations, or amendment thereto.

3 (c) For local governments planning under RCW 36.70A.040, promptly
4 after approval or disapproval of a local government s shoreline master
5 program or amendment thereto by the department of ecology as provided
6 in RCW 90.58.090, the local government shall publish a notice that the
7 shoreline master program or amendment thereto has been approved or
8 disapproved by the department of ecology. For purposes of this
9 section, the date of publication for the adoption or amendment of a
10 shoreline master program is the date the local government publishes
11 notice that the shoreline master program or amendment thereto has been
12 approved or disapproved by the department of ecology.

13 (3) Unless the board dismisses the petition as frivolous or finds
14 that the person filing the petition lacks standing, or the parties have
15 filed an agreement to have the case heard in superior court as provided
16 in section 10 of this act, the board shall, within ten days of receipt
17 of the petition, set a time for hearing the matter.

18 (4) The board shall base its decision on the record developed by
19 the city, county, or the state and supplemented with additional
20 evidence if the board determines that such additional evidence would be
21 necessary or of substantial assistance to the board in reaching its
22 decision.

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

26 NEW SECTION. **Sec. 10.** A new section is added to chapter 36.70A
27 RCW to read as follows:

28 A petition filed under RCW 36.70A.290 may be directly reviewed by
29 the superior court upon certification by the growth management hearings
30 board that all the parties to the proceeding before the board have
31 agreed in writing to have the petition directly reviewed by the
32 superior court. The agreement shall be filed with the board within ten
33 days after the petition has been filed, or if multiple petitions have
34 been filed and the board has consolidated the appeals under RCW
35 36.70A.300, within ten days after the date the last petition is filed.
36 The provisions of RCW 36.70A.280 through 36.70A.340 as they relate to
37 review of actions by a state agency or a county or city under this
38 chapter apply to the review conducted by the superior court.

1 **Sec. 11.** RCW 36.70A.300 and 1995 c 347 s 110 are each amended to
2 read as follows:

3 (1) The board shall issue a final order (~~((within one hundred eighty~~
4 ~~days of receipt of the petition for review, or, when multiple petitions~~
5 ~~are filed, within one hundred eighty days of receipt of the last~~
6 ~~petition that is consolidated. Such a final order))~~ that shall be
7 based exclusively on whether or not a state agency, county, or city is
8 in compliance with the requirements of this chapter, chapter 90.58 RCW
9 as it relates to adoption or amendment of shoreline master programs, or
10 chapter 43.21C RCW as it relates to adoption of plans, development
11 regulations, and amendments thereto, ((adopted)) under RCW 36.70A.040
12 or chapter 90.58 RCW.

13 (2)(a) Except as provided in (b) of this subsection, the final
14 order shall be issued within one hundred eighty days of receipt of the
15 petition for review, or, if multiple petitions are filed, within one
16 hundred eighty days of receipt of the last petition that is
17 consolidated.

18 (b) The board may extend the period of time for issuing a decision
19 to enable the parties to settle the dispute if additional time is
20 necessary to achieve a settlement, and (i) an extension is requested by
21 all parties, or (ii) an extension is requested by the petitioner and
22 respondent and the board determines that a negotiated settlement
23 between the remaining parties could resolve significant issues in
24 dispute. The request must be filed with the board not later than seven
25 days before the date scheduled for the hearing on the merits of the
26 petition. The board may authorize one or more extensions for up to
27 ninety days each, subject to the requirements of this section.

28 (3) In the final order, the board shall either:

29 (a) Find that the state agency, county, or city is in compliance
30 with the requirements of this chapter (~~((or))~~), chapter 90.58 RCW as it
31 relates to the adoption or amendment of shoreline master programs, or
32 chapter 43.21C RCW as it relates to adoption of plans, development
33 regulations, and amendments thereto, under RCW 36.70A.040 or chapter
34 90.58 RCW; or

35 (b) Find that the state agency, county, or city is not in
36 compliance with the requirements of this chapter (~~((or))~~), chapter 90.58
37 RCW as it relates to the adoption or amendment of shoreline master
38 programs, or chapter 43.21C RCW as it relates to adoption of plans,
39 development regulations, and amendments thereto, under RCW 36.70A.040

1 or chapter 90.58 RCW, in which case the board shall remand the matter
2 to the affected state agency, county, or city ((and)). The board shall
3 specify a reasonable time not in excess of one hundred eighty days, or
4 such longer period as determined by the board in cases of unusual scope
5 or complexity, within which the state agency, county, or city shall
6 comply with the requirements of this chapter. The board may require
7 periodic reports to the board on the progress the jurisdiction is
8 making towards compliance.

9 ~~((2))~~ (4) Unless the board makes a determination of invalidity as
10 provided in section 12 of this act, a finding of noncompliance and an
11 order of remand shall not affect the validity of comprehensive plans
12 and development regulations during the period of remand(, unless the
13 board's final order also:

14 ~~(a) Includes a determination, supported by findings of fact and~~
15 ~~conclusions of law, that the continued validity of the plan or~~
16 ~~regulation would substantially interfere with the fulfillment of the~~
17 ~~goals of this chapter; and~~

18 ~~(b) Specifies the particular part or parts of the plan or~~
19 ~~regulation that are determined to be invalid, and the reasons for their~~
20 ~~invalidity.~~

21 ~~(3) A determination of invalidity shall:~~

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

25 ~~(b) Subject any development application that would otherwise vest~~
26 ~~after the date of the board's order to the local ordinance or~~
27 ~~resolution that both is enacted in response to the order of remand and~~
28 ~~determined by the board pursuant to RCW 36.70A.330 to comply with the~~
29 ~~requirements of this chapter.~~

30 ~~(4) If the ordinance that adopts a plan or development regulation~~
31 ~~under this chapter includes a savings clause intended to revive prior~~
32 ~~policies or regulations in the event the new plan or regulations are~~
33 ~~determined to be invalid, the board shall determine under subsection~~
34 ~~(2) of this section whether the prior policies or regulations are valid~~
35 ~~during the period of remand)).~~

36 ~~(5) Any party aggrieved by a final decision of the hearings board~~
37 ~~may appeal the decision ((to superior court as provided in RCW~~
38 ~~34.05.514 or 36.01.050 within thirty days of the final order of the~~

1 board)) directly to the court of appeals for assignment by the chief
2 presiding judge.

3 NEW SECTION. **Sec. 12.** A new section is added to chapter 36.70A
4 RCW to read as follows:

5 (1) A board may determine that part or all of a comprehensive plan
6 or development regulations are invalid if the board:

7 (a) Makes a finding of noncompliance and issues an order of remand
8 under RCW 36.70A.300;

9 (b) Includes in the final order a determination, supported by
10 findings of fact and conclusions of law, that the continued validity of
11 part or parts of the plan or regulation would substantially interfere
12 with the fulfillment of the goals of this chapter; and

13 (c) Specifies in the final order the particular part or parts of
14 the plan or regulation that are determined to be invalid, and the
15 reasons for their invalidity.

16 (2) A determination of invalidity is prospective in effect and does
17 not extinguish rights that vested under state or local law before
18 receipt of the board's order by the city or county. The determination
19 of invalidity does not apply to a completed development permit
20 application and related construction permits for a project that vested
21 under state or local law on or before the date of the board's order.

22 (3)(a) Except as otherwise provided in subsection (2) of this
23 section and (b) of this subsection, a completed development permit
24 application not vested under state or local law on or before the date
25 of the board's determination of invalidity vests to the local ordinance
26 or resolution that is determined by the board not to substantially
27 interfere with the fulfillment of the goals of this chapter.

28 (b) Even though the application is not vested under state or local
29 law before receipt by the county or city of the board's order, a
30 determination of invalidity does not apply to a completed development
31 permit application for:

32 (i) A permit for construction by any owner, lessee, or contract
33 purchaser of a single-family residence for his or her own use or for
34 the use of his or her family on a lot existing before receipt by the
35 county or city of the board's order, except as otherwise specifically
36 provided in the board's order to protect the public health and safety;

1 (ii) A building permit and related construction permits for
2 remodeling or expansion of an existing structure on a lot existing
3 before receipt of the board's order by the county or city; and

4 (iii) A boundary line adjustment or a division of land that does
5 not increase the number of buildable lots existing before receipt of
6 the board's order by the county or city.

7 (4) If the ordinance that adopts a plan or development regulation
8 under this chapter includes a savings clause intended to revive prior
9 policies or regulations in the event the new plan or regulations are
10 determined to be invalid, the board shall determine under subsection
11 (1) of this section whether the prior policies or regulations are valid
12 during the period of remand.

13 (5) A county or city subject to a determination of invalidity may
14 adopt interim controls and other measures to be in effect until it
15 adopts a comprehensive plan and development regulations that comply
16 with the requirements of this chapter. A development permit
17 application may vest under an interim control or measure upon
18 determination by the board that the interim controls and other measures
19 do not substantially interfere with the fulfillment of the goals of
20 this chapter.

21 (6) A county or city subject to a determination of invalidity may
22 file a motion requesting that the board clarify, modify, or rescind the
23 order. The board shall expeditiously schedule a hearing on the motion.
24 At the hearing on the motion, the parties may present information to
25 the board to clarify the part or parts of the comprehensive plan or
26 development regulations to which the final order applies. The board
27 shall issue any supplemental order based on the information provided at
28 the hearing not later than thirty days after the date of the hearing.

29 (7)(a) If a determination of invalidity has been made and the
30 county or city has enacted an ordinance or resolution amending the
31 invalidated part or parts of the plan or regulation or establishing
32 interim controls on development affected by the order of invalidity,
33 after a compliance hearing, the board shall modify or rescind the
34 determination of invalidity if it determines under the standard in
35 subsection (1) of this section that the plan or regulation, as amended
36 or made subject to such interim controls, will no longer substantially
37 interfere with the fulfillment of the goals of this chapter.

38 (b) If the board determines that part or parts of the plan or
39 regulation are no longer invalid as provided in this subsection, but

1 does not find that the plan or regulation is in compliance with all of
2 the requirements of this chapter, the board, in its order, may require
3 periodic reports to the board on the progress the jurisdiction is
4 making towards compliance.

5 **Sec. 13.** RCW 36.70A.305 and 1996 c 325 s 4 are each amended to
6 read as follows:

7 The court shall provide expedited review of ~~((a determination of~~
8 ~~invalidity or))~~ an order ~~((effectuating))~~ that includes a determination
9 of invalidity made or issued under RCW 36.70A.300 and section 12 of
10 this act. The matter must be set for hearing within sixty days of the
11 date set for submitting the board's record, absent a showing of good
12 cause for a different date or a stipulation of the parties.

13 **Sec. 14.** RCW 36.70A.320 and 1995 c 347 s 111 are each amended to
14 read as follows:

15 (1) Except as provided in subsection ~~((+2+))~~ (5) of this section,
16 comprehensive plans and development regulations, and amendments
17 thereto, adopted under this chapter are presumed valid upon adoption.

18 (2) Except as otherwise provided in subsection (4) of this section,
19 the burden is on the petitioner to demonstrate that any action taken by
20 a state agency, county, or city under this chapter is not in compliance
21 with the requirements of this chapter.

22 (3) In any petition under this chapter, the board, after full
23 consideration of the petition, shall determine whether there is
24 compliance with the requirements of this chapter. In making its
25 determination, the board shall consider the criteria adopted by the
26 department under RCW 36.70A.190(4). The board shall find compliance
27 unless it ~~((finds by a preponderance of the evidence that the state~~
28 agency, county, or city erroneously interpreted or applied this
29 chapter)) determines that the action by the state agency, county, or
30 city is clearly erroneous in view of the entire record before the board
31 and in light of the goals and requirements of this chapter.

32 ~~((+2+))~~ (4) A county or city subject to a determination of
33 invalidity made under RCW 36.70A.300 or section 12 of this act has the
34 burden of demonstrating that the ordinance or resolution it has enacted
35 in response to the determination of invalidity will no longer
36 substantially interfere with the fulfillment of the goals of this
37 chapter under the standard in section 12(1) of this act.

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

4 **Sec. 15.** RCW 36.70A.330 and 1995 c 347 s 112 are each amended to
5 read as follows:

6 (1) After the time set for complying with the requirements of this
7 chapter under RCW (~~(36.70A.300(1)(b))~~) 36.70A.300(3)(b) has expired, or
8 at an earlier time upon the motion of a county or city subject to a
9 determination of invalidity under RCW 36.70A.300, the board shall set
10 a hearing for the purpose of determining whether the state agency,
11 county, or city is in compliance with the requirements of this chapter.

12 (2) The board shall conduct a hearing and issue a finding of
13 compliance or noncompliance with the requirements of this chapter and
14 with any compliance schedule established by the board in its final
15 order. A person with standing to challenge the legislation enacted in
16 response to the board's final order may participate in the hearing
17 along with the petitioner and the state agency, (~~(city, or)~~) county, or
18 city. A hearing under this subsection shall be given the highest
19 priority of business to be conducted by the board, and a finding shall
20 be issued within forty-five days of the filing of the motion under
21 subsection (1) of this section with the board. The board shall issue
22 any order necessary to make adjustments to the compliance schedule and
23 set additional hearings as provided in subsection (5) of this section.

24 (3) If the board after a compliance hearing finds that the state
25 agency, county, or city is not in compliance, the board shall transmit
26 its finding to the governor. The board may recommend to the governor
27 that the sanctions authorized by this chapter be imposed. The board
28 shall take into consideration the county's or city's efforts to meet
29 its compliance schedule in making the decision to recommend sanctions
30 to the governor.

31 (4) In a compliance hearing upon petition of a party, the board
32 shall also reconsider its final order and decide((+)

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

36 ~~(b))~~, if no determination of invalidity has been made, whether one
37 now should be made ((under the standards in RCW 36.70A.300(2)) under
38 section 12 of this act.

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

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

5 A county or city subject to an order of invalidity issued before
6 the effective date of section 11 of this act, by motion may request the
7 board to review the order of invalidity in light of the section 11,
8 chapter . . ., Laws of 1997 (section 11 of this act) amendments to RCW
9 36.70A.300, the section 15, chapter . . ., Laws of 1997 (section 15 of
10 this act) amendments to RCW 36.70A.330, and section 12 of this act. If
11 a request is made, the board shall rescind or modify the order of
12 invalidity as necessary to make it consistent with the section 11,
13 chapter . . ., Laws of 1997 (section 11 of this act) amendments to RCW
14 36.70A.300, and to the section 15, chapter . . ., Laws of 1997 (section
15 15 of this act) amendments to RCW 36.70A.330, and section 12 of this
16 act.

17 NEW SECTION. **Sec. 17.** A new section is added to chapter 36.70A
18 RCW to read as follows:

19 (1) A county or a city may use a variety of innovative zoning
20 techniques in areas designated as agricultural lands of long-term
21 commercial significance under RCW 36.70A.170. The innovative zoning
22 techniques should be designed to conserve agricultural lands and
23 encourage the agricultural economy. A county or city should encourage
24 nonagricultural uses to be limited to lands with poor soils or
25 otherwise not suitable for agricultural purposes.

26 (2) Innovative zoning techniques a county or city may consider
27 include, but are not limited to:

28 (a) Agricultural zoning, which limits the density of development
29 and restricts or prohibits nonfarm uses of agricultural land;

30 (b) Cluster zoning, which allows new development on one portion of
31 the land, leaving the remainder in agricultural or open space uses;

32 (c) Large lot zoning, which establishes as a minimum lot size the
33 amount of land necessary to achieve a successful farming practice;

34 (d) Quarter/quarter zoning, which permits one residential dwelling
35 on a one-acre minimum lot for each one-sixteenth of a section of land;
36 and

1 (e) Sliding scale zoning, which allows the number of lots for
2 single-family residential purposes with a minimum lot size of one acre
3 to increase inversely as the size of the total acreage increases.

4 **Sec. 18.** RCW 36.70A.110 and 1995 c 400 s 2 are each amended to
5 read as follows:

6 (1) Each county that is required or chooses to plan under RCW
7 36.70A.040 shall designate an urban growth area or areas within which
8 urban growth shall be encouraged and outside of which growth can occur
9 only if it is not urban in nature. Each city that is located in such
10 a county shall be included within an urban growth area. An urban
11 growth area may include more than a single city. An urban growth area
12 may include territory that is located outside of a city only if such
13 territory already is characterized by urban growth whether or not the
14 urban growth area includes a city, or is adjacent to territory already
15 characterized by urban growth, or is a designated new fully contained
16 community as defined by RCW 36.70A.350.

17 (2) Based upon the growth management population projection made for
18 the county by the office of financial management, (~~the urban growth~~
19 ~~areas in~~) the county and each city within the county shall include
20 areas and densities within urban growth areas sufficient to permit the
21 urban growth that is projected to occur in the county or city for the
22 succeeding twenty-year period. Each urban growth area shall permit
23 urban densities and shall include greenbelt and open space areas. An
24 urban growth area determination may include a reasonable land market
25 supply factor and shall permit a range of urban densities and uses. In
26 determining this market factor, cities and counties may consider local
27 circumstances. Cities and counties have discretion in their
28 comprehensive plans to make many choices about accommodating growth.

29 Within one year of July 1, 1990, each county that as of June 1,
30 1991, was required or chose to plan under RCW 36.70A.040, shall begin
31 consulting with each city located within its boundaries and each city
32 shall propose the location of an urban growth area. Within sixty days
33 of the date the county legislative authority of a county adopts its
34 resolution of intention or of certification by the office of financial
35 management, all other counties that are required or choose to plan
36 under RCW 36.70A.040 shall begin this consultation with each city
37 located within its boundaries. The county shall attempt to reach
38 agreement with each city on the location of an urban growth area within

1 which the city is located. If such an agreement is not reached with
2 each city located within the urban growth area, the county shall
3 justify in writing why it so designated the area an urban growth area.
4 A city may object formally with the department over the designation of
5 the urban growth area within which it is located. Where appropriate,
6 the department shall attempt to resolve the conflicts, including the
7 use of mediation services.

8 (3) Urban growth should be located first in areas already
9 characterized by urban growth that have adequate existing public
10 facility and service capacities to serve such development, second in
11 areas already characterized by urban growth that will be served
12 adequately by a combination of both existing public facilities and
13 services and any additional needed public facilities and services that
14 are provided by either public or private sources, and third in the
15 remaining portions of the urban growth areas. Urban growth may also be
16 located in designated new fully contained communities as defined by RCW
17 36.70A.350.

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

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

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

3 NEW SECTION. **Sec. 19.** A new section is added to chapter 36.70A
4 RCW to read as follows:

5 (1) Subject to the limitations in subsection (7) of this section,
6 a county shall adopt, in consultation with its cities, county-wide
7 planning policies to establish a review and evaluation program. This
8 program shall be in addition to the requirements of RCW 36.70A.110,
9 36.70A.130, and 36.70A.210. In developing and implementing the review
10 and evaluation program required by this section, the county and its
11 cities shall consider information from other appropriate jurisdictions
12 and sources. The purpose of the review and evaluation program shall be
13 to:

14 (a) Determine whether a county and its cities are achieving urban
15 densities within urban growth areas by comparing growth and development
16 assumptions, targets, and objectives contained in the county-wide
17 planning policies and the county and city comprehensive plans with
18 actual growth and development that has occurred in the county and its
19 cities; and

20 (b) Identify reasonable measures, other than adjusting urban growth
21 areas, that will be taken to comply with the requirements of this
22 chapter.

23 (2) The review and evaluation program shall:

24 (a) Encompass land uses and activities both within and outside of
25 urban growth areas and provide for annual collection of data on urban
26 and rural land uses, development, critical areas, and capital
27 facilities to the extent necessary to determine the quantity and type
28 of land suitable for development, both for residential and employment-
29 based activities;

30 (b) Provide for evaluation of the data collected under (a) of this
31 subsection every five years as provided in subsection (3) of this
32 section. The first evaluation shall be completed not later than
33 September 1, 2002. The county and its cities may establish in the
34 county-wide planning policies indicators, benchmarks, and other similar
35 criteria to use in conducting the evaluation;

36 (c) Provide for methods to resolve disputes among jurisdictions
37 relating to the county-wide planning policies required by this section

1 and procedures to resolve inconsistencies in collection and analysis of
2 data; and

3 (d) Provide for the amendment of the county-wide policies and
4 county and city comprehensive plans as needed to remedy an
5 inconsistency identified through the evaluation required by this
6 section, or to bring these policies into compliance with the
7 requirements of this chapter.

8 (3) At a minimum, the evaluation component of the program required
9 by subsection (1) of this section shall:

10 (a) Determine whether there is sufficient suitable land to
11 accommodate the county-wide population projection established for the
12 county pursuant to RCW 43.62.035 and the subsequent population
13 allocations within the county and between the county and its cities and
14 the requirements of RCW 36.70A.110;

15 (b) Determine the actual density of housing that has been
16 constructed and the actual amount of land developed for commercial and
17 industrial uses within the urban growth area since the adoption of a
18 comprehensive plan under this chapter or since the last periodic
19 evaluation as required by subsection (1) of this section; and

20 (c) Based on the actual density of development as determined under
21 (b) of this subsection, review commercial, industrial, and housing
22 needs by type and density range to determine the amount of land needed
23 for commercial, industrial, and housing for the remaining portion of
24 the twenty-year planning period used in the most recently adopted
25 comprehensive plan.

26 (4) If the evaluation required by subsection (3) of this section
27 demonstrates an inconsistency between what has occurred since the
28 adoption of the county-wide planning policies and the county and city
29 comprehensive plans and development regulations and what was envisioned
30 in those policies and plans and the planning goals and the requirements
31 of this chapter, as the inconsistency relates to the evaluation factors
32 specified in subsection (3) of this section, the county and its cities
33 shall adopt and implement measures that are reasonably likely to
34 increase consistency during the subsequent five-year period. If
35 necessary, a county, in consultation with its cities as required by RCW
36 36.70A.210, shall adopt amendments to county-wide planning policies to
37 increase consistency. The county and its cities shall annually monitor
38 the measures adopted under this subsection to determine their effect
39 and may revise or rescind them as appropriate.

1 (5)(a) Not later than July 1, 1998, the department shall prepare a
2 list of methods used by counties and cities in carrying out the types
3 of activities required by this section. The department shall provide
4 this information and appropriate technical assistance to counties and
5 cities required to or choosing to comply with the provisions of this
6 section.

7 (b) By December 31, 2007, the department shall submit to the
8 appropriate committees of the legislature a report analyzing the
9 effectiveness of the activities described in this section in achieving
10 the goals envisioned by the county-wide planning policies and the
11 comprehensive plans and development regulations of the counties and
12 cities.

13 (6) From funds appropriated by the legislature for this purpose,
14 the department shall provide grants to counties, cities, and regional
15 planning organizations required under subsection (7) of this section to
16 conduct the review and perform the evaluation required by this section.

17 (7) The provisions of this section shall apply to counties, and the
18 cities within those counties, that were greater than one hundred fifty
19 thousand in population in 1995 as determined by office of financial
20 management population estimates and that are located west of the crest
21 of the Cascade mountain range. Any other county planning under RCW
22 36.70A.040 may carry out the review, evaluation, and amendment programs
23 and procedures as provided in this section.

24 NEW SECTION. Sec. 20. A new section is added to chapter 42.17 RCW
25 to read as follows:

26 (1) Notwithstanding other provisions of this chapter, a county or
27 city that provides customized maps, products, or services from an
28 electronic geographic information system may establish fees by
29 ordinance or resolution for providing the customized maps, services, or
30 products to persons who request them. The county or city shall not
31 impose fees in excess of an amount necessary to recover the actual cost
32 to the county or city of providing the customized maps, products, or
33 services. The county or city may include in the fees a reasonable
34 portion of the cost to the county or city of developing and maintaining
35 an electronic geographic information system.

36 (2) A county or city shall by ordinance or resolution establish
37 standards for the waiver of the fees provided for in subsection (1) of
38 this section if the customized maps, services, or products are to be

1 used for noncommercial public purposes, including but not limited to
2 the support of other agencies, the support of public benefit nonprofit
3 activities, public information or education, academic research, or
4 other purposes that the county or city determines are beneficial to the
5 public. The county or city shall apply fee reductions or waivers
6 uniformly for each such noncommercial use.

7 (3) A county or city shall not recover through fees authorized by
8 this section costs paid for by another governmental entity.

9 **Sec. 21.** RCW 43.62.035 and 1995 c 162 s 1 are each amended to read
10 as follows:

11 The office of financial management shall determine the population
12 of each county of the state annually as of April 1st of each year and
13 on or before July 1st of each year shall file a certificate with the
14 secretary of state showing its determination of the population for each
15 county. The office of financial management also shall determine the
16 percentage increase in population for each county over the preceding
17 ten-year period, as of April 1st, and shall file a certificate with the
18 secretary of state by July 1st showing its determination. At least
19 once every (~~ten~~) five years or upon the availability of decennial
20 census data, whichever is later, the office of financial management
21 shall prepare twenty-year growth management planning population
22 projections required by RCW 36.70A.110 for each county that adopts a
23 comprehensive plan under RCW 36.70A.040 and shall review these
24 projections with such counties and the cities in those counties before
25 final adoption. The county and its cities may provide to the office
26 such information as they deem relevant to the office's projection, and
27 the office shall consider and comment on such information before
28 adoption. Each projection shall be expressed as a reasonable range
29 developed within the standard state high and low projection. The
30 middle range shall represent the office's estimate of the most likely
31 population projection for the county. If any city or county believes
32 that a projection will not accurately reflect actual population growth
33 in a county, it may petition the office to revise the projection
34 accordingly. The office shall complete the first set of ranges for
35 every county by December 31, 1995.

36 A comprehensive plan adopted or amended before December 31, 1995,
37 shall not be considered to be in noncompliance with the twenty-year
38 growth management planning population projection if the projection used

1 in the comprehensive plan is in compliance with the range later adopted
2 under this section.

3 NEW SECTION. Sec. 22. In order to ensure that there will be no
4 unfunded responsibilities imposed on counties and cities, if specific
5 funding for the purposes of section 19 of this act, referencing this
6 act by bill or chapter number, is not provided by June 30, 1997, in the
7 omnibus appropriations act, sections 19 and 20 of this act are null and
8 void.

9 **Sec. 23.** RCW 36.70A.500 and 1995 c 347 s 116 are each amended to
10 read as follows:

11 (1) The department of community, trade, and economic development
12 shall provide management services for the fund created by RCW
13 36.70A.490. The department (~~by rule~~) shall establish procedures for
14 fund management. The department shall encourage participation in the
15 grant program by other public agencies. The department shall develop
16 the grant criteria, monitor the grant program, and select grant
17 recipients in consultation with state agencies participating in the
18 grant program through the provision of grant funds or technical
19 assistance.

20 (2) A grant may be awarded to a county or city that is required to
21 or has chosen to plan under RCW 36.70A.040 and that is qualified
22 pursuant to this section. The grant shall be provided to assist a
23 county or city in paying for the cost of preparing (~~a detailed~~
24 ~~environmental impact statement~~) an environmental analysis under
25 chapter 43.21C RCW, that is integrated with a comprehensive plan
26 (~~or~~), subarea plan (~~and~~), plan element, county-wide planning
27 policy, development regulation(~~s~~), monitoring program, or other
28 planning activity adopted under or implementing this chapter that:

29 (a) Improves the process for project permit review while
30 maintaining environmental quality; or

31 (b) Encourages use of plans and information developed for purposes
32 of complying with this chapter to satisfy requirements of other state
33 programs.

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

35 (a) Demonstrate that it will prepare an environmental analysis
36 pursuant to chapter 43.21C RCW and subsection (2) of this section that

1 is integrated with a comprehensive plan or subarea plan and development
2 regulations;

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

7 (c) Demonstrate that procedures for review of development permit
8 applications will be based on the integrated plans and environmental
9 analysis;

10 (d) Include mechanisms (~~in the plan~~) to monitor the consequences
11 of growth as it occurs in the plan area and (~~provide ongoing~~) to use
12 the resulting data to update the plan, policy, or implementing
13 mechanisms and associated environmental analysis;

14 (~~(d) Be making~~) (e) Demonstrate substantial progress towards
15 compliance with the requirements of this chapter. A county or city
16 that is more than six months out of compliance with a requirement of
17 this chapter is deemed not to be making substantial progress towards
18 compliance; and

19 (~~(e)~~) (f) Provide local funding, which may include financial
20 participation by the private sector.

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

23 (a) Financial participation by the private sector, or a public/
24 private partnering approach;

25 (b) (~~Comprehensive and subarea plan proposals that are designed to~~
26 ~~identify and monitor~~) Identification and monitoring of system
27 capacities for elements of the built environment, and to the extent
28 appropriate, of the natural environment;

29 (c) Coordination with state, federal, and tribal governments in
30 project review;

31 (d) Furtherance of important state objectives related to economic
32 development, protection of areas of state-wide significance, and siting
33 of essential public facilities;

34 (e) Programs to improve the efficiency and effectiveness of the
35 permitting process by greater reliance on integrated plans and
36 prospective environmental analysis;

37 (~~(d)~~) (f) Programs for effective citizen and neighborhood
38 involvement that contribute to greater (~~certainty~~) likelihood that

1 planning decisions (~~(will)~~) can be implemented with community support;
2 and

3 (~~((e) Plans that)~~) (g) Programs to identify environmental impacts
4 and establish mitigation measures that provide effective means to
5 satisfy concurrency requirements and establish project consistency with
6 the plans.

7 (5) If the local funding includes funding provided by other state
8 functional planning programs, including open space planning and
9 watershed or basin planning, the functional plan shall be integrated
10 into and be consistent with the comprehensive plan.

11 (6) State agencies shall work with grant recipients to facilitate
12 state and local project review processes that will implement the
13 projects receiving grants under this section.

14 **Sec. 24.** RCW 84.34.020 and 1992 c 69 s 4 are each amended to read
15 as follows:

16 As used in this chapter, unless a different meaning is required by
17 the context:

18 (1) "Open space land" means (a) any land area so designated by an
19 official comprehensive land use plan adopted by any city or county and
20 zoned accordingly(~~(+,+)~~), or (b) any land area, the preservation of
21 which in its present use would (i) conserve and enhance natural or
22 scenic resources, or (ii) protect streams or water supply, or (iii)
23 promote conservation of soils, wetlands, beaches or tidal marshes, or
24 (iv) enhance the value to the public of abutting or neighboring parks,
25 forests, wildlife preserves, nature reservations or sanctuaries or
26 other open space, or (v) enhance recreation opportunities, or (vi)
27 preserve historic sites, or (vii) preserve visual quality along
28 highway, road, and street corridors or scenic vistas, or (viii) retain
29 in its natural state tracts of land not less than one acre situated in
30 an urban area and open to public use on such conditions as may be
31 reasonably required by the legislative body granting the open space
32 classification, or (c) any land meeting the definition of farm and
33 agricultural conservation land under subsection (8) of this section.
34 As a condition of granting open space classification, the legislative
35 body may not require public access on land classified under (b)(iii) of
36 this subsection for the purpose of promoting conservation of wetlands.

37 (2) "Farm and agricultural land" means (~~(either)~~):

1 (a) Any parcel of land that is twenty or more acres or multiple
2 parcels of land that are contiguous and total twenty or more acres:
3 (i) Devoted primarily to the production of livestock or
4 agricultural commodities for commercial purposes((7))i
5 (ii) Enrolled in the federal conservation reserve program or its
6 successor administered by the United States department of
7 agriculture((7))i or
8 (iii) Other similar commercial activities as may be established by
9 rule ((following consultation with the advisory committee established
10 in section 19 of this act))i
11 (b) Any parcel of land that is five acres or more but less than
12 twenty acres devoted primarily to agricultural uses, which has produced
13 a gross income from agricultural uses equivalent to, as of January 1,
14 1993((7)):
15 (i) One hundred dollars or more per acre per year for three of the
16 five calendar years preceding the date of application for
17 classification under this chapter for all parcels of land that are
18 classified under this subsection or all parcels of land for which an
19 application for classification under this subsection is made with the
20 granting authority prior to January 1, 1993((7))i and
21 (ii) On or after January 1, 1993, two hundred dollars or more per
22 acre per year for three of the five calendar years preceding the date
23 of application for classification under this chapter;
24 (c) Any parcel of land of less than five acres devoted primarily to
25 agricultural uses which has produced a gross income as of January 1,
26 1993, of:
27 (i) One thousand dollars or more per year for three of the five
28 calendar years preceding the date of application for classification
29 under this chapter for all parcels of land that are classified under
30 this subsection or all parcels of land for which an application for
31 classification under this subsection is made with the granting
32 authority prior to January 1, 1993((7))i and
33 (ii) On or after January 1, 1993, fifteen hundred dollars or more
34 per year for three of the five calendar years preceding the date of
35 application for classification under this chapter;
36 (d) Any parcel of land designated as agricultural land under RCW
37 36.70A.170; or

1 (e) Any parcel of land not within an urban growth area zoned as
2 agricultural land under a comprehensive plan adopted under chapter
3 36.70A RCW.

4 Parcels of land described in (b)(i) and (c)(i) of this subsection
5 shall, upon any transfer of the property excluding a transfer to a
6 surviving spouse, be subject to the limits of (b)(ii) and (c)(ii) of
7 this subsection.

8 Agricultural lands shall also include such incidental uses as are
9 compatible with agricultural purposes, including wetlands preservation,
10 provided such incidental use does not exceed twenty percent of the
11 classified land and the land on which appurtenances necessary to the
12 production, preparation, or sale of the agricultural products exist in
13 conjunction with the lands producing such products. Agricultural lands
14 shall also include any parcel of land of one to five acres, which is
15 not contiguous, but which otherwise constitutes an integral part of
16 farming operations being conducted on land qualifying under this
17 section as "farm and agricultural lands"; or (d) the land on which
18 housing for employees and the principal place of residence of the farm
19 operator or owner of land classified pursuant to (a) of this subsection
20 is sited if: The housing or residence is on or contiguous to the
21 classified parcel; and the use of the housing or the residence is
22 integral to the use of the classified land for agricultural purposes.

23 (3) "Timber land" means any parcel of land that is five or more
24 acres or multiple parcels of land that are contiguous and total five or
25 more acres which is or are devoted primarily to the growth and harvest
26 of forest crops for commercial purposes. A timber management plan
27 shall be filed with the county legislative authority at the time (a) an
28 application is made for classification as timber land pursuant to this
29 chapter or (b) when a sale or transfer of timber land occurs and a
30 notice of classification continuance is signed. Timber land means the
31 land only.

32 (4) "Current" or "currently" means as of the date on which property
33 is to be listed and valued by the assessor.

34 (5) "Owner" means the party or parties having the fee interest in
35 land, except that where land is subject to real estate contract "owner"
36 shall mean the contract vendee.

37 (6) "Contiguous" means land adjoining and touching other property
38 held by the same ownership. Land divided by a public road, but

1 otherwise an integral part of a farming operation, shall be considered
2 contiguous.

3 (7) "Granting authority" means the appropriate agency or official
4 who acts on an application for classification of land pursuant to this
5 chapter.

6 (8) "Farm and agricultural conservation land" means either:

7 (a) Land that was previously classified under subsection (2) of
8 this section, that no longer meets the criteria of subsection (2) of
9 this section, and that is reclassified under subsection (1) of this
10 section; or

11 (b) Land that is traditional farmland that is not classified under
12 chapter 84.33 or 84.34 RCW, that has not been irrevocably devoted to a
13 use inconsistent with agricultural uses, and that has a high potential
14 for returning to commercial agriculture.

15 **Sec. 25.** RCW 84.40.030 and 1994 c 124 s 20 are each amended to
16 read as follows:

17 All property shall be valued at one hundred percent of its true and
18 fair value in money and assessed on the same basis unless specifically
19 provided otherwise by law.

20 Taxable leasehold estates shall be valued at such price as they
21 would bring at a fair, voluntary sale for cash without any deductions
22 for any indebtedness owed including rentals to be paid.

23 The true and fair value of real property for taxation purposes
24 (including property upon which there is a coal or other mine, or stone
25 or other quarry) shall be based upon the following criteria:

26 (1) Any sales of the property being appraised or similar properties
27 with respect to sales made within the past five years. The appraisal
28 shall be consistent with the comprehensive land use plan, development
29 regulations under chapter 36.70A RCW, zoning, and any other
30 governmental policies or practices in effect at the time of appraisal
31 that affect the use of property, as well as physical and environmental
32 influences. The appraisal shall also take into account: (a) In the
33 use of sales by real estate contract as similar sales, the extent, if
34 any, to which the stated selling price has been increased by reason of
35 the down payment, interest rate, or other financing terms; and (b) the
36 extent to which the sale of a similar property actually represents the
37 general effective market demand for property of such type, in the
38 geographical area in which such property is located. Sales involving

1 deed releases or similar seller-developer financing arrangements shall
2 not be used as sales of similar property.

3 (2) In addition to sales as defined in subsection (1),
4 consideration may be given to cost, cost less depreciation,
5 reconstruction cost less depreciation, or capitalization of income that
6 would be derived from prudent use of the property. In the case of
7 property of a complex nature, or being used under terms of a franchise
8 from a public agency, or operating as a public utility, or property not
9 having a record of sale within five years and not having a significant
10 number of sales of similar property in the general area, the provisions
11 of this subsection (2) shall be the dominant factors in valuation.
12 When provisions of this subsection (2) are relied upon for establishing
13 values the property owner shall be advised upon request of the factors
14 used in arriving at such value.

15 (3) In valuing any tract or parcel of real property, the value of
16 the land, exclusive of structures thereon shall be determined; also the
17 value of structures thereon, but the valuation shall not exceed the
18 value of the total property as it exists. In valuing agricultural
19 land, growing crops shall be excluded.

20 (4) In valuing any tract or parcel of real property designated and
21 zoned under a comprehensive plan adopted under chapter 36.70A RCW as
22 agricultural, forest, or open space land, the appraisal shall not be
23 based on similar sales of parcels that have been converted to
24 nonagricultural, nonforest, or nonopen-space uses within five years
25 after the sale.

26 **Sec. 26.** RCW 90.60.030 and 1995 c 347 s 603 are each amended to
27 read as follows:

28 The permit assistance center is established within the department.
29 The center shall:

30 (1) Publish and keep current one or more handbooks containing lists
31 and explanations of all permit laws. ~~((The center shall coordinate
32 with the business assistance center in providing and maintaining this
33 information to applicants and others.))~~ To the extent possible, the
34 handbook shall include relevant federal and tribal laws. A state
35 agency or local government shall provide a reasonable number of copies
36 of application forms, statutes, ordinances, rules, handbooks, and other
37 informational material requested by the center and shall otherwise

1 fully cooperate with the center. The center shall seek the cooperation
2 of relevant federal agencies and tribal governments;

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

6 (3) Work closely and cooperatively with the business license center
7 (~~and the business assistance center~~) in providing efficient and
8 nonduplicative service to the public;

9 (4) Seek the assignment of employees from the permit agencies
10 listed under RCW 90.60.020(6)(a) to serve on a rotating basis in
11 staffing the center; (~~and~~)

12 (5) Collect and disseminate information to public and private
13 entities on federal, state, local, and tribal government programs that
14 rely on private professional expertise to assist governmental agencies
15 in project permit review; and

16 (6) Provide an annual report to the legislature on potential
17 conflicts and perceived inconsistencies among existing statutes. The
18 first report shall be submitted to the appropriate standing committees
19 of the house of representatives and senate by December 1, 1996.

20 **Sec. 27.** RCW 35.13.130 and 1990 c 33 s 566 are each amended to
21 read as follows:

22 A petition for annexation of an area contiguous to a city or town
23 may be made in writing addressed to and filed with the legislative body
24 of the municipality to which annexation is desired. Except where all
25 the property sought to be annexed is property of a school district, and
26 the school directors thereof file the petition for annexation as in RCW
27 28A.335.110 authorized, and except where the property to be annexed is
28 within an urban growth area designated under RCW 36.70A.110, the
29 petition must be signed by the owners of not less than seventy-five
30 percent in value according to the assessed valuation for general
31 taxation of the property for which annexation is petitioned. When the
32 property to be annexed is within an urban growth area designated under
33 RCW 36.70A.110, the petition must be signed by the owners of not less
34 than sixty percent in value according to the assessed valuation for
35 general taxation of the property for which annexation is petitioned:
36 PROVIDED, That in cities and towns with populations greater than one
37 hundred sixty thousand located east of the Cascade mountains, the owner
38 of tax exempt property may sign an annexation petition and have the tax

1 exempt property annexed into the city or town, but the value of the tax
2 exempt property shall not be used in calculating the sufficiency of the
3 required property owner signatures unless only tax exempt property is
4 proposed to be annexed into the city or town. The petition shall set
5 forth a description of the property according to government legal
6 subdivisions or legal plats which is in compliance with RCW 35.02.170,
7 and shall be accompanied by a plat which outlines the boundaries of the
8 property sought to be annexed. If the legislative body has required
9 the assumption of all or of any portion of city or town indebtedness by
10 the area annexed, and/or the adoption of a comprehensive plan for the
11 area to be annexed, these facts, together with a quotation of the
12 minute entry of such requirement or requirements shall be set forth in
13 the petition.

14 **Sec. 28.** RCW 35A.14.295 and 1967 ex.s. c 119 s 35A.14.295 are each
15 amended to read as follows:

16 ~~((When there is, within))~~ (1) The legislative body of a code city
17 may resolve to annex territory containing residential property owners
18 to the city if there is within the city, unincorporated territory:

19 (a) Containing less than one hundred acres and having at least
20 eighty percent of the boundaries of such area contiguous to the code
21 city(~~(, the legislative body may resolve to annex such territory to the~~
22 code city)); or

23 (b) Of any size and having at least eighty percent of the
24 boundaries of such area contiguous to the city if such area existed
25 before June 30, 1994, and is within the same county and within the same
26 urban growth area designated under RCW 36.70A.110, and the city was
27 planning under chapter 36.70A RCW as of June 30, 1994.

28 (2) The resolution shall describe the boundaries of the area to be
29 annexed, state the number of voters residing therein as nearly as may
30 be, and set a date for a public hearing on such resolution for
31 annexation. Notice of the hearing shall be given by publication of the
32 resolution at least once a week for two weeks prior to the date of the
33 hearing, in one or more newspapers of general circulation within the
34 code city and one or more newspapers of general circulation within the
35 area to be annexed.

36 (3) For purposes of subsection (1)(b) of this section, territory
37 bounded by a river, lake, or other body of water is considered

1 contiguous to a city that is also bounded by the same river, lake, or
2 other body of water.

3 NEW SECTION. **Sec. 29.** A new section is added to chapter 35.13 RCW
4 to read as follows:

5 (1) The legislative body of a city or town planning under chapter
6 36.70A RCW as of June 30, 1994, may resolve to annex territory to the
7 city or town if there is, within the city or town, unincorporated
8 territory containing residential property owners within the same county
9 and within the same urban growth area designated under RCW 36.70A.110
10 as the city or town:

11 (a) Containing less than one hundred acres and having at least
12 eighty percent of the boundaries of such area contiguous to the city or
13 town if such area existed before June 30, 1994; or

14 (b) Of any size and having at least eighty percent of the
15 boundaries of the area contiguous to the city if the area existed
16 before June 30, 1994.

17 (2) The resolution shall describe the boundaries of the area to be
18 annexed, state the number of voters residing in the area as nearly as
19 may be, and set a date for a public hearing on the resolution for
20 annexation. Notice of the hearing shall be given by publication of the
21 resolution at least once a week for two weeks before the date of the
22 hearing in one or more newspapers of general circulation within the
23 city or town and one or more newspapers of general circulation within
24 the area to be annexed.

25 (3) For purposes of subsection (1)(b) of this section, territory
26 bounded by a river, lake, or other body of water is considered
27 contiguous to a city that is also bounded by the same river, lake, or
28 other body of water.

29 **Sec. 30.** RCW 35.13.174 and 1973 1st ex.s. c 164 s 17 are each
30 amended to read as follows:

31 Upon receipt by the board of county commissioners of a
32 determination by a majority of the review board favoring annexation of
33 the proposed area that has been initiated by resolution pursuant to RCW
34 35.13.015 by the city or town legislative body, the board of county
35 commissioners, or the city or town legislative body for any city or
36 town within an urban growth area designated under RCW 36.70A.110, shall

1 fix a date on which an annexation election shall be held, which date
2 will be not less than thirty days nor more than sixty days thereafter.

3 **Sec. 31.** RCW 36.93.170 and 1989 c 84 s 5 are each amended to read
4 as follows:

5 In reaching a decision on a proposal or an alternative, the board
6 shall consider the factors affecting such proposal, which shall
7 include, but not be limited to the following:

8 (1) Population and territory; population density; land area and
9 land uses; comprehensive plans and zoning, as adopted under chapter
10 35.63, 35A.63, or 36.70 RCW; comprehensive plans and development
11 regulations adopted under chapter 36.70A RCW; applicable service
12 agreements entered into under chapter 36.115 or 39.34 RCW; applicable
13 interlocal annexation agreements between a county and its cities; per
14 capita assessed valuation; topography, natural boundaries and drainage
15 basins, proximity to other populated areas; the existence and
16 preservation of prime agricultural soils and productive agricultural
17 uses; the likelihood of significant growth in the area and in adjacent
18 incorporated and unincorporated areas during the next ten years;
19 location and most desirable future location of community facilities;

20 (2) Municipal services; need for municipal services; effect of
21 ordinances, governmental codes, regulations and resolutions on existing
22 uses; present cost and adequacy of governmental services and controls
23 in area; prospects of governmental services from other sources;
24 probable future needs for such services and controls; probable effect
25 of proposal or alternative on cost and adequacy of services and
26 controls in area and adjacent area; the effect on the finances, debt
27 structure, and contractual obligations and rights of all affected
28 governmental units; and

29 (3) The effect of the proposal or alternative on adjacent areas, on
30 mutual economic and social interests, and on the local governmental
31 structure of the county.

32 The provisions of chapter 43.21C RCW, State Environmental Policy,
33 shall not apply to incorporation proceedings covered by chapter 35.02
34 RCW.

35 **Sec. 32.** RCW 84.14.010 and 1995 c 375 s 3 are each amended to read
36 as follows:

1 Unless the context clearly requires otherwise, the definitions in
2 this section apply throughout this chapter.

3 (1) "City" means either (a) a city or town with a population of at
4 least one hundred ((fifty)) thousand or (b) the largest city or town,
5 if there is no city or town with a population of at least one hundred
6 thousand, located in a county planning under the growth management act.

7 (2) "Governing authority" means the local legislative authority of
8 a city having jurisdiction over the property for which an exemption may
9 be applied for under this chapter.

10 (3) "Growth management act" means chapter 36.70A RCW.

11 (4) "Multiple-unit housing" means a building having four or more
12 dwelling units not designed or used as transient accommodations and not
13 including hotels and motels. Multifamily units may result from new
14 construction or rehabilitated or conversion of vacant, underutilized,
15 or substandard buildings to multifamily housing.

16 (5) "Owner" means the property owner of record.

17 (6) "Permanent residential occupancy" means multiunit housing that
18 provides either rental or owner occupancy on a nontransient basis.
19 This includes owner-occupied or rental accommodation that is leased for
20 a period of at least one month. This excludes hotels and motels that
21 predominately offer rental accommodation on a daily or weekly basis.

22 (7) "Rehabilitation improvements" means modifications to existing
23 structures, that are vacant for twelve months or longer, that are made
24 to achieve a condition of substantial compliance with existing building
25 codes or modification to existing occupied structures which increase
26 the number of multifamily housing units.

27 (8) "Residential targeted area" means an area within an urban
28 center that has been designated by the governing authority as a
29 residential targeted area in accordance with this chapter.

30 (9) "Substantial compliance" means compliance with local building
31 or housing code requirements that are typically required for
32 rehabilitation as opposed to new construction.

33 (10) "Urban center" means a compact identifiable district where
34 urban residents may obtain a variety of products and services. An
35 urban center must contain:

36 (a) Several existing or previous, or both, business establishments
37 that may include but are not limited to shops, offices, banks,
38 restaurants, governmental agencies;

1 (b) Adequate public facilities including streets, sidewalks,
2 lighting, transit, domestic water, and sanitary sewer systems; and
3 (c) A mixture of uses and activities that may include housing,
4 recreation, and cultural activities in association with either
5 commercial or office, or both, use.

6 **Sec. 33.** RCW 34.05.518 and 1995 c 382 s 5 are each amended to read
7 as follows:

8 (1) The final decision of an administrative agency in an
9 adjudicative proceeding under this chapter may be directly reviewed by
10 the court of appeals either (a) upon certification by the superior
11 court pursuant to this section or (b) if the final decision is from an
12 environmental board as defined in subsection (3) of this section, upon
13 acceptance by the court of appeals after a certificate of appealability
14 has been filed by the environmental board that rendered the final
15 decision.

16 (2) For direct review upon certification by the superior court, an
17 application for direct review must be filed with the superior court
18 within thirty days of the filing of the petition for review in superior
19 court. The superior court may certify a case for direct review only if
20 the judicial review is limited to the record of the agency proceeding
21 and the court finds that:

22 (a) Fundamental and urgent issues affecting the future
23 administrative process or the public interest are involved which
24 require a prompt determination;

25 (b) Delay in obtaining a final and prompt determination of such
26 issues would be detrimental to any party or the public interest;

27 (c) An appeal to the court of appeals would be likely regardless of
28 the determination in superior court; and

29 (d) The appellate court's determination in the proceeding would
30 have significant precedential value.

31 Procedures for certification shall be established by court rule.

32 (3)(a) For the purposes of direct review of final decisions of
33 environmental boards, environmental boards include those boards
34 identified in RCW 43.21B.005 (~~and growth management hearings boards as~~
35 ~~identified in RCW 36.70A.250~~)).

36 (b) An environmental board may issue a certificate of appealability
37 if it finds that delay in obtaining a final and prompt determination of

1 the issues would be detrimental to any party or the public interest and
2 either:

3 (i) Fundamental and urgent state-wide or regional issues are
4 raised; or

5 (ii) The proceeding is likely to have significant precedential
6 value.

7 (4) The environmental board shall state in the certificate of
8 appealability which criteria it applied, explain how that criteria was
9 met, and file with the certificate a copy of the final decision.

10 (5) For an appellate court to accept direct review of a final
11 decision of an environmental board, it shall consider the same criteria
12 outlined in subsection (3) of this section.

13 (6) The procedures for direct review of final decisions of
14 environmental boards include:

15 (a) Within thirty days after filing the petition for review with
16 the superior court, a party may file an application for direct review
17 with the superior court and serve the appropriate environmental board
18 and all parties of record. The application shall request the
19 environmental board to file a certificate of appealability.

20 (b) If an issue on review is the jurisdiction of the environmental
21 board, the board may file an application for direct review on that
22 issue.

23 (c) The environmental board shall have thirty days to grant or deny
24 the request for a certificate of appealability and its decision shall
25 be filed with the superior court and served on all parties of record.

26 (d) If a certificate of appealability is issued, the parties shall
27 have fifteen days from the date of service to file a notice of
28 discretionary review in the superior court, and the notice shall
29 include a copy of the certificate of appealability and a copy of the
30 final decision.

31 (e) If the appellate court accepts review, the certificate of
32 appealability shall be transmitted to the court of appeals as part of
33 the certified record.

34 (f) If a certificate of appealability is denied, review shall be by
35 the superior court. The superior court's decision may be appealed to
36 the court of appeals.

37 NEW SECTION. **Sec. 34.** Except as otherwise specifically provided
38 in section 16 of this act, sections 1 through 15, chapter . . . , Laws

1 of 1997 (sections 1 through 15 of this act) are prospective in effect
2 and shall not affect the validity of actions taken or decisions made
3 before the effective date of this section.

4 NEW SECTION. **Sec. 35.** If any provision of this act or its
5 application to any person or circumstance is held invalid, the
6 remainder of the act or the application of the provision to other
7 persons or circumstances is not affected."

8 Correct the title.

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