
SECOND SUBSTITUTE HOUSE BILL 1649

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Cairnes, Mulliken, Sherstad, Koster, Boldt, Skinner, Clements, Mielke, Radcliff, Dunn and McMorris)

Read first time 03/10/97.

1 AN ACT Relating to growth management; amending RCW 36.70A.010,
2 36.70A.020, 36.70A.030, 36.70A.050, 36.70A.060, 36.70A.070, 36.70A.110,
3 36.70A.130, 36.70A.210, 36.70A.370, 36.70B.010, 36.70B.020, 36.70B.040,
4 36.70B.060, 36.70B.070, 36.70B.090, 36.70B.110, 36.70B.120, 36.70B.130,
5 36.70B.140, and 36.70B.160; amending 1995 c 347 s 433 (uncodified);
6 adding new sections to chapter 36.70A RCW; creating a new section;
7 repealing RCW 36.70B.030 and 36.70B.080; and repealing 1995 c 347 s 411
8 (uncodified).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (5) "Critical areas" include the following areas and ecosystems:
27 (a) Documented wetlands; (b) areas with a critical recharging effect
28 ~~((on))~~ that is necessary for the health of aquifers used for potable
29 water; (c) fish and wildlife habitat conservation areas; (d) frequently
30 flooded areas; and (e) geologically hazardous areas.

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

33 (7) "Development regulations" means the controls placed on
34 development or land use activities by a county or city, ~~((including,~~
35 ~~but not limited to,))~~ zoning ordinances, critical areas ordinances,
36 shoreline master programs, shoreline management act provisions, or
37 official controls, ~~((planned unit development ordinances, subdivision~~
38 ~~ordinances, and binding site plan ordinances together with any~~

1 ~~amendments thereto~~) each with their own separate approval processes.
2 A development regulation does not include a decision to approve a
3 project permit application, as defined in RCW 36.70B.020, even though
4 the decision may be expressed in a resolution or ordinance of the
5 legislative body of the county or city.

6 (8) "Forest land" means land primarily devoted to growing trees for
7 long-term commercial timber production on land that can be economically
8 and practically managed for such production, including Christmas trees
9 subject to the excise tax imposed under RCW 84.33.100 through
10 84.33.140, and that has long-term commercial significance. In
11 determining whether forest land is primarily devoted to growing trees
12 for long-term commercial timber production on land that can be
13 economically and practically managed for such production, the following
14 factors shall be considered: (a) The proximity of the land to urban,
15 suburban, and rural settlements; (b) surrounding parcel size and the
16 compatibility and intensity of adjacent and nearby land uses; (c) long-
17 term local economic conditions that affect the ability to manage for
18 timber production; and (d) the availability of public facilities and
19 services conducive to conversion of forest land to other uses.

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

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

32 (11) "Minerals" include gravel, sand, and valuable metallic
33 substances.

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

1 (13) "Public services" include fire protection and suppression, law
2 enforcement, public health, education, and recreation~~((, environmental~~
3 ~~protection, and other governmental services))~~.

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

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

19 ~~((15))~~ (16) "Urban growth areas" means those areas designated by
20 a county pursuant to RCW 36.70A.110.

21 ~~((16))~~ (17) "Urban governmental services" include those
22 governmental services historically and typically delivered by cities,
23 and include storm and sanitary sewer systems, domestic water systems,
24 street cleaning services, fire and police protection services, public
25 transit services, and other public utilities associated with urban
26 areas ~~((and normally not associated with nonurban areas))~~.

27 ~~((17))~~ (18) "Wetland" or "wetlands" means areas that are
28 inundated or saturated by surface water or ground water at a frequency
29 and duration sufficient to support, and that under normal circumstances
30 do support, a prevalence of vegetation typically adapted for life in
31 saturated soil conditions. Wetlands generally include swamps, marshes,
32 bogs, and similar areas. Wetlands do not include those artificial
33 wetlands intentionally created from nonwetland sites, including, but
34 not limited to, irrigation and drainage ditches, grass-lined swales,
35 canals, detention facilities, wastewater treatment facilities, farm
36 ponds, and landscape amenities, or those wetlands ~~((created after July~~
37 ~~1, 1990, that were))~~ unintentionally created as a result of the
38 construction of a road, street, or highway. Wetlands may include those
39 artificial wetlands intentionally created from nonwetland areas created

1 to mitigate conversion of wetlands. Wetlands must measurably and
2 demonstrably perform a wetland function. Any land farmed, developed,
3 or otherwise employed in a nonwetland use prior to 1987 shall not be
4 considered or designated a wetland.

5 NEW SECTION. **Sec. 4.** A project for which a federal permit is
6 obtained under section 404 of the Clean Water Act is exempt from the
7 department of ecology water quality certification process under the
8 Clean Water Act.

9 NEW SECTION. **Sec. 5.** Critical areas shall be regulated only for
10 the limited purpose of protecting the public's health and safety.

11 NEW SECTION. **Sec. 6.** Development regulations shall only be
12 adopted for the limited purpose of protecting the public's health and
13 safety.

14 NEW SECTION. **Sec. 7.** Outside an established urban growth area, if
15 a project applicant has an approved water system and an approval for
16 sewer or a septic tank system, the city or county shall issue permits
17 necessary for building single-family residences.

18 **Sec. 8.** RCW 36.70A.050 and 1990 1st ex.s. c 17 s 5 are each
19 amended to read as follows:

20 (1) Subject to the definitions provided in RCW 36.70A.030, the
21 department shall adopt guidelines, under chapter 34.05 RCW, no later
22 than September 1, 1990, and shall amend these guidelines to conform to
23 this chapter by December 31, 1997, to guide the classification of: (a)
24 Agricultural lands; (b) forest lands; (c) mineral resource lands; and
25 (d) critical areas. The department shall consult with the department
26 of agriculture regarding guidelines for agricultural lands, the
27 department of natural resources regarding forest lands and mineral
28 resource lands, and the department of ecology regarding critical areas.

29 (2) In carrying out its duties under this section, the department
30 shall consult with interested parties, including but not limited to:
31 (a) Representatives of cities; (b) representatives of counties; (c)
32 representatives of developers; (d) representatives of builders; (e)
33 representatives of owners of agricultural lands, forest lands, and
34 mining lands; (f) representatives of local economic development

1 officials; (g) representatives of environmental organizations; (h)
2 representatives of special districts; (i) representatives of the
3 governor's office and federal and state agencies; and (j)
4 representatives of Indian tribes. In addition to the consultation
5 required under this subsection, the department shall conduct public
6 hearings in the various regions of the state. The department shall
7 consider the public input obtained at such public hearings when
8 adopting the guidelines.

9 (3) The guidelines under subsection (1) of this section shall ((be
10 ~~minimum guidelines that~~)) apply to all jurisdictions((~~, but also shall~~
11 ~~allow for regional differences that exist in Washington state~~)). The
12 intent of these guidelines is to assist counties and cities in
13 designating the classification of agricultural lands, forest lands,
14 mineral resource lands, and critical areas under RCW 36.70A.170.
15 Counties and cities may not designate lands as resource lands or
16 critical areas that do not qualify under the guidelines.

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

20 **Sec. 9.** RCW 36.70A.060 and 1991 sp.s. c 32 s 21 are each amended
21 to read as follows:

22 (1) Each county that is required or chooses to plan under RCW
23 36.70A.040, and each city within such county, shall adopt development
24 regulations on or before September 1, 1991, to assure the conservation
25 of agricultural, forest, and mineral resource lands designated under
26 RCW 36.70A.170. Regulations adopted under this subsection may not
27 prohibit uses legally existing on any parcel prior to their adoption
28 and shall remain in effect until the county or city adopts development
29 regulations pursuant to RCW 36.70A.120. ((~~Such regulations shall~~
30 ~~assure that the use of lands adjacent to agricultural, forest, or~~
31 ~~mineral resource lands shall not interfere with the continued use, in~~
32 ~~the accustomed manner and in accordance with best management practices,~~
33 ~~of these designated lands for the production of food, agricultural~~
34 ~~products, or timber, or for the extraction of minerals.~~)) Counties and
35 cities shall require that all plats, short plats, development permits,
36 and building permits issued for development activities on, or within
37 three hundred feet of, lands designated as agricultural lands, forest
38 lands, or mineral resource lands, contain a notice that the subject

1 property is within or near designated agricultural lands, forest lands,
2 or mineral resource lands on which a variety of commercial activities
3 may occur that are not compatible with residential development for
4 certain periods of limited duration.

5 (2) Each county and city shall adopt development regulations that
6 protect critical areas from hazards and health and safety risks that
7 are required to be designated under RCW 36.70A.170. For counties and
8 cities that are required or choose to plan under RCW 36.70A.040, such
9 development regulations shall be adopted on or before September 1,
10 1991. For the remainder of the counties and cities, such development
11 regulations shall be adopted on or before March 1, 1992, but cities and
12 counties shall amend their development regulations to conform with this
13 chapter by December 1, 1997.

14 (3) Such counties and cities shall review these designations and
15 development regulations when adopting their comprehensive plans under
16 RCW 36.70A.040 and implementing development regulations under RCW
17 36.70A.120 (~~and may alter such designations and development~~
18 ~~regulations to insure consistency~~)).

19 (4) Forest land and agricultural land located within urban growth
20 areas shall not be designated by a county or city as forest land or
21 agricultural land of long-term commercial significance under RCW
22 36.70A.170 (~~unless the city or county has enacted a program~~
23 ~~authorizing transfer or purchase of development rights~~)).

24 **Sec. 10.** RCW 36.70A.070 and 1996 c 239 s 1 are each amended to
25 read as follows:

26 The comprehensive plan of a county or city that is required or
27 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
28 and descriptive text covering objectives, principles, and standards
29 used to develop the comprehensive plan. The plan shall be an
30 internally consistent document and all elements shall be consistent
31 with the future land use map. A comprehensive plan shall be adopted
32 and amended with public participation as provided in RCW 36.70A.140.

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

35 (1) A land use element designating the proposed general
36 distribution and general location and extent of the uses of land, where
37 appropriate, for agriculture, timber production, housing, commerce,
38 industry, recreation, open spaces, general aviation airports, public

1 utilities, public facilities, and other land uses. ((The land use
2 element shall include population densities, building intensities, and
3 estimates of future population growth. The land use element shall
4 provide for protection of the quality and quantity of ground water used
5 for public water supplies. Where applicable, the land use element
6 shall review drainage, flooding, and storm water run-off in the area
7 and nearby jurisdictions and provide guidance for corrective actions to
8 mitigate or cleanse those discharges that pollute waters of the state,
9 including Puget Sound or waters entering Puget Sound.))

10 (2) A housing element ensuring the vitality and character of
11 established residential neighborhoods that: (a) Includes an inventory
12 and analysis of existing and projected housing needs; (b) includes a
13 statement of goals, policies, objectives, and mandatory provisions for
14 the preservation, improvement, and development of housing, including
15 single-family residences; (c) identifies sufficient land for housing(
16 including, but not limited to, government-assisted housing, housing for
17 low-income families, manufactured housing, multifamily housing, and
18 group homes and foster care facilities)); and (d) makes adequate
19 provisions for existing and projected needs of all economic segments of
20 the community, except that counties and cities shall not require
21 private projects to include or provide low-income housing as a
22 condition of issuing a permit or granting a land-use approval.

23 (3) A capital facilities plan element consisting of: (a) An
24 inventory of existing capital facilities owned by public entities,
25 showing the locations and capacities of the capital facilities; (b) a
26 forecast of the future needs for such capital facilities; (c) the
27 proposed locations and capacities of expanded or new capital
28 facilities; and (d) at least a six-year plan that will finance such
29 capital facilities within projected funding capacities and clearly
30 identifies sources of public money for such purposes(~~(; and (e) a~~
31 ~~requirement to reassess the land use element if probable funding falls~~
32 ~~short of meeting existing needs and to ensure that the land use~~
33 ~~element, capital facilities plan element, and financing plan within the~~
34 ~~capital facilities plan element are coordinated and consistent)).~~

35 (4) A utilities element consisting of the general location,
36 proposed location, and capacity of all existing and proposed utilities,
37 including, but not limited to, electrical lines, telecommunication
38 lines, and natural gas lines.

1 (5) Counties shall include a rural element (~~((including lands that~~
2 ~~are not designated for urban growth, agriculture, forest, or mineral~~
3 ~~resources))~~). The rural element shall permit appropriate land uses that
4 are compatible with the rural character of such lands and provide for
5 a variety of rural densities and uses and may also provide for
6 clustering, density transfer, design guidelines, conservation
7 easements, and other innovative techniques that will accommodate
8 appropriate rural uses not characterized by urban growth. For the
9 purposes of this subsection, "compatible with the rural character of
10 such lands" means development of less than ten single-family
11 residential units on any recorded parcel by a property owner.

12 (6) A transportation element that implements, and is consistent
13 with, the land use element. The transportation element shall include
14 the following subelements:

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

16 (b) Facilities and services needs, including:

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

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

24 (iii) Specific actions (~~(and requirements)~~), by using motor vehicle
25 excise tax and gas tax funds, for bringing into compliance any
26 facilities or services that are below an established level of service
27 standard;

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

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

33 (c) Finance, including:

34 (i) An analysis of funding capability to judge needs against
35 probable funding resources;

36 (ii) A multiyear financing plan based on the needs identified in
37 the comprehensive plan, the appropriate parts of which shall serve as
38 the basis for the six-year street, road, or transit program required by

1 RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
2 35.58.2795 for public transportation systems;

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

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

10 (e) Demand-management strategies.

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

26 The transportation element described in this subsection, and the
27 six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for
28 counties, and RCW 35.58.2795 for public transportation systems, must be
29 consistent.

30 **Sec. 11.** RCW 36.70A.110 and 1995 c 400 s 2 are each amended to
31 read as follows:

32 (1) Each county that is required or chooses to plan under RCW
33 36.70A.040 shall designate an urban growth area or areas within which
34 urban growth shall be encouraged (~~(and outside of which growth can~~
35 ~~occur only if it is not urban in nature))~~). Each city that is located
36 in such a county shall be included within an urban growth area. An
37 urban growth area may include more than a single city. An urban growth
38 area (~~(may))~~ shall include territory that is located outside of a city

1 (~~only if such territory already is characterized by urban growth~~
2 ~~whether or not the urban growth area includes a city, or is adjacent to~~
3 ~~territory already characterized by urban growth, or is a designated new~~
4 ~~fully contained community as defined by RCW 36.70A.350)) when a county
5 determines the territory is necessary to provide an adequate land
6 supply to expand the urban growth boundaries beyond the boundaries of
7 existing cities. However, a county's designated urban growth areas
8 shall be at least large enough to accommodate all projected growth and
9 all growth that actually occurs. Cities and counties shall designate
10 urban growth areas that favor expansive delineation of these areas.~~

11 (2) (~~Based upon the growth management population projection made~~
12 ~~for the county by the office of financial management,~~) The urban
13 growth areas in the county shall include areas and densities sufficient
14 to permit the urban growth that is projected to occur in the county for
15 the succeeding twenty-year period. The office of financial management
16 may be a source for which counties base their population forecasts.
17 Counties may add their own calculations to the office of financial
18 management's population projections. Each urban growth area shall
19 permit urban densities and shall include greenbelt and open space
20 areas. An urban growth area determination may include a reasonable
21 land market supply factor and shall permit a range of urban densities
22 and uses. In determining this market factor, cities and counties may
23 consider local circumstances. Cities and counties have discretion in
24 their comprehensive plans to make many choices about accommodating
25 growth.

26 Within one year of July 1, 1990, each county that as of June 1,
27 1991, was required or chose to plan under RCW 36.70A.040, shall begin
28 consulting with each city located within its boundaries and each city
29 shall propose the location of an urban growth area. Within sixty days
30 of the date the county legislative authority of a county adopts its
31 resolution of intention or of certification by the office of financial
32 management, all other counties that are required or choose to plan
33 under RCW 36.70A.040 shall begin this consultation with each city
34 located within its boundaries. The county shall attempt to reach
35 agreement with each city on the location of an urban growth area within
36 which the city is located. If such an agreement is not reached with
37 each city located within the urban growth area, the county shall
38 justify in writing why it so designated the area an urban growth area.
39 A city may object formally with the department over the designation of

1 the urban growth area within which it is located. Where appropriate,
2 the department shall attempt to resolve the conflicts, including the
3 use of mediation services. This section is intended to establish only
4 a minimum standard for the size of urban growth areas. This section
5 neither limits the discretion of counties to include an ample land
6 supply within urban growth areas nor compels counties to limit or
7 disregard existing property rights.

8 (3)(a) 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~~)
11 in 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. This chapter does not limit the common law duty of a
18 public utility, whether publicly or privately owned, to make service
19 available to all within its franchise area and within areas as to which
20 a public utility has held itself out as a provider of service. "Public
21 utility," as used in this subsection, refers to a private entity or
22 municipal or quasi-municipal corporation that provides electricity,
23 sanitary sewer, storm sewer, water, telephone, cable television,
24 communications services, or natural gas to the public.

25 (b) In addition to (a) of this subsection, a city that provides
26 water or sewer service outside the corporate boundaries of the city
27 shall not require, as a condition of providing water or sewer service,
28 the property owner who has requested water or sewer service to agree
29 to:

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

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

34 (4) In general, cities are the units of local government most
35 appropriate to provide urban governmental services. In general, it is
36 not appropriate that urban governmental services be extended to or
37 expanded in rural areas except in those limited circumstances shown to
38 be necessary to protect basic public health and safety and the

1 environment and when such services are financially supportable at rural
2 densities and do not permit urban development.

3 (5) On or before October 1, 1993, each county that was initially
4 required to plan under RCW 36.70A.040(1) shall adopt development
5 regulations designating interim urban growth areas under this chapter.
6 Within three years and three months of the date the county legislative
7 authority of a county adopts its resolution of intention or of
8 certification by the office of financial management, all other counties
9 that are required or choose to plan under RCW 36.70A.040 shall adopt
10 development regulations designating interim urban growth areas under
11 this chapter. Adoption of the interim urban growth areas may only
12 occur after public notice; public hearing; and compliance with the
13 state environmental policy act, chapter 43.21C RCW, and RCW 36.70A.110.
14 Such action may be appealed to the appropriate growth management
15 hearings board under RCW 36.70A.280. Final urban growth areas shall be
16 adopted at the time of comprehensive plan adoption under this chapter.

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

19 NEW SECTION. **Sec. 12.** (1) A county or city that downzones any
20 property, in the course of planning, bears the burden of proving, by
21 clear and convincing evidence, that the downzone is justified by
22 reference to the common law standards governing downzones and is
23 indispensable to government achieving compliance with this chapter.

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

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

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

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

4 **Sec. 13.** RCW 36.70A.130 and 1995 c 347 s 106 are each amended to
5 read as follows:

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

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

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

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

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

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

28 (3) Each county that designates urban growth areas under RCW
29 36.70A.110 shall review, at least (~~every ten years~~) annually, its
30 designated urban growth area or areas, and the densities permitted
31 within both the incorporated and unincorporated portions of each urban
32 growth area. In conjunction with this review by the county, each city
33 located within an urban growth area shall review the densities
34 permitted within its boundaries, and the extent to which the urban
35 growth occurring within the county has located within each city and the
36 unincorporated portions of the urban growth areas. The county
37 comprehensive plan designating urban growth areas, and the densities
38 permitted in the urban growth areas by the comprehensive plans of the

1 county and each city located within the urban growth areas, shall be
2 revised to accommodate the urban growth projected to occur in the
3 county for the succeeding twenty-year period.

4 **Sec. 14.** RCW 36.70A.210 and 1994 c 249 s 28 are each amended to
5 read as follows:

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

16 (2) The legislative authority of a county that plans under RCW
17 36.70A.040 shall adopt a county-wide planning policy in cooperation
18 with the cities located in whole or in part within the county as
19 follows:

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

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

36 (c) If a county fails for any reason to convene a meeting with
37 representatives of cities as required in (a) of this subsection, the

1 governor may immediately impose any appropriate sanction or sanctions
2 on the county from those specified under RCW 36.70A.340.

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

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

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

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

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

34 (c) Policies for siting public capital facilities of a county-wide
35 or state-wide nature;

36 (d) Policies for county-wide transportation facilities and
37 strategies;

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

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

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

8 (h) An analysis of the fiscal impact.

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

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

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

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

30 **Sec. 15.** RCW 36.70A.370 and 1991 sp.s. c 32 s 18 are each amended
31 to read as follows:

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

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

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

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

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

16 **Sec. 16.** RCW 36.70B.010 and 1995 c 347 s 401 are each amended to
17 read as follows:

18 The legislature finds and declares the following:

19 (1) As the number of environmental laws and development regulations
20 has increased for land uses and development, so has the number of
21 required local land use permits, each with its own separate approval
22 process.

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

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

32 (4) The legislature therefore finds minimizing lengthy, costly, and
33 burdensome appeals and permit processes to be of great importance as
34 well as to be promoting clear vesting of property and development
35 rights.

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

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

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

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

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

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

30 (5) "Public meeting" means an informal meeting, hearing, workshop,
31 or other public gathering of people to obtain comments from the public
32 or other agencies on a proposed project permit prior to the local
33 government's decision. A public meeting ((may include, but)) is
34 ((not)) limited to((, a design review or architectural control board
35 meeting, a special review district or community council meeting, or))
36 a scoping meeting on a draft environmental impact statement. A public
37 meeting does not include an open record hearing. The proceedings at a
38 public meeting may be recorded and a report ((or recommendation)) may
39 be included in the local government's project permit application file.

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

4 **Sec. 18.** RCW 36.70B.040 and 1995 c 347 s 405 are each amended to
5 read as follows:

6 (1) A proposed project's consistency with a local government's
7 development regulations adopted under chapter 36.70A RCW, or, in the
8 absence of applicable development regulations, the appropriate elements
9 of the comprehensive plan or subarea plan adopted under chapter 36.70A
10 RCW shall be determined by consideration of:

11 (a) The type of land use;

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

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

16 ~~(d) The character of the development, such as development~~
17 ~~standards.~~

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

20 ~~((3))~~ (2) For purposes of this section, the term "consistency"
21 shall include all terms used in ~~((this chapter and))~~ chapter 36.70A RCW
22 to refer to performance in accordance with ~~((this chapter and))~~ chapter
23 36.70A RCW(~~(, including but not limited to compliance, conformity, and~~
24 ~~consistency))~~).

25 ~~((4))~~ (3) Nothing in this section requires additional
26 documentation~~((,))~~ by the applicant or dictates an agency's procedures
27 for considering consistency~~(, or limits a unit of government from~~
28 ~~asking more specific or related questions with respect to any of the~~
29 ~~four main categories listed in subsection (1)(a) through (d) of this~~
30 ~~section))~~).

31 **Sec. 19.** RCW 36.70B.060 and 1995 c 347 s 407 are each amended to
32 read as follows:

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

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

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

5 (3) Except as provided in RCW 36.70B.140, an optional consolidated
6 project permit review process as provided in RCW 36.70B.120. The
7 review process shall provide for no more than one consolidated open
8 record hearing and one closed record appeal(~~(. If an open record
9 predecision hearing is provided prior to the decision on a project
10 permit, the process shall not allow a subsequent open record appeal
11 hearing)~~);

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

17 (5) (~~A single report stating all the decisions made as of the date
18 of the report on all project permits included in the consolidated
19 permit process that do not require an open record predecision hearing
20 and any recommendations on project permits that do not require an open
21 record predecision hearing. The report shall state any mitigation
22 required or proposed under the development regulations or the agency's
23 authority under RCW 43.21C.060. The report may be the local permit.
24 If a threshold determination other than a determination of significance
25 has not been issued previously by the local government, the report
26 shall include or append this determination;~~

27 (6) ~~Except for the appeal of a determination of significance as
28 provided in RCW 43.21C.075, if a local government elects to provide an
29 appeal of its threshold determinations or project permit decisions, the
30 local government shall provide for no more than one consolidated open
31 record hearing on such appeal. The local government need not provide
32 for any further appeal and may provide an appeal for some but not all
33 project permit decisions. If an appeal is provided after the open
34 record hearing, it shall be a closed record appeal before a single
35 decision-making body or officer;~~

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

38 ((8)) (6) Completion of project review by the local government,
39 including environmental review and public review and any appeals to the

1 local government, within any applicable time periods under RCW
2 36.70B.090; and

3 ~~((9))~~ (7) Any other provisions not inconsistent with the
4 requirements of this chapter or chapter 43.21C RCW.

5 **Sec. 20.** RCW 36.70B.070 and 1995 c 347 s 408 are each amended to
6 read as follows:

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

11 (a) That the application is complete; or

12 (b) That the application is incomplete and what is necessary to
13 make the application complete.

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

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

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

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

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

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

33 ~~(4))~~ Additional requested information shall be of a clarifying
34 nature and based on requirements of the underlying development
35 regulations.

36 (3)(a) An application shall be deemed complete ~~((under this
37 section))~~ if the local government does not provide a written

1 determination to the applicant that the application is incomplete as
2 provided in subsection (1)(b) of this section.

3 (b) Within fourteen days after an applicant has submitted to a
4 local government additional information identified by the local
5 government as being necessary for a complete application, the local
6 government shall notify the applicant whether the application is
7 complete or what ~~((additional))~~ information ~~((is necessary))~~ was not
8 included under the original written determination provided in
9 subsection (1)(b) of this section.

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

12 ~~((Except as otherwise provided in subsection (2) of this~~
13 ~~section,))~~ A local government planning under RCW 36.70A.040 shall issue
14 its notice of final decision on a project permit application within one
15 hundred twenty days after the local government notifies the applicant
16 that the application is complete, as provided in RCW 36.70B.070. In
17 determining the number of days that have elapsed after the local
18 government has notified the applicant that the application is complete,
19 the following periods shall be excluded:

20 (a)(i) Any period during which the applicant has been requested by
21 the local government to correct plans ~~((, perform required studies,))~~ or
22 provide additional ~~((required))~~ information required in the underlying
23 development regulations. The period shall be calculated from the date
24 the local government notifies the applicant of the need for additional
25 required information until the earlier of the date the local government
26 determines whether the additional required information satisfies the
27 original request for information or fourteen days after the date the
28 information has been provided to the local government.

29 (ii) If the local government determines that the information
30 submitted by the applicant under (a)(i) of this subsection ~~((is~~
31 ~~insufficient))~~ does not meet requirements of the underlying development
32 regulations, it shall notify the applicant of the deficiencies and the
33 procedures under (a)(i) of this subsection shall apply ~~((as if a new~~
34 ~~request for studies had been made))~~; and

35 (b) Any period during which an environmental impact statement is
36 being prepared following a determination of significance pursuant to
37 chapter 43.21C RCW, if the local government by ordinance or resolution
38 has established time periods for completion of environmental impact

1 statements, or if the local government and the applicant in writing
2 agree to a time period for completion of an environmental impact
3 statement((;

4 ~~(c) Any period for administrative appeals of project permits, if an
5 open record appeal hearing or a closed record appeal, or both, are
6 allowed. The local government by ordinance or resolution shall
7 establish a time period to consider and decide such appeals. The time
8 period shall not exceed: (i) Ninety days for an open record appeal
9 hearing; and (ii) sixty days for a closed record appeal. The parties
10 to an appeal may agree to extend these time periods; and~~

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

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

15 ~~(a) Requires an amendment to the comprehensive plan or a
16 development regulation;~~

17 ~~(b) Requires approval of a new fully contained community as
18 provided in RCW 36.70A.350, a master planned resort as provided in RCW
19 36.70A.360, or the siting of an essential public facility as provided
20 in RCW 36.70A.200; or~~

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

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

29 ~~((4)) (2) This section shall apply to project permit applications
30 filed on or after April 1, 1996.~~

31 **Sec. 22.** 1995 c 347 s 433 (uncodified) is amended to read as
32 follows:

33 Section(~~s 413 and~~) 421 of this act shall expire June 30, 1998.
34 The provisions of section(~~s 413 and~~) 421 of this act shall apply to
35 project permit applications determined to be complete pursuant to RCW
36 36.70B.070 on or before June 30, 1998.

1 **Sec. 23.** RCW 36.70B.110 and 1995 c 347 s 415 are each amended to
2 read as follows:

3 (1) Not later than April 1, 1996, a local government planning under
4 RCW 36.70A.040 shall provide a notice of application to the public and
5 the departments and agencies with jurisdiction as provided in this
6 section. If a local government has made a determination of
7 significance under chapter 43.21C RCW concurrently with the notice of
8 application, the notice of application shall be combined with the
9 determination of significance and scoping notice. Nothing in this
10 section prevents a determination of significance and scoping notice
11 from being issued prior to the notice of application.

12 (2) The notice of application shall be provided within fourteen
13 days after the determination of completeness as provided in RCW
14 36.70B.070 and include the following in whatever sequence or format the
15 local government deems appropriate:

16 (a) The date of application, the date of the notice of completion
17 for the application, and the date of the notice of application;

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

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

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

28 (e) A statement of the public comment period, which shall be not
29 less than fourteen nor more than thirty days following the date of
30 notice of application, and statements of the right of any person to
31 comment on the application, receive notice of and participate in any
32 hearings, request a copy of the decision once made, and any appeal
33 rights. A local government may accept public comments at any time
34 (~~((prior to the closing of the record of an open record predecision~~
35 ~~hearing, if any, or, if no open record predecision hearing is~~
36 ~~provided,))~~) prior to the decision on the project permit;

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

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

5 (h) Any other information determined appropriate by the local
6 government.

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

10 (4)) required in chapter 43.21C RCW.

11 (3) A local government shall use reasonable methods to give the
12 notice of application to the public and agencies with jurisdiction and
13 ((may)) shall use its existing notice procedures. ((A local government
14 may use different types of notice for different categories of project
15 permits or types of project actions. If a local government by
16 resolution or ordinance does not specify its method of public notice,
17 the local government shall use the methods provided for in (a) and (b)
18 of this subsection. Examples of reasonable methods to inform the
19 public are:

20 (a) Posting the property for site specific proposals;

21 (b) Publishing notice, including at least the project location,
22 description, type of permit(s) required, comment period dates, and
23 location where the complete application may be reviewed, in the
24 newspaper of general circulation in the general area where the proposal
25 is located or in a local land use newsletter published by the local
26 government;

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

29 (d) Notifying the news media;

30 (e) Placing notices in appropriate regional or neighborhood
31 newspapers or trade journals;

32 (f) Publishing notice in agency newsletters or sending notice to
33 agency mailing lists, either general lists or lists for specific
34 proposals or subject areas; and

35 (g) Mailing to neighboring property owners.

36 (5)) (4) A notice of application shall not be required for project
37 permits that are categorically exempt under chapter 43.21C RCW((
38 unless a public comment period or an open record predecision hearing is
39 required)).

1 (~~(6)~~) (5) A local government shall integrate the permit
2 procedures in this section with environmental review under chapter
3 43.21C RCW as follows:

4 (a) Except for a determination of significance, the local
5 government may not issue its threshold determination, or issue a
6 decision or a recommendation on a project permit until the expiration
7 of the public comment period on the notice of application.

8 (b) (~~If an open record predecision hearing is required and the~~
9 ~~local government's threshold determination requires public notice under~~
10 ~~chapter 43.21C RCW, the local government shall issue its threshold~~
11 ~~determination at least fifteen days prior to the open record~~
12 ~~predecision hearing.~~

13 (~~e~~) Comments shall be as specific as possible.

14 (~~(7)~~) (6) A local government may combine any hearing on a project
15 permit with any hearing that may be held by another local(~~(7)~~) or
16 state(~~(7 regional, federal, or other)~~) agency provided that the hearing
17 is held within the geographic boundary of the local government.
18 Hearings shall be combined if requested by an applicant, as long as the
19 joint hearing can be held within the time periods specified in RCW
20 36.70B.090 or the applicant agrees to the schedule in the event that
21 additional time is needed in order to combine the hearings. All
22 agencies of the state of Washington, including municipal corporations
23 and counties participating in a combined hearing, are hereby authorized
24 to issue joint hearing notices and develop a joint format, select a
25 mutually acceptable hearing body or officer, and take such other
26 actions as may be necessary to hold joint hearings consistent with each
27 of their respective statutory obligations.

28 (~~(8)~~) (7) All state and local agencies shall cooperate to the
29 fullest extent possible with the local government in holding a joint
30 hearing if requested to do so, as long as:

31 (a) The agency is not expressly prohibited by statute from doing
32 so;

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

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

1 (~~(9)~~) (8) A local government is not required to provide for
2 administrative appeals. If provided, an administrative appeal of the
3 project decision, combined with any environmental determinations, shall
4 be filed within fourteen days after the notice of the decision or after
5 other notice that the decision has been made and is appealable. The
6 local government shall extend the appeal period for an additional seven
7 days, if state or local rules adopted pursuant to chapter 43.21C RCW
8 allow public comment on a determination of nonsignificance issued as
9 part of the appealable project permit decision.

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

13 (~~(11)~~) (10) Each local government planning under RCW 36.70A.040
14 shall adopt procedures for administrative interpretation of its
15 development regulations.

16 **Sec. 24.** RCW 36.70B.120 and 1995 c 347 s 416 are each amended to
17 read as follows:

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

28 (2) Consolidated permit review may provide different procedures for
29 different categories of project permits, but if a project action
30 requires project permits from more than one category, the local
31 government shall provide for consolidated permit review with a single
32 open record hearing and no more than one closed record appeal as
33 provided in RCW 36.70B.060. Each local government shall determine
34 which project permits are subject to an open record hearing and a
35 closed record appeal. Examples of categories of project permits
36 include but are not limited to:

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

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

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

10 (3) A local government may provide by ordinance or resolution for
11 the same or a different decision maker or hearing body or officer for
12 different categories of project permits. In the case of consolidated
13 project permit review, the local government shall specify which
14 decision makers shall make the decision or recommendation, conduct the
15 hearing, or decide the appeal to ensure that consolidated permit review
16 occurs as provided in this section. (~~(The consolidated permit review~~
17 ~~may combine an open record predecision hearing on one or more permits~~
18 ~~with an open record appeal hearing on other permits. In such cases,)~~)
19 The local government by ordinance or resolution shall specify which
20 project permits, if any, shall be subject to a closed record appeal.

21 **Sec. 25.** RCW 36.70B.130 and 1996 c 254 s 1 are each amended to
22 read as follows:

23 A local government planning under RCW 36.70A.040 shall provide a
24 notice of decision that also includes a statement of any threshold
25 determination made under chapter 43.21C RCW and the procedures for
26 administrative appeal, if any. The notice of decision may be a copy of
27 the report or decision on the project permit application. The notice
28 shall be provided to the applicant and to any person who, prior to the
29 rendering of the decision, requested notice of the decision or
30 submitted substantive comments on the application. The local
31 government shall provide for notice of its decision as provided in RCW
32 36.70B.110(~~(+4))~~)(3), which shall also state that affected property
33 owners may request a change in valuation for property tax purposes
34 notwithstanding any program of revaluation. The local government shall
35 provide notice of decision to the county assessor's office of the
36 county or counties in which the property is situated.

1 **Sec. 26.** RCW 36.70B.140 and 1995 c 347 s 418 are each amended to
2 read as follows:

3 (1) A local government by ordinance or resolution (~~may~~) shall
4 exclude the following project permits from the provisions of RCW
5 36.70B.060 through 36.70B.090 and 36.70B.110 through 36.70B.130:
6 Landmark designations, street vacations, or other approvals relating to
7 the use of public areas or facilities, or other project permits,
8 whether administrative or quasi-judicial, that the local government by
9 ordinance or resolution has determined present special circumstances
10 that warrant a review process different from that provided in RCW
11 36.70B.060 through 36.70B.090 and 36.70B.110 through 36.70B.130.

12 (2) A local government by ordinance or resolution also (~~may~~)
13 shall exclude the following project permits from the provisions of RCW
14 36.70B.060 and 36.70B.110 through 36.70B.130: Lot line or boundary
15 adjustments and building and other construction permits, or similar
16 administrative approvals, categorically exempt from environmental
17 review under chapter 43.21C RCW, or for which environmental review has
18 been completed in connection with other project permits.

19 **Sec. 27.** RCW 36.70B.160 and 1995 c 347 s 420 are each amended to
20 read as follows:

21 (1) Each local government (~~is encouraged to~~) shall adopt further
22 project review provisions to (~~provide prompt, coordinated review and~~)
23 ensure accountability to applicants and the public(~~, including~~) and
24 provide expedited, coordinated review (~~for project permit~~
25 ~~applications~~) for projects that are consistent with adopted
26 development regulations (~~and within the capacity of system-wide~~
27 ~~infrastructure improvements~~).

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

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

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

1 NEW SECTION. **Sec. 28.** The following acts or parts of acts are
2 each repealed:

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

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

5 (3) 1995 c 347 s 411 (uncodified).

6 NEW SECTION. **Sec. 29.** Sections 4 through 7 and 12 of this act are
7 each added to chapter 36.70A RCW.

8 NEW SECTION. **Sec. 30.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

12 NEW SECTION. **Sec. 31.** If specific funding for the purposes of
13 this act, referencing this act by bill or chapter number, is not
14 provided by June 30, 1997, in the omnibus appropriations act, this act
15 is null and void.

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