
HOUSE BILL 1897

State of Washington 55th Legislature 1997 Regular Session

By Representatives Reams, Lantz and Gardner

Read first time 02/12/97. Referred to Committee on Government Reform & Land Use.

1 AN ACT Relating to making corrections to the omnibus 1995
2 legislation that integrates growth management planning and
3 environmental review, and conforming the terminology and provisions of
4 other laws to the provisions of the 1995 legislation; amending RCW
5 35A.63.110, 36.70.810, 36.70.830, 36.70.860, 36.70.880, 36.70.890,
6 36.70B.020, 36.70B.030, 36.70B.040, 36.70B.060, 36.70B.070, 36.70B.090,
7 36.70B.110, 36.70B.130, 36.70B.150, 36.70B.170, 36.70B.180, 36.70B.200,
8 36.70B.210, 36.70C.020, 36.70C.040, 36.70C.050, 36.70C.080, 36.70C.110,
9 36.70C.120, 43.21C.031, 43.21C.075, 43.21C.110, 58.17.020, 58.17.090,
10 58.17.095, 58.17.100, 58.17.140, 58.17.140, 90.58.090, 90.58.140,
11 90.58.143, 90.60.020, and 90.60.040; amending 1995 c 347 s 403
12 (uncodified); adding new sections to chapter 36.70C RCW; creating a new
13 section; providing an effective date; providing an expiration date; and
14 declaring an emergency.

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

16 **Sec. 1.** RCW 35A.63.110 and 1979 ex.s. c 18 s 34 are each amended
17 to read as follows:

18 A code city which pursuant to this chapter creates a planning
19 agency and which has twenty-five hundred or more inhabitants, by

1 ordinance, shall create a board of adjustment and provide for its
2 membership, terms of office, organization, and jurisdiction. A code
3 city which pursuant to this chapter creates a planning agency and which
4 has a population of less than twenty-five hundred may, by ordinance,
5 similarly create a board of adjustment. In the event a code city with
6 a population of less than twenty-five hundred creates a planning
7 agency, but does not create a board of adjustment, the code city shall
8 provide that the city legislative authority shall itself hear and
9 decide the items listed in (~~(subdivisions)~~) subsections (1), (2), and
10 (3) of this section. The action of the board of adjustment shall be
11 final and conclusive, unless(~~(, within ten days from the date of the~~
12 ~~action, the original applicant or an adverse party makes application to~~
13 ~~the superior court for the county in which that city is located for a~~
14 ~~writ of certiorari, a writ of prohibition, or a writ of mandamus)) a~~
15 land use petition is filed with a superior court as provided in chapter
16 36.70C RCW. No member of the board of adjustment shall be a member of
17 the planning agency or the legislative body. Subject to conditions,
18 safeguards, and procedures provided by ordinance, the board of
19 adjustment may be empowered to hear and decide:

20 (1) Appeals from orders, recommendations, permits, decisions, or
21 determinations made by a code city official in the administration or
22 enforcement of the provisions of this chapter or any ordinances adopted
23 pursuant to it.

24 (2) Applications for variances from the terms of the zoning
25 ordinance, the official map ordinance or other land-use regulatory
26 ordinances under procedures and conditions prescribed by city
27 ordinance, which among other things shall provide that no application
28 for a variance shall be granted unless the board of adjustment finds:

29 (a) The variance shall not constitute a grant of special privilege
30 inconsistent with the limitation upon uses of other properties in the
31 vicinity and zone in which the property on behalf of which the
32 application was filed is located; (~~and~~)

33 (b) That such variance is necessary, because of special
34 circumstances relating to the size, shape, topography, location, or
35 surroundings of the subject property, to provide it with use rights and
36 privileges permitted to other properties in the vicinity and in the
37 zone in which the subject property is located; and

38 (c) That the granting of such variance will not be materially
39 detrimental to the public welfare or injurious to the property or

1 improvements in the vicinity and zone in which the subject property is
2 situated.

3 (3) Applications for conditional-use permits, unless such
4 applications are to be heard and decided by the planning agency. A
5 conditional use means a use listed among those classified in any given
6 zone but permitted to locate only after review as herein provided in
7 accordance with standards and criteria set forth in the zoning
8 ordinance.

9 (4) Such other quasi judicial and administrative determinations as
10 may be delegated by ordinance.

11 In deciding any of the matters referred to in subsections (1), (2),
12 (3), and (4) of this section, the board of adjustment shall issue a
13 written report giving the reasons for its decision. If a code city
14 provides for a hearing examiner and vests in him or her the authority
15 to hear and decide the items listed in (~~subdivisions~~) subsections
16 (1), (2), and (3) of this section pursuant to RCW 35A.63.170, then the
17 provisions of this section shall not apply to such a city.

18 **Sec. 2.** RCW 36.70.810 and 1963 c 4 s 36.70.810 are each amended to
19 read as follows:

20 The board of adjustment, subject to chapter 36.70B RCW and to
21 appropriate conditions and safeguards as provided by the zoning
22 ordinance or the ordinance establishing the board of adjustment, if
23 there be such, (~~shall~~) may hear and decide:

24 (1) Applications for conditional uses or other permits when the
25 zoning ordinance sets forth the specific uses to be made subject to
26 conditional use permits and establishes criteria for determining the
27 conditions to be imposed;

28 (2) Application for variances from the terms of the zoning
29 ordinance: PROVIDED, That any variance granted shall be subject to
30 such conditions as will assure that the adjustment thereby authorized
31 shall not constitute a grant of special privilege inconsistent with the
32 limitations upon other properties in the vicinity and zone in which
33 subject property is situated, and that the following circumstances are
34 found to apply(~~to~~):

35 (a) Because of special circumstances applicable to subject
36 property, including size, shape, topography, location, or surroundings,
37 the strict application of the zoning ordinance is found to deprive

1 subject property of rights and privileges enjoyed by other properties
2 in the vicinity and under identical zone classification;

3 (b) That the granting of the variance will not be materially
4 detrimental to the public welfare or injurious to the property or
5 improvements in the vicinity and zone in which subject property is
6 situated(~~(-)~~);

7 (3) Appeals, where it is alleged by the applicant that there is
8 error in any order, requirement, permit, decision, or determination
9 made by an administrative official in the administration or enforcement
10 of this chapter or any ordinance adopted pursuant to it.

11 **Sec. 3.** RCW 36.70.830 and 1963 c 4 s 36.70.830 are each amended to
12 read as follows:

13 Except as otherwise provided in chapter 36.70B RCW, appeals may be
14 taken to the board of adjustment by any person aggrieved, or by any
15 officer, department, board, or bureau of the county affected by any
16 decision of an administrative official. Such appeals shall be filed in
17 writing in duplicate with the board of adjustment within (~~(twenty)~~)
18 fourteen days of the date of the action being appealed.

19 **Sec. 4.** RCW 36.70.860 and 1963 c 4 s 36.70.860 are each amended to
20 read as follows:

21 In exercising the powers granted by RCW 36.70.810 and 36.70.820,
22 the board of adjustment may, in conformity with this chapter and
23 chapter 36.70B RCW, reverse or affirm, wholly or in part, or may modify
24 the order, requirement, decision, or determination appealed from, and
25 may make such order, requirement, decision, or determination as should
26 be made and, to that end, shall have all the powers of the officer from
27 whom the appeal is taken, insofar as the decision on the particular
28 issue is concerned.

29 **Sec. 5.** RCW 36.70.880 and 1963 c 4 s 36.70.880 are each amended to
30 read as follows:

31 Except as otherwise provided in chapter 36.70B RCW, the action by
32 the zoning adjustor on all matters coming before him or her shall be
33 final and conclusive unless within (~~(ten)~~) fourteen days after the
34 zoning adjustor has made his or her order, requirement, decision, or
35 determination, an appeal in writing is filed with the board of

1 adjustment. Such an appeal may be taken by the original applicant, or
2 by opponents of record in the case.

3 **Sec. 6.** RCW 36.70.890 and 1963 c 4 s 36.70.890 are each amended to
4 read as follows:

5 The action by the board of adjustment on an application for a
6 conditional use permit or a variance, or on an appeal from the decision
7 of the zoning adjustor or an administrative officer shall be final and
8 conclusive unless ~~((within ten days from the date of said action the
9 original applicant or an adverse party makes application to a court of
10 competent jurisdiction for a writ of certiorari, a writ of prohibition
11 or a writ of mandamus))~~ a land use petition is filed with superior
12 court as provided in chapter 36.70C RCW.

13 **Sec. 7.** RCW 36.70B.020 and 1995 c 347 s 402 are each amended to
14 read as follows:

15 Unless the context clearly requires otherwise, the definitions in
16 this section apply throughout this chapter.

17 (1) "Closed record appeal" means an administrative appeal ~~((on the
18 record))~~ of a decision or recommendation on a project permit
19 application to a local government body or officer, including the local
20 legislative body, ~~((following))~~ that:

21 (a) Follows an open record hearing ~~((on a project permit
22 application when the appeal))~~ that resulted in the decision or
23 recommendation; and

24 (b) Is on the record with no or limited new evidence or information
25 allowed to be submitted and only appeal argument allowed.

26 If the local government's procedure for approval of a project
27 permit requires that the land use decision, as defined in RCW
28 36.70C.020(1), be made by the local legislative body following an open
29 record hearing that results in a recommendation that is not appealed,
30 the action by the local legislative body shall be deemed a closed
31 record appeal for purposes of this chapter and chapter 58.17 RCW.

32 (2) "Development agreement," for purposes of RCW 36.70B.170 through
33 36.70B.210, means an agreement authorized by RCW 36.70B.170 through
34 36.70B.210. A development agreement does not include an agreement
35 between the local government and the owner or person with control over
36 real property authorized by other provision of law.

1 (3) "Development standards," for purposes of RCW 36.70B.170 through
2 36.70B.210, includes, but is not limited to:

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

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

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

11 (d) Design standards such as maximum heights, setbacks, drainage
12 and water quality requirements, landscaping, and other development
13 features;

14 (e) Affordable housing;

15 (f) Parks and open space preservation;

16 (g) Phasing;

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

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

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

20 (4) "Local government" means a county, city, or town.

21 (~~(3)~~) (5) "Open record hearing" means a hearing, conducted by a
22 single hearing body or officer authorized by the local government to
23 conduct such hearings, that creates the local government's record
24 through testimony and submission of evidence and information, under
25 procedures prescribed by the local government by ordinance or
26 resolution. An open record hearing may be held prior to a local
27 government's decision on a project permit to be known as an "open
28 record predecision hearing." An open record hearing may be held on an
29 appeal, to be known as an "open record appeal hearing," if no open
30 record predecision hearing has been held on the project permit.

31 (~~(4)~~) (6) "Project permit" or "project permit application" means
32 any land use or environmental permit or license required from a local
33 government for a project action, including but not limited to building
34 permits, subdivisions, binding site plans, planned unit developments,
35 conditional uses, shoreline substantial development permits, site plan
36 review, permits or approvals required by critical area ordinances,
37 site-specific rezones authorized by a comprehensive plan or subarea
38 plan, but excluding the adoption or amendment of a comprehensive plan,

1 subarea plan, or development regulations except as otherwise
2 specifically included in this subsection.

3 ((+5)) (7) "Public meeting" means an informal meeting, a public
4 hearing, workshop, or other public gathering of people to obtain
5 comments from the public or other agencies on a proposed project permit
6 prior to the local government s decision. A public meeting may
7 include, but is not limited to, a design review or architectural
8 control board meeting, a special review district or community council
9 meeting, or a scoping meeting or a public hearing to accept comments on
10 a draft environmental impact statement. A public meeting does not
11 include an open record hearing. The proceedings at a public meeting
12 may be recorded and a report or recommendation may be included in the
13 local government s project permit application file.

14 **Sec. 8.** RCW 36.70B.030 and 1995 c 347 s 404 are each amended to
15 read as follows:

16 (1) Fundamental land use planning choices made in ((adopted))
17 comprehensive plans and development regulations adopted in compliance
18 with the requirements of chapter 36.70A RCW shall serve as the
19 foundation for project review. The review of a proposed project's
20 consistency with applicable development regulations, or in the absence
21 of applicable regulations the adopted comprehensive plan, under RCW
22 36.70B.040 shall incorporate the determinations under this section.

23 (2) During project review, a local government or any subsequent
24 reviewing body shall determine whether the items listed in this
25 subsection are defined in the development regulations applicable to the
26 proposed project or, in the absence of applicable regulations the
27 adopted comprehensive plan. At a minimum, such applicable regulations
28 or plans adopted in compliance with the requirements of chapter 36.70A
29 RCW shall be determinative of the:

30 (a) Type of land use permitted at the site, including uses that may
31 be allowed under certain circumstances, such as planned unit
32 developments and conditional and special uses, if the criteria for
33 their approval have been satisfied;

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

35 (c) Availability and adequacy of public facilities identified in
36 the comprehensive plan, if ((the plan or development regulations
37 provide)) provision for funding of these facilities has been made as
38 required by chapter 36.70A RCW.

1 (3) During project review, the local government or any subsequent
2 reviewing body shall not reexamine alternatives to or hear appeals on
3 the items identified in subsection (2) of this section, except for
4 issues of code interpretation. As part of its project review process,
5 a local government shall provide a procedure for obtaining a code
6 interpretation as provided in RCW 36.70B.110.

7 ~~((4) Pursuant to RCW 43.21C.240, a local government may determine~~
8 ~~that the requirements for environmental analysis and mitigation~~
9 ~~measures in development regulations and other applicable laws provide~~
10 ~~adequate mitigation for some or all of the project's specific adverse~~
11 ~~environmental impacts to which the requirements apply.~~

12 ~~(5) Nothing in this section limits the authority of a permitting~~
13 ~~agency to approve, condition, or deny a project as provided in its~~
14 ~~development regulations adopted under chapter 36.70A RCW and in its~~
15 ~~policies adopted under RCW 43.21C.060. Project review shall be used to~~
16 ~~identify specific project design and conditions relating to the~~
17 ~~character of development, such as the details of site plans, curb cuts,~~
18 ~~drainage swales, transportation demand management, the payment of~~
19 ~~impact fees, or other measures to mitigate a proposal's probable~~
20 ~~adverse environmental impacts, if applicable.~~

21 ~~(6) Subsections (1) through (4) of)~~ This section ((apply)) applies
22 only to comprehensive plans and development regulations adopted in
23 compliance with the requirements of chapter 36.70A RCW by local
24 governments planning under RCW 36.70A.040.

25 **Sec. 9.** 1995 c 347 s 403 (uncodified) is amended to read as
26 follows:

27 "In enacting RCW 36.70B.030 and 36.70B.040, the legislature intends
28 to establish a mechanism for implementing the provisions of chapter
29 36.70A RCW regarding compliance, conformity, and consistency of
30 proposed projects with adopted comprehensive plans and development
31 regulations. In order to achieve this purpose the legislature finds
32 that:

33 (1) Given the extensive investment that public agencies and a broad
34 spectrum of the public are making and will continue to make in
35 comprehensive plans and development regulations for their communities,
36 it is essential that project review start from the fundamental land use
37 planning choices made in these plans and regulations. If the
38 applicable regulations or plans identify the type of land use((~~r~~)) and

1 specify residential density in urban growth areas, and (~~identify and~~
2 ~~provide~~) provision has been made for funding of public facilities
3 needed to serve the proposed development and site as required by
4 chapter 36.70A RCW, these decisions at a minimum provide the foundation
5 for further project review unless there is a question of code
6 interpretation. The project review process, including the
7 environmental review process under chapter 43.21C RCW and the
8 consideration of consistency, should start from this point and should
9 not reanalyze these land use planning decisions in making a permit
10 decision.

11 (2) Comprehensive plans and development regulations adopted by
12 local governments under chapter 36.70A RCW and environmental laws and
13 rules adopted by the state and federal government have addressed a wide
14 range of environmental subjects and impacts. These provisions typically
15 require environmental studies and contain specific standards to address
16 various impacts associated with a proposed development, such as
17 building size and location, drainage, transportation requirements, and
18 protection of critical areas. When a permitting agency applies these
19 existing requirements to a proposed project, some or all of a project's
20 potential environmental impacts will be avoided or otherwise mitigated.
21 Through the integrated project review process described in subsection
22 (1) of this section, the local government will determine whether
23 existing requirements, including the applicable regulations or plans,
24 adequately analyze and address a project's environmental impacts. RCW
25 43.21C.240 provides that project review should not require additional
26 studies or mitigation under chapter 43.21C RCW where existing
27 regulations have adequately addressed a proposed project's probable
28 specific adverse environmental impacts.

29 (3) Given the hundreds of jurisdictions and agencies in the state
30 and the numerous communities and applicants affected by development
31 regulations and comprehensive plans adopted under chapter 36.70A RCW,
32 it is essential to establish a uniform framework for considering the
33 consistency of a proposed project with the applicable regulations or
34 plan. Consistency should be determined in the project review process
35 by considering four factors found in applicable regulations or plans:
36 The type of land use allowed; the level of development allowed, such as
37 units per acre or other measures of density; infrastructure, such as
38 the adequacy of public facilities and services to serve the proposed
39 project; and the (~~character~~) characteristics of the proposed

1 development, such as compliance with specific development standards.
2 This uniform approach corresponds to existing project review practices
3 and will not place a burden on applicants or local government. The
4 legislature intends that this approach should be largely a matter of
5 checking compliance with existing requirements for most projects, which
6 are simple or routine, while more complex projects may require more
7 analysis. RCW 43.21C.240 and 36.70B.030 establish this uniform
8 framework and also direct state agencies to consult with local
9 government and the public to develop a better format than the current
10 environmental checklist to meet this objective.

11 (4) When an applicant applies for a project permit, consistency
12 between the proposed project and applicable regulations or plan should
13 be determined through a project review process that integrates land use
14 and environmental impact analysis, so that governmental and public
15 review of the proposed project as required by this chapter, by
16 development regulations under chapter 36.70A RCW, and by the
17 environmental process under chapter 43.21C RCW run concurrently and not
18 separately.

19 (5) RCW 36.70B.030 and 36.70B.040 address three related needs with
20 respect to how the project review process should address consistency
21 between a proposed project and the applicable regulations or plan:

22 (a) A uniform framework for the meaning of consistency;

23 (b) An emphasis on relying on existing requirements and adopted
24 standards, with the use of supplemental authority as specified by
25 chapter 43.21C RCW to the extent that existing requirements do not
26 adequately address a project's specific probable adverse environmental
27 impacts; and

28 (c) The identification of three basic land use planning choices
29 made in applicable regulations or plans that, at a minimum, serve as a
30 foundation for project review and that should not be reanalyzed during
31 project permitting.

32 **Sec. 10.** RCW 36.70B.040 and 1995 c 347 s 405 are each amended to
33 read as follows:

34 (1) A proposed project's consistency with a local government's
35 development regulations adopted under chapter 36.70A RCW, or, in the
36 absence of applicable development regulations, the appropriate elements
37 of the comprehensive plan (~~or subarea plan~~) adopted under chapter

1 36.70A RCW shall be (~~determined~~) decided by the local government
2 during project review by consideration of:

3 (a) The type of land use;

4 (b) The level of development, such as units per acre or other
5 measures of density;

6 (c) Infrastructure, including public facilities and services needed
7 to serve the development; and

8 (d) The (~~character~~) characteristics of the development, such as
9 development standards.

10 (2) In (~~determining consistency~~) deciding whether a project is
11 consistent, the determinations made pursuant to RCW 36.70B.030(2) shall
12 be controlling.

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

17 (4) Nothing in this section requires documentation, dictates an
18 agency's procedures for considering consistency, or limits a (~~unit of~~
19 ~~government~~) city or county from asking more specific or related
20 questions with respect to any of the four main categories listed in
21 subsection (1)(a) through (d) of this section.

22 (5) The department of community, trade, and economic development is
23 authorized to develop and adopt criteria for local governments planning
24 under RCW 36.70A.040 to analyze the consistency of project actions.

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

27 Not later than March 31, 1996, each local government planning under
28 RCW 36.70A.040 shall establish by ordinance or resolution an integrated
29 and consolidated project permit process that may be included in its
30 development regulations. In addition to the elements required by RCW
31 36.70B.050, the process shall include the following elements:

32 (1) A determination of completeness to the applicant as required by
33 RCW 36.70B.070;

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

36 (3) Except as provided in RCW 36.70B.140, an optional consolidated
37 project permit review process as provided in RCW 36.70B.120. The
38 review process shall provide for no more than one consolidated open

1 record hearing and one closed record appeal. If an open record
2 predecision hearing is provided prior to the decision on a project
3 permit, the process shall not allow a subsequent open record appeal
4 hearing;

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

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

21 (6)(a) A local government need not provide for the appeal of a SEPA
22 procedural or substantive determination under chapter 43.21C RCW or of
23 a project permit decision. Except ((for the appeal of a determination
24 of significance)) as otherwise provided ((in)) under RCW
25 43.21C.075(3), if a local government elects to provide an appeal of its
26 ((threshold determinations or)) SEPA procedural or substantive
27 determination under chapter 43.21C RCW or of its project permit
28 decisions, the local government shall provide for no more than one
29 consolidated open record hearing ((on such appeal. The)).

30 (b) Consistent with RCW 43.21C.075(3), a local government shall not
31 provide for a closed record appeal of a procedural determination under
32 chapter 43.21C RCW.

33 (c) A local government ((need not provide for any further appeal
34 and)) may provide an appeal for some but not all project permit
35 decisions. If an appeal is provided after the open record hearing, it
36 shall be a closed record appeal before a single decision-making body or
37 officer;

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

1 (8) Completion of project review by the local government, including
2 environmental review and public review and any appeals to the local
3 government, within any applicable time periods under RCW 36.70B.090;
4 and

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

7 **Sec. 12.** RCW 36.70B.070 and 1995 c 347 s 408 are each amended to
8 read as follows:

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

13 (a) That the application is complete; or

14 (b) That the application is incomplete and what is necessary to
15 make the application complete.

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

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

28 (3) The determination of completeness may include the following as
29 optional information:

30 (a) A preliminary ~~((determination))~~ indication of those development
31 regulations that will be used for project mitigation;

32 (b) A preliminary ~~((determination))~~ indication of consistency~~((7))~~
33 with any determinations made as provided ~~((under RCW 36.70B.040))~~ in
34 RCW 36.70B.030(2); or

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

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

1 applicant that the application is incomplete as provided in subsection
2 (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.

8 **Sec. 13.** RCW 36.70B.090 and 1995 c 347 s 413 are each amended to
9 read as follows:

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

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

26 (ii) If the local government determines that the information
27 submitted by the applicant under (a)(i) of this subsection is
28 insufficient, it shall notify the applicant of the deficiencies and the
29 procedures under (a)(i) of this subsection shall apply as if a new
30 request for studies had been made;

31 (b) Following a determination of significance under chapter 43.21C
32 RCW:

33 (i) Any period during which an environmental impact statement is
34 being prepared (~~following a determination of significance pursuant to~~
35 ~~chapter 43.21C—RCW)), if the local government by ordinance or~~
36 resolution has established time periods for completion of environmental
37 impact statements, or if the local government and the applicant in

1 writing agree to a time period for completion of an environmental
2 impact statement; and

3 (ii) Any period during which the determination of significance is
4 on appeal before the local government;

5 (c) Any period for administrative appeals of project permits, if an
6 open record appeal hearing or a closed record appeal that follows a
7 decision on a project permit, or both, are allowed. The local
8 government by ordinance or resolution shall establish a time period to
9 consider and decide such appeals. The time period shall not exceed:

10 (i) Ninety days for an open record appeal hearing; and (ii) sixty days
11 for a closed record appeal that follows a decision on a project permit.

12 The parties to an appeal may agree to extend these time periods;
13 ((and))

14 (d) Any period of time during which an applicant fails to post the
15 property, if required by the local government's notice of application
16 requirements; and

17 (e) Any extension of time mutually agreed upon by the applicant and
18 the local government.

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

21 (a) Requires a rezone or an amendment to the comprehensive plan or
22 a development regulation;

23 (b) Requires approval of a new fully contained community as
24 provided in RCW 36.70A.350, a master planned resort as provided in RCW
25 36.70A.360, or the siting of an essential public facility as provided
26 in RCW 36.70A.200; or

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

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

35 (4) This section shall apply to project permit applications filed
36 on or after April 1, 1996.

37 **Sec. 14.** RCW 36.70B.110 and 1995 c 347 s 415 are each amended to
38 read as follows:

1 (1) Not later than April 1, 1996, a local government planning under
2 RCW 36.70A.040 shall provide a notice of application to the public and
3 the departments and agencies with jurisdiction as provided in this
4 section. If a local government has made a determination of
5 significance under chapter 43.21C RCW concurrently with the notice of
6 application, the notice of application shall be combined with the
7 determination of significance and scoping notice. Nothing in this
8 section prevents a determination of significance and scoping notice
9 from being issued prior to the notice of application. Nothing in this
10 section or this chapter prevents a lead agency, when it is a project
11 proponent or is funding a project, from conducting its review under
12 chapter 43.21C RCW or from allowing appeals of procedural
13 determinations prior to submitting a project permit application.

14 (2) The notice of application shall be provided within fourteen
15 days after the determination of completeness as provided in RCW
16 36.70B.070 and, except as limited by the provisions of subsection
17 (4)(b) of this section, shall include the following in whatever
18 sequence or format the local government deems appropriate:

19 (a) The date of application, the date of the notice of completion
20 for the application, and the date of the notice of application;

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

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

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

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

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

3 (g) A statement of the preliminary (~~(determination)~~) indication, if
4 one has been made at the time of notice, of those development
5 regulations that will be used for project mitigation and of consistency
6 as provided in RCW (~~(36.70B.040)~~) 36.70B.030(2); and

7 (h) Any other information determined appropriate by the local
8 government.

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

12 (4) A local government shall use reasonable methods to give the
13 notice of application to the public and agencies with jurisdiction and
14 may use its existing notice procedures. A local government may use
15 different types of notice for different categories of project permits
16 or types of project actions. If a local government by resolution or
17 ordinance does not specify its method of public notice, the local
18 government shall use the methods provided for in (a) and (b) of this
19 subsection. Examples of reasonable methods to inform the 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 notice of application required by subsection (2) of
24 this section and the complete application may be reviewed, in the
25 newspaper of general circulation in the general area where the proposal
26 is located or in a local land use newsletter published by the local
27 government;

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

30 (d) Notifying the news media;

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

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

36 (g) Mailing to neighboring property owners.

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

1 required or an open record appeal hearing is allowed on the project
2 permit decision.

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

6 (a) Except for a determination of significance and except as
7 otherwise expressly allowed in this section, the local government may
8 not issue its threshold determination(~~(, or issue a decision or a~~
9 ~~recommendation on a project permit)) until the expiration of the public
10 comment period on the notice of application.~~

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

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

17 (d) A local government is not required to provide for
18 administrative appeals of its threshold determination. If provided, an
19 administrative appeal shall be filed within fourteen days after notice
20 that the determination has been made and is appealable. Except as
21 otherwise expressly provided in this section, the appeal hearing on a
22 determination of nonsignificance shall be consolidated with any open
23 record hearing on the project permit.

24 (7) At the request of the applicant, a local government may combine
25 any hearing on a project permit with any hearing that may be held by
26 another local, state, regional, federal, or other agency (~~provided~~
27 ~~that)), if:~~

28 (a) The hearing is held within the geographic boundary of the local
29 government(~~(. Hearings shall be combined if requested by an applicant,~~
30 ~~as long as)); and~~

31 (b) The joint hearing can be held within the time periods specified
32 in RCW 36.70B.090 or the applicant agrees to the schedule in the event
33 that additional time is needed in order to combine the hearings. All
34 agencies of the state of Washington, including municipal corporations
35 and counties participating in a combined hearing, are hereby authorized
36 to issue joint hearing notices and develop a joint format, select a
37 mutually acceptable hearing body or officer, and take such other
38 actions as may be necessary to hold joint hearings consistent with each
39 of their respective statutory obligations.

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

4 (a) The agency is not expressly prohibited by statute from doing
5 so;

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

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

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

22 (10) The applicant for a project permit is deemed to be a
23 participant in any comment period, open record hearing, or closed
24 record appeal.

25 (11) Each local government planning under RCW 36.70A.040 shall
26 adopt procedures for administrative interpretation of its development
27 regulations.

28 **Sec. 15.** RCW 36.70B.130 and 1996 c 254 s 1 are each amended to
29 read as follows:

30 A local government planning under RCW 36.70A.040 shall provide
31 ~~((a))~~ notice of its administrative decision ~~((that))~~ on a project
32 permit. The notice shall also include(~~(s)~~) a statement of any
33 threshold determination made under chapter 43.21C RCW and the
34 procedures for administrative appeal, if any. The notice of decision
35 may be a copy of the report, recommendation, or decision on the project
36 permit application. The notice shall be provided to the applicant and
37 to any person who, prior to the rendering of the decision, requested
38 notice of the decision or submitted substantive comments on the

1 application. The local government shall also provide for public notice
2 of its decision ~~((as provided))~~ by using one or more of the methods
3 listed in RCW 36.70B.110(4), which shall also state that affected
4 property owners may request a change in valuation for property tax
5 purposes notwithstanding any program of revaluation. The local
6 government shall provide notice of decision to the county assessor's
7 office of the county or counties in which the property is situated.

8 **Sec. 16.** RCW 36.70B.150 and 1995 c 347 s 419 are each amended to
9 read as follows:

10 A local government not planning under RCW 36.70A.040 may
11 incorporate some or all of the provisions of RCW 36.70B.060 through
12 ~~((36.70B.090 and 36.70B.110 through 36.70B.130))~~ 36.70B.140 into its
13 procedures for review of project permits or other project actions.

14 **Sec. 17.** RCW 36.70B.170 and 1995 c 347 s 502 are each amended to
15 read as follows:

16 (1) A local government may enter into a development agreement with
17 a person having ownership or control of real property within its
18 jurisdiction. A city may enter into a development agreement for real
19 property outside its boundaries as part of a proposed annexation or a
20 service agreement. A development agreement must set forth the
21 development standards and other provisions that shall apply to and
22 govern and vest the development, use, and mitigation of the development
23 of the real property for the duration specified in the agreement. A
24 development agreement shall be consistent with applicable development
25 regulations adopted by a local government planning under chapter 36.70A
26 RCW.

27 (2) RCW 36.70B.170 through ~~((36.70B.190))~~ 36.70B.210 and section
28 501, chapter 347, Laws of 1995 ~~((do not))~~ create authority that is in
29 addition to any other authority of a local government to enter into an
30 agreement with a person having ownership or control of real property.
31 Nothing in RCW 36.70B.170 through 36.70B.210 and section 501, chapter
32 347, Laws of 1995 shall apply to or affect the validity of a contract
33 rezone, concomitant agreement, annexation agreement, or other agreement
34 ~~((in existence on July 23, 1995, or adopted under separate authority,))~~
35 that includes some or all of the development standards provided in
36 ~~((subsection (3) of this section))~~ RCW 36.70B.020.

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

3 ~~(a) Project elements such as permitted uses, residential densities,~~
4 ~~and nonresidential densities and intensities or building sizes;~~

5 ~~(b) The amount and payment of impact fees imposed or agreed to in~~
6 ~~accordance with any applicable provisions of state law, any~~
7 ~~reimbursement provisions, other financial contributions by the property~~
8 ~~owner, inspection fees, or dedications;~~

9 ~~(c) Mitigation measures, development conditions, and other~~
10 ~~requirements under chapter 43.21C RCW;~~

11 ~~(d) Design standards such as maximum heights, setbacks, drainage~~
12 ~~and water quality requirements, landscaping, and other development~~
13 ~~features;~~

14 ~~(e) Affordable housing;~~

15 ~~(f) Parks and open space preservation;~~

16 ~~(g) Phasing;~~

17 ~~(h) Review procedures and standards for implementing decisions;~~

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

19 ~~(j) Any other appropriate development requirement or procedure.~~

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

27 **Sec. 18.** RCW 36.70B.180 and 1995 c 347 s 503 are each amended to
28 read as follows:

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

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

3 **Sec. 19.** RCW 36.70B.200 and 1995 c 347 s 505 are each amended to
4 read as follows:

5 A (~~county or city~~) local government shall (~~only~~) approve a
6 development agreement only by ordinance or resolution adopted after a
7 public hearing. The county or city legislative body or a planning
8 commission, hearing examiner, or other body designated by the
9 legislative body to conduct the public hearing may conduct the hearing.
10 If the development agreement relates to a project permit application,
11 the provisions of chapter 36.70C RCW shall apply to the appeal of the
12 decision on the development agreement.

13 **Sec. 20.** RCW 36.70B.210 and 1995 c 347 s 506 are each amended to
14 read as follows:

15 Nothing in RCW 36.70B.170 through 36.70B.200 and section 501,
16 chapter 347, Laws of 1995 is intended to authorize a local
17 government(~~s~~) to impose impact fees, inspection fees, or dedications
18 or to require any other financial contributions or mitigation measures
19 except as expressly authorized by other applicable provisions of state
20 law. This section is not a limitation on the power of the parties to
21 a development agreement to contract with one another, and the parties
22 to a development agreement may provide in the agreement for financial
23 contributions or mitigation measures that the local government could
24 not require without agreement.

25 **Sec. 21.** RCW 36.70C.020 and 1995 c 347 s 703 are each amended to
26 read as follows:

27 Unless the context clearly requires otherwise, the definitions in
28 this section apply throughout this chapter.

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

33 (a) An application for a project permit or other governmental
34 approval required by law before real property may be improved,
35 developed, modified, sold, transferred, or used, but excluding
36 applications for permits or approvals to use, vacate, or transfer

1 streets, parks, and similar types of public property; excluding
2 applications for legislative approvals such as area-wide rezones and
3 annexations; and excluding applications for business licenses;

4 (b) An interpretative or declaratory decision regarding the
5 application to a specific property of zoning or other ordinances or
6 rules regulating the improvement, development, modification,
7 maintenance, or use of real property; and

8 (c) The enforcement by a local jurisdiction of ordinances or
9 statutes regulating the improvement, development, modification,
10 maintenance, or use of real property. However, when a local
11 jurisdiction is required by law to enforce the ordinances or statutes
12 in a court of limited jurisdiction, a petition may not be brought under
13 this chapter.

14 (2) "Local jurisdiction" means a county, city, ~~((or))~~ incorporated
15 town, or a community council acting under the authority of RCW
16 35.14.040.

17 (3) "Person" means an individual, partnership, corporation,
18 association, public or private organization, or governmental entity or
19 agency.

20 **Sec. 22.** RCW 36.70C.040 and 1995 c 347 s 705 are each amended to
21 read as follows:

22 (1) Proceedings for review under this chapter shall be commenced by
23 filing a land use petition in superior court.

24 (2) A land use petition is barred~~((7))~~ and the court may not grant
25 review, unless the petition is timely filed with the court and timely
26 served on the following persons who shall be parties to the review of
27 the land use petition:

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

31 (b) Each of the following persons if the person is not the
32 petitioner:

33 (i) When the land use decision follows a quasi-judicial proceeding,
34 each person who is identified by name and address in the ~~((local~~
35 ~~jurisdiction's written))~~ decision as either an applicant for the permit
36 or approval at issue or as an owner of the property at issue; and

37 (ii) When the land use decision does not follow a quasi-judicial
38 proceeding, each person who is identified by name and address in the

1 (~~local jurisdiction's written~~) decision as either an applicant for
2 the permit or approval at issue or as an owner of the property at
3 issue; or, if the decision does not contain such names, at least one
4 person who is identified in the local jurisdiction's official file as
5 the applicant for the permit or approval at issue and, if a person
6 other than the applicant is identified in the official file as an
7 owner, at least one person who is so identified as an owner of the
8 property at issue(;

9 (c) ~~If no person is identified in a written decision as provided in~~
10 ~~(b) of this subsection, each person identified by name and address as~~
11 ~~a taxpayer for the property at issue in the records of the county~~
12 ~~assessor, based upon the description of the property in the~~
13 ~~application; and~~

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

20 (3) When a land use decision follows a quasi-judicial proceeding,
21 a land use petition also is barred, and the court may not grant review,
22 unless notice in the form of a copy of the petition and a statement of
23 the right to intervene are timely mailed to each person identified by
24 name and address in the land use decision as a party to the quasi-
25 judicial proceeding. If such a party is an association instead of an
26 individual, then the mailing need be only to the representative or
27 representatives of the association identified as such by the quasi-
28 judicial decision maker.

29 (4) The petition is timely if it is filed and served on all parties
30 listed in subsection (2) of this section, and if it is mailed to the
31 persons described in subsection (3) of this section, within twenty-one
32 days of the issuance of the land use decision.

33 (~~(4)~~) (5) For the purposes of this section, the date on which a
34 land use decision is issued is:

35 (a) Three days after a written decision is mailed by the local
36 jurisdiction or, if not mailed, the date on which the local
37 jurisdiction provides notice that a written decision is publicly
38 available;

1 (b) If the land use decision is made by ordinance or resolution by
2 a legislative body sitting in a quasi-judicial capacity, the date ((the
3 body passes)) the ordinance or resolution is signed by the legislative
4 body or its presiding officer regardless of whether the local
5 jurisdiction later mails the ordinance or resolution or provides notice
6 that it is publicly available; or

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

9 ((+5)) (6) Service on the local jurisdiction must be by delivery
10 of a copy of the petition to the persons identified by or pursuant to
11 RCW 4.28.080 to receive service of process. Service on other parties
12 must be in accordance with the superior court civil rules or by first
13 class mail to(÷

14 ~~(a) The address stated in the written decision of the local~~
15 ~~jurisdiction for each person made a party under subsection (2)(b) of~~
16 ~~this section;~~

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

19 ~~(c) The address stated in the appeal to the quasi-judicial decision~~
20 ~~maker for each person made a party under subsection (2)(d) of this~~
21 ~~section)) the names and addresses identified in accordance with~~
22 ~~subsection 2(b)(i) and (ii) of this section.~~

23 ((+6)) (7) Service and notice by mail ((is)) are effective on the
24 date of mailing and proof of service and notice shall be by affidavit
25 or declaration under penalty of perjury.

26 **Sec. 23.** RCW 36.70C.050 and 1995 c 347 s 706 are each amended to
27 read as follows:

28 ((If the applicant for the land use approval is not the owner of
29 the real property at issue, and if the owner is not accurately
30 identified in the records referred to in RCW 36.70C.040(2) (b) and (c),
31 the applicant shall be responsible for promptly securing the joinder of
32 the owners.— In addition,)) Within fourteen days after service each
33 party initially named by the petitioner shall disclose to the other
34 parties the name and address of any person who has not been named and
35 served whom such party ((knows)) believes may be needed for just
36 adjudication of the petition(, and)). The petitioner shall promptly
37 name and serve any ((such)) person ((whom the petitioner agrees may
38 be)) who is needed for just adjudication. If such a person is named

1 and served before the initial hearing, leave of court for the joinder
2 is not required, and the petitioner shall provide the newly joined
3 party with copies of the pleadings filed before the party's joinder.
4 Failure by the petitioner to name or serve, within the time required by
5 RCW 36.70C.040(~~(+3)~~) (4), persons who are needed for just adjudication
6 but who are not (~~identified in the records referred to in~~) required
7 to be named and served by RCW 36.70C.040(2)(~~(+b)~~, ~~or in~~ RCW
8 ~~36.70C.040(2)(c) if applicable,~~) shall not deprive the court of
9 jurisdiction to hear the land use petition.

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

12 When a land use decision follows a quasi-judicial proceeding, a
13 local government shall include in the decision the names and addresses
14 of the following persons, as those names and addresses are provided to
15 the quasi-judicial decision maker according to its procedures:

- 16 (1) The applicant for the permit or approval at issue;
- 17 (2) The owner of the property at issue; and
- 18 (3) Each person deemed by the quasi-judicial decision maker to be
19 a party to the proceeding. If a party is an association instead of an
20 individual, the decision shall include the name and address of at least
21 one representative of the association chosen to receive notice pursuant
22 to RCW 36.70C.040(3).

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

25 (1) A person who is entitled by RCW 36.70C.040(3) to be mailed a
26 copy of the land use petition and a statement of the right to
27 intervene, has an unconditional right to intervene in the proceeding
28 filed under this chapter so long as a motion to intervene is filed with
29 the court and served on the parties within twenty-one days of the date
30 of mailing to that person of the copy of the land use petition and
31 statement of the right to intervene.

32 (2) The statement of the right to intervene required to be mailed
33 by RCW 36.70C.040 shall be substantially in the following form:

34 "You received along with this statement a copy of a land
35 use petition that is being filed in superior court to challenge
36 a decision made at the conclusion of a quasi-judicial
37 proceeding to which you were a party. The land use petition

1 act, chapter 36.70C RCW, gives you the right to participate in
2 this judicial review **IF** you wish to and **IF** you act promptly to
3 intervene.

4 If you do not wish to participate you need do nothing.
5 If you wish to participate you must file and serve a motion to
6 intervene in superior court, as provided in rule 5 of the
7 superior court civil rules, within twenty-one days of the date
8 the copy of the land use petition and this statement of the
9 right to intervene were mailed to you. If you wish to seek the
10 advice of an attorney in this matter, you should do so promptly
11 so that you can make your decision in a timely manner."

12 NEW SECTION. **Sec. 26.** A new section is added to chapter 36.70C
13 RCW to read as follows:

14 A party who has been initially named and served by the petitioner
15 may file a cross petition or a counter-petition within twenty-one days
16 of the date of service on that person. A party who has a right to
17 intervene under section 25 of this act may file a cross petition or a
18 counter-petition along with the motion to intervene. Any other party
19 may file a cross petition or a counter-petition if permitted to do so
20 by the court. A cross petition or a counter-petition shall set forth
21 the matters required by RCW 36.70C.070 (6), (7), (8), and (9).

22 **Sec. 27.** RCW 36.70C.080 and 1995 c 347 s 709 are each amended to
23 read as follows:

24 (1) Within seven days after the petition is served on the parties
25 identified in RCW 36.70C.040(2), the petitioner shall note, according
26 to the local rules of superior court, an initial hearing on
27 jurisdictional and preliminary matters. This initial hearing shall be
28 set no sooner than thirty-five days and no later than fifty days after
29 the petition is served on the parties identified in RCW 36.70C.040(2).

30 (2) The parties shall note all motions on jurisdictional and
31 procedural issues for resolution at the initial hearing, except that a
32 motion to allow discovery may be brought sooner. All papers shall be
33 served and filed and all hearings shall be set in conformance with the
34 requirements for civil motions. Where confirmation of motions is
35 required, each party shall be responsible for confirming its own
36 motions.

1 (3) The defenses of lack of standing, untimely filing or service of
2 the petition, and failure to join persons needed for just adjudication
3 are waived if not raised by timely motion noted to be heard at the
4 initial hearing, unless at or before the initial hearing the court
5 allows discovery ~~((on))~~ that is necessary for resolution of such
6 issues.

7 (4) The petitioner shall move the court for an order at the initial
8 hearing that sets the date on which the record must be submitted, sets
9 a briefing schedule, sets a discovery schedule if discovery is to be
10 allowed, and sets a date for the hearing or trial on the merits.

11 (5) The parties may waive the initial hearing by scheduling with
12 the court a date for the hearing or trial on the merits and filing a
13 stipulated order that resolves the jurisdictional and procedural issues
14 raised by the petition, including the issues identified in subsections
15 (3) and (4) of this section.

16 (6) A party need not file an answer to the petition.

17 **Sec. 28.** RCW 36.70C.110 and 1995 c 347 s 712 are each amended to
18 read as follows:

19 (1) Within forty-five days after entry of an order to submit the
20 record, or within such a further time as the court allows or as the
21 parties agree, the local jurisdiction shall submit to the court a
22 certified copy of the documentary record for judicial review of the
23 land use decision, ~~((except that))~~ and the petitioner shall prepare at
24 the petitioner's expense and submit a verbatim transcript that is
25 certified by the transcriber to be a true and accurate record of any
26 hearings held on the matter.

27 (2) If the parties agree, or upon order of the court, the record,
28 including the transcript, shall be shortened or summarized to avoid
29 reproduction and transcription of portions of the record that are
30 duplicative or not relevant to the issues to be reviewed by the court.

31 (3) The petitioner shall pay the local jurisdiction the cost of
32 preparing the record before the local jurisdiction submits the record
33 to the court. Failure by the petitioner to timely pay the local
34 jurisdiction relieves the local jurisdiction of responsibility to
35 submit the record and is grounds for dismissal of the petition.

36 (4) If the relief sought by the petitioner is granted in whole or
37 in part the court shall equitably assess the cost of preparing the
38 record among the parties. In assessing costs the court shall take into

1 account the extent to which each party prevailed and the reasonableness
2 of the parties' conduct in agreeing or not agreeing to shorten or
3 summarize the record under subsection (2) of this section.

4 **Sec. 29.** RCW 36.70C.120 and 1995 c 347 s 713 are each amended to
5 read as follows:

6 (1) When the land use decision being reviewed was made by a
7 quasi-judicial body or officer who made factual determinations in
8 support of the decision and the parties to the quasi-judicial
9 proceeding had an opportunity consistent with due process to make a
10 record on the factual issues, judicial review of factual issues and the
11 conclusions drawn from the factual issues shall be confined to the
12 record created by the quasi-judicial body or officer, ~~((except as
13 provided in subsections (2) through (4) of this section.~~

14 ~~((2) For decisions described in subsection (1) of this section,~~)
15 that upon motion the court may allow the record ~~((may))~~ to be
16 supplemented by additional evidence ~~((only))~~ if the additional evidence
17 ~~((relates to))~~:

18 (a) Relates to grounds for disqualification of a member of the body
19 or of the officer that made the land use decision, when such grounds
20 were unknown by the petitioner at the time the record was created;

21 (b) ~~((Matters that were))~~ Was improperly excluded from the record
22 after being offered by a party to the quasi-judicial proceeding; or

23 (c) ~~((Matters))~~ Relates to legal issues that were outside the
24 subject matter jurisdiction of the body or officer that made the land
25 use decision but now are before the court.

26 ~~((+3))~~ (2) For land use decisions other than those described in
27 subsection (1) of this section, a party may supplement the record for
28 judicial review ~~((may be supplemented by))~~ with evidence of material
29 facts that were not made part of the local jurisdiction's record.

30 ~~((+4))~~ (3) The court may require or permit corrections of
31 ministerial errors or inadvertent omissions in the preparation of the
32 record.

33 ~~((+5))~~ (4) The parties may ~~((not))~~ conduct pretrial discovery
34 ~~((except))~~ only with the prior permission of the court, which may be
35 sought by motion at any time after service of the petition. The court
36 shall ~~((not))~~ grant permission ~~((unless))~~ for pretrial discovery only
37 if the party requesting it makes a prima facie showing of need. The
38 court shall strictly limit discovery to what is necessary for equitable

1 and timely review of the issues that are raised under subsections (1)
2 and (2) (~~and (3)~~) of this section and under RCW 36.70C.080(3).

3 (5) If the court allows the record to be supplemented under
4 subsection (1) of this section or a party intends to supplement the
5 record under subsection (2) of this section, the court shall require
6 the parties to disclose before the hearing or trial on the merits the
7 specific evidence they intend to offer. If any party, or anyone acting
8 on behalf of any party, requests records under chapter 42.17 RCW
9 relating to the matters at issue, a copy of the request shall
10 simultaneously be given to all other parties and the court shall take
11 such request into account in fashioning an equitable discovery order
12 under this section. This subsection does not require a party to
13 request approval of the court before obtaining records under chapter
14 42.17 RCW.

15 **Sec. 30.** RCW 43.21C.031 and 1995 c 347 s 203 are each amended to
16 read as follows:

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

32 An environmental impact statement is required to analyze only those
33 probable adverse environmental impacts which are significant.
34 Beneficial environmental impacts may be discussed. The responsible
35 official shall consult with agencies and the public to identify such
36 impacts and limit the scope of an environmental impact statement. The
37 subjects listed in RCW 43.21C.030(2)(c) need not be treated as separate
38 sections of an environmental impact statement. Discussions of

1 significant short-term and long-term environmental impacts, significant
2 irrevocable commitments of natural resources, significant alternatives
3 including mitigation measures, and significant environmental impacts
4 which cannot be mitigated should be consolidated or included, as
5 applicable, in those sections of an environmental impact statement
6 where the responsible official decides they logically belong.

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

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

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

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

18 (iv) Are located either within an urban growth area, as defined in
19 RCW 36.70A.030, or a master planned resort authorized by a county as
20 provided in RCW 36.70A.360;

21 (v) Are not essential public facilities, as defined in RCW
22 36.70A.200; and

23 (vi) Are consistent with a comprehensive plan adopted under chapter
24 36.70A RCW.

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

31 **Sec. 31.** RCW 43.21C.075 and 1995 c 347 s 204 are each amended to
32 read as follows:

33 (1) Because a major purpose of this chapter is to combine
34 environmental considerations with public decisions, any appeal brought
35 under this chapter shall be linked to a specific governmental action.
36 The State Environmental Policy Act provides a basis for challenging
37 whether governmental action is in compliance with the substantive and
38 procedural provisions of this chapter. The State Environmental Policy

1 Act is not intended to create a cause of action unrelated to a specific
2 governmental action.

3 (2) Unless otherwise provided by this section:

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

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

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

11 (a) Shall ~~((not))~~ allow no more than one agency appeal proceeding
12 on ~~((a))~~ each procedural determination (the adequacy of a determination
13 of significance/nonsignificance or of a final environmental impact
14 statement)~~((. The appeal proceeding on a determination of significance
15 may occur before the agency's final decision on a proposed action. The
16 appeal proceeding on a determination of nonsignificance may occur
17 before the agency's final decision on a proposed action only if the
18 appeal is heard at a proceeding where the hearing body or officer will
19 render a final recommendation or decision on the proposed underlying
20 governmental action. Such appeals shall also be allowed for a
21 determination of significance/nonsignificance which may be issued by
22 the agency after supplemental review))~~;

23 (b) Shall consolidate an appeal of procedural issues and of
24 substantive determinations made under this chapter (such as a decision
25 to require particular mitigation measures or to deny a proposal) with
26 a hearing or appeal on the underlying governmental action by providing
27 for a single simultaneous hearing before one hearing officer or body to
28 consider the agency decision or recommendation on a proposal and any
29 environmental determinations made under this chapter, with the
30 exception of ~~((the))~~:

31 (i) An appeal~~((, if any,))~~ of a determination of significance ~~((as
32 provided in (a) of this subsection))~~;

33 (ii) An appeal of a procedural determination made by an agency when
34 the agency is a project proponent, or is funding a project, and chooses
35 to conduct its review under this chapter, including any appeals of its
36 procedural determinations, prior to submitting an application for a
37 project permit;

38 (iii) An appeal of a procedural determination made by an agency on
39 a nonproject action; or

1 (iv) An appeal to the local legislative authority under RCW
2 43.21C.060 or other applicable state statutes;

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

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

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

17 (5) Some statutes and ordinances contain time periods for
18 challenging governmental actions which are subject to review under this
19 chapter, such as various local land use approvals (the "underlying
20 governmental action"). RCW 43.21C.080 establishes an optional "notice
21 of action" procedure which, if used, imposes a time period for
22 appealing decisions under this chapter. This subsection does not
23 modify any such time periods. In this subsection, the term "appeal"
24 refers to a judicial appeal only.

25 (a) If there is a time period for appealing the underlying
26 governmental action, appeals under this chapter shall be commenced
27 within such time period. The agency shall give official notice stating
28 the date and place for commencing an appeal.

29 (b) If there is no time period for appealing the underlying
30 governmental action, and a notice of action under RCW 43.21C.080 is
31 used, appeals shall be commenced within the time period specified by
32 RCW 43.21C.080.

33 (6)(a) Judicial review under subsection (5) of this section of an
34 appeal decision made by an agency under subsection (3) of this section
35 shall be on the record, consistent with other applicable law.

36 (b) A taped or written transcript may be used. If a taped
37 transcript is to be reviewed, a record shall identify the location on
38 the taped transcript of testimony and evidence to be reviewed. Parties
39 are encouraged to designate only those portions of the testimony

1 necessary to present the issues raised on review, but if a party
2 alleges that a finding of fact is not supported by evidence, the party
3 should include in the record all evidence relevant to the disputed
4 finding. Any other party may designate additional portions of the
5 taped transcript relating to issues raised on review. A party may
6 provide a written transcript of portions of the testimony at the
7 party's own expense or apply to that court for an order requiring the
8 party seeking review to pay for additional portions of the written
9 transcript.

10 (c) Judicial review under this chapter shall without exception be
11 of the governmental action together with its accompanying environmental
12 determinations.

13 (7) Jurisdiction over the review of determinations under this
14 chapter in an appeal before an agency or superior court shall upon
15 consent of the parties be transferred in whole or part to the
16 shorelines hearings board. The shorelines hearings board shall hear
17 the matter and sign the final order expeditiously. The superior court
18 shall certify the final order of the shorelines hearings board and
19 (~~said~~) the certified final order may only be appealed to an appellate
20 court. In the case of an appeal under this chapter regarding a project
21 or other matter that is also the subject of an appeal to the shorelines
22 hearings board under chapter 90.58 RCW, the shorelines hearings board
23 shall have sole jurisdiction over both the appeal under this section
24 and the appeal under chapter 90.58 RCW, shall consider them together,
25 and shall issue a final order within one hundred eighty days as
26 provided in RCW 90.58.180.

27 (8) For purposes of this section and RCW 43.21C.080, the words
28 "action", "decision", and "determination" mean substantive agency
29 action including any accompanying procedural determinations under this
30 chapter (except where the word "action" means "appeal" in RCW
31 43.21C.080(2)). The word "action" in this section and RCW 43.21C.080
32 does not mean a procedural determination by itself made under this
33 chapter. The word "determination" includes any environmental document
34 required by this chapter and state or local implementing rules. The
35 word "agency" refers to any state or local unit of government. Except
36 as provided in subsection (5) of this section, the word "appeal" refers
37 to administrative, legislative, or judicial appeals.

38 (9) The court in its discretion may award reasonable (~~attorney's~~)
39 attorneys' fees of up to one thousand dollars in the aggregate to the

1 prevailing party, including a governmental agency, on issues arising
2 out of this chapter if the court makes specific findings that the legal
3 position of a party is frivolous and without reasonable basis.

4 **Sec. 32.** RCW 43.21C.110 and 1995 c 347 s 206 are each amended to
5 read as follows:

6 It shall be the duty and function of the department of ecology:

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

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

33 (b) Rules for criteria and procedures applicable to the
34 determination of when an act of a branch of government is a major
35 action significantly affecting the quality of the environment for which
36 a detailed statement is required to be prepared pursuant to RCW
37 43.21C.030.

1 (c) Rules and procedures applicable to the preparation of detailed
2 statements and other environmental documents, including but not limited
3 to rules for timing of environmental review, obtaining comments, data
4 and other information, and providing for and determining areas of
5 public participation which shall include the scope and review of draft
6 environmental impact statements.

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

12 (e) Rules and procedures for public notification of actions taken
13 and documents prepared.

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

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

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

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

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

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

1 (1) Rules relating to the use of environmental documents in
2 planning and decision making and the implementation of the substantive
3 policies and requirements of this chapter, including procedures for
4 appeals under this chapter.

5 (m) Rules and procedures (~~((that provide for the integration of~~
6 ~~environmental review with project review as provided in RCW 43.21C.240.~~
7 ~~The rules and procedures shall be))~~ jointly developed with the
8 department of community, trade, and economic development (~~(and shall~~
9 ~~be))~~ applicable to the preparation of environmental documents for
10 actions in counties, cities, and towns planning under RCW 36.70A.040.
11 The rules and procedures shall also include procedures and criteria to
12 analyze (~~(the consistency of project actions, including))~~ planned
13 actions under RCW 43.21C.031(2) (~~(, with development regulations adopted~~
14 ~~under chapter 36.70A RCW, or in the absence of applicable development~~
15 ~~regulations, the appropriate elements of a comprehensive plan or~~
16 ~~subarea plan adopted under chapter 36.70A RCW)).~~ Ordinances or
17 procedures adopted by a county, city, or town to implement the
18 provisions of (~~(RCW 43.21C.240))~~ chapter 347, Laws of 1995 prior to the
19 effective date of rules adopted under this subsection (1)(m) shall
20 continue to be effective until the adoption of any new or revised
21 ordinances or procedures that may be required. If any revisions are
22 required as a result of rules adopted under this subsection (1)(m),
23 those revisions shall be made within the time limits specified in RCW
24 43.21C.120.

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

27 (a) Consult with the state agencies and with representatives of
28 science, industry, agriculture, labor, conservation organizations,
29 state and local governments, and other groups, as it deems advisable;
30 and

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

37 (3) Rules adopted pursuant to this section shall be subject to the
38 review procedures of chapter 34.05 RCW.

1 **Sec. 33.** RCW 58.17.020 and 1995 c 32 s 2 are each amended to read
2 as follows:

3 As used in this chapter, unless the context or subject matter
4 clearly requires otherwise, the words or phrases defined in this
5 section shall have the indicated meanings.

6 (1) "Subdivision" is the division or redivision of land into five
7 or more lots, tracts, parcels, sites, or divisions for the purpose of
8 sale, lease, or transfer of ownership, except as provided in subsection
9 (6) of this section.

10 (2) "Plat" is a map or representation of a subdivision, showing
11 thereon the division of a tract or parcel of land into lots, blocks,
12 streets and alleys, or other divisions and dedications.

13 (3) "Dedication" is the deliberate appropriation of land by an
14 owner for any general and public uses, reserving to himself or herself
15 no other rights than such as are compatible with the full exercise and
16 enjoyment of the public uses to which the property has been devoted.
17 The intention to dedicate shall be evidenced by the owner by the
18 presentment for filing of a final plat or short plat showing the
19 dedication thereon; and, the acceptance by the public shall be
20 evidenced by the approval of such plat for filing by the appropriate
21 governmental unit.

22 A dedication of an area of less than two acres for use as a public
23 park may include a designation of a name for the park, in honor of a
24 deceased individual of good character.

25 (4) "Preliminary plat" is a neat and approximate drawing of a
26 proposed subdivision showing the general layout of streets and alleys,
27 lots, blocks, and other elements of a subdivision consistent with the
28 requirements of this chapter. The preliminary plat shall be the basis
29 for the approval or disapproval of the general layout of a subdivision.

30 (5) "Final plat" is the final drawing of the subdivision and
31 dedication prepared for filing for record with the county auditor and
32 containing all elements and requirements set forth in this chapter and
33 in local regulations adopted under this chapter.

34 (6) "Short subdivision" is the division or redivision of land into
35 four or fewer lots, tracts, parcels, sites, or divisions for the
36 purpose of sale, lease, or transfer of ownership(~~(:—PROVIDED, That)~~).
37 However, the legislative authority of any county, city, or town may by
38 local ordinance increase the number of lots, tracts, or parcels to be
39 regulated as short subdivisions to a maximum of nine in any city or

1 town or in any urban growth area designated by a county in compliance
2 with the requirements of chapter 36.70A RCW.

3 (7) "Binding site plan" means a drawing to a scale specified by
4 local ordinance which: (a) Identifies and shows the areas and
5 locations of all streets, roads, improvements, utilities, open spaces,
6 and any other matters specified by local regulations; (b) contains
7 inscriptions or attachments setting forth such appropriate limitations
8 and conditions for the use of the land as are established by the local
9 government body having authority to approve the site plan; and (c)
10 contains provisions making any development be in conformity with the
11 site plan.

12 (8) "Short plat" is the map or representation of a short
13 subdivision.

14 (9) "Lot" is a fractional part of divided lands having fixed
15 boundaries, being of sufficient area and dimension to meet minimum
16 zoning requirements for width and area. The term shall include tracts
17 or parcels.

18 (10) "Block" is a group of lots, tracts, or parcels within well
19 defined and fixed boundaries.

20 (11) "County treasurer" shall be as defined in chapter 36.29 RCW or
21 the office or person assigned such duties under a county charter.

22 (12) "County auditor" shall be as defined in chapter 36.22 RCW or
23 the office or person assigned such duties under a county charter.

24 (13) "County road engineer" shall be as defined in chapter 36.40
25 RCW or the office or person assigned such duties under a county
26 charter.

27 (14) "Planning commission" means that body as defined in
28 chapter(~~s~~) 36.70, 35.63, or 35A.63 RCW as designated by the
29 legislative body to perform a planning function or that body assigned
30 such duties and responsibilities under a city or county charter.

31 (15) "County commissioner" shall be as defined in chapter 36.32 RCW
32 or the body assigned such duties under a county charter.

33 **Sec. 34.** RCW 58.17.090 and 1995 c 347 s 426 are each amended to
34 read as follows:

35 (1) (~~Upon~~) Following receipt of an application for preliminary
36 plat approval the administrative officer charged by ordinance with
37 responsibility for administration of regulations pertaining to platting
38 and subdivisions shall provide public notice and set a date for ((a

1 ~~public~~) an open record hearing. Except as provided in RCW 36.70B.110,
2 at a minimum, notice of the open record hearing shall be given in the
3 following manner:

4 (a) Notice shall be published not less than ten days prior to the
5 open record hearing in a newspaper of general circulation within the
6 county and a newspaper of general circulation in the area where the
7 real property which is proposed to be subdivided is located; and

8 (b) Special notice of the open record hearing shall be given to
9 adjacent landowners by any other reasonable method local authorities
10 deem necessary. Adjacent landowners are the owners of real property,
11 as shown by the records of the county assessor, located within three
12 hundred feet of any portion of the boundary of the proposed
13 subdivision. If the owner of the real property which is proposed to be
14 subdivided owns another parcel or parcels of real property which lie
15 adjacent to the real property proposed to be subdivided, notice under
16 this subsection (1)(b) shall be given to owners of real property
17 located within three hundred feet of any portion of the boundaries of
18 such adjacently located parcels of real property owned by the owner of
19 the real property proposed to be subdivided.

20 (2) All open record hearings shall be public. All open record
21 hearing notices shall include a description of the location of the
22 proposed subdivision. The description may be in the form of either a
23 vicinity location sketch or a written description other than a legal
24 description.

25 **Sec. 35.** RCW 58.17.095 and 1986 c 233 s 1 are each amended to read
26 as follows:

27 (1) A county, city, or town may adopt an ordinance providing for
28 the administrative review of a preliminary plat without (~~a public~~) an
29 open record hearing by adopting an ordinance providing for such
30 administrative review. The ordinance may specify a threshold number of
31 lots in a subdivision above which (~~a public~~) an open record hearing
32 must be held, and may specify other factors which necessitate the
33 holding of (~~a public~~) an open record hearing.

34 (2) The administrative review process shall include the following
35 minimum conditions:

36 (~~(1)~~) (a) Except as otherwise provided in this subsection, The
37 notice requirements of RCW 36.70B.110 and 58.17.090 shall be
38 followed(~~, except that the~~).

1 (b) In a county, city, or town not planning under RCW 36.70A.040:
2 (i) Publication shall be made within ten days of the filing of the
3 application(~~(.—Additionally,)~~); and
4 (ii) At least ten days after the filing of the application notice
5 both shall be:
6 ~~((a))~~ (A) Posted on or around the land proposed to be subdivided
7 in at least five conspicuous places designed to attract public
8 awareness of the proposal; and
9 ~~((b))~~ (B) Mailed to the owner of each lot or parcel of property
10 located within at least three hundred feet of the site. The applicant
11 shall provide the county, city, or town with a list of such property
12 owners and their addresses.
13 (c) The notice shall include notification that no (~~public~~) open
14 record hearing will be held on the application, except as provided by
15 this section. The notice shall set out the procedures and time
16 limitations for persons to require (~~a public~~) an open record hearing
17 and make comments.
18 ~~((2))~~ (3) Any person shall have a period of twenty days from the
19 date of the notice to comment upon the proposed preliminary plat or a
20 period of not less than fourteen nor more than thirty days for a city,
21 county, or town planning under RCW 36.70A.040. All comments received
22 shall be provided to the applicant. The applicant has seven days from
23 receipt of the comments to respond thereto.
24 ~~((3) A public)~~ (4) An open record hearing on the proposed
25 subdivision shall be held if any person files a request for a hearing
26 with the county, city, or town within twenty-one days of the publishing
27 of such notice. If (~~such a~~) an open record hearing is requested,
28 notice requirements for the (~~public~~) hearing shall be in conformance
29 with RCW 58.17.090, and the (~~ninety-day~~) period for approval or
30 disapproval of the proposed subdivision provided for in RCW 58.17.140
31 shall commence with the date of the filing of the request for (~~a~~
32 public) an open record hearing. Any hearing ordered under this
33 subsection shall be conducted by the planning commission or hearings
34 officer as required by county or city ordinance.
35 ~~((4))~~ (5) On its own initiative within twenty-one days of the
36 filing of the request for approval of the subdivision, the governing
37 body, or a designated employee or official, of the county, city, or
38 town, shall be authorized to cause (~~a public~~) an open record hearing

1 to be held on the proposed subdivision within ninety days of the filing
2 of the request for the subdivision.

3 ~~((+5))~~ (6) If the ~~((public))~~ open record hearing is waived as
4 provided in this section, the planning commission or planning agency
5 shall complete the review of the proposed preliminary plat and transmit
6 its recommendation to the legislative body as provided in RCW
7 58.17.100.

8 **Sec. 36.** RCW 58.17.100 and 1995 c 347 s 428 are each amended to
9 read as follows:

10 (1)(a) If a city, town, or county has established a planning
11 commission or planning agency in accordance with state law or local
12 charter, such commission or agency shall review all preliminary plats
13 and make recommendations thereon to the city, town, or county
14 legislative body to assure conformance of the proposed subdivision to
15 the general purposes of the comprehensive plan and to planning
16 standards and specifications as adopted by the city, town, or county.
17 Except as provided in (b) of this subsection, reports of the planning
18 commission or agency shall be advisory only~~((:—PROVIDED, That))~~.

19 (b) The legislative body of the city, town, or county may, by
20 ordinance, assign to such commission or agency, or any department
21 official or group of officials, such administrative functions, powers,
22 and duties as may be appropriate, including the holding of open record
23 hearings, and recommendations for approval or disapproval of
24 preliminary plats of proposed subdivisions.

25 ~~((Such))~~ (2) A recommendation made pursuant to subsection (1) of
26 this section shall be submitted to the legislative body not later than
27 fourteen days following action by the hearing body. Upon receipt of
28 the recommendation on any preliminary plat the legislative body shall
29 at its next public meeting set the date for the ~~((public meeting))~~
30 closed record appeal where it shall consider the recommendations of the
31 hearing body and may adopt or reject the recommendations of ~~((such))~~
32 the hearing body based on the record established at the ~~((public))~~ open
33 record hearing. If, after considering the matter ~~((at a public~~
34 ~~meeting))~~ in a closed record appeal, the legislative body deems a
35 change in the planning commission's or planning agency's recommendation
36 approving or disapproving any preliminary plat is necessary, the
37 legislative body shall adopt its own recommendations and approve or
38 disapprove the preliminary plat.

1 (3) Every decision or recommendation made under this section shall
2 be in writing and shall include findings of fact and conclusions to
3 support the decision or recommendation.

4 (4) A record of all (~~(public meetings and public hearings)~~) open
5 record hearings and closed record appeals shall be kept by the
6 appropriate city, town, or county authority and shall be open to public
7 inspection.

8 (5) Sole authority (~~(to approve final plats, and)~~) to adopt or
9 amend platting ordinances shall reside in the legislative bodies.

10 **Sec. 37.** RCW 58.17.140 and 1995 c 68 s 1 are each amended to read
11 as follows:

12 (1)(a) Except as provided in (b) of this subsection and subsection
13 (3) of this section, preliminary plats of any proposed subdivision and
14 dedication shall be approved, disapproved, or returned to the applicant
15 for modification or correction within ninety days from date of filing
16 thereof unless the applicant consents to an extension of such time
17 period or the ninety-day limitation is extended to include up to
18 twenty-one days as specified under RCW 58.17.095(3)(~~(:—PROVIDED,~~
19 That)).

20 (b) If an environmental impact statement is required as provided in
21 RCW 43.21C.030, the ninety-day period shall not include the time spent
22 preparing and circulating the environmental impact statement by the
23 local government agency.

24 (2) Except as provided in subsection (3) of this section, final
25 plats and short plats shall be approved, disapproved, or returned to
26 the applicant within thirty days from the date of filing thereof,
27 unless the applicant consents to an extension of (~~such~~) the time
28 period.

29 (3) Subsections (1) and (2) of this section do not apply to the
30 decision by a county, city, or town to approve, disapprove, or return
31 a preliminary plat or short plat if the preliminary plat or short plat
32 is subject to the provisions of RCW 36.70B.090 and 36.70B.110.

33 (4) A final plat meeting all requirements of this chapter shall be
34 submitted to the legislative body of the city, town, or county for
35 approval within five years of the date of preliminary plat approval.
36 Nothing contained in this section shall act to prevent any city, town,
37 or county from adopting by ordinance procedures which would allow

1 extensions of time that may or may not contain additional or altered
2 conditions and requirements.

3 **Sec. 38.** RCW 58.17.140 and 1995 c 68 s 1 are each amended to read
4 as follows:

5 (1)(a) Except as provided in (b) of this subsection, preliminary
6 plats of any proposed subdivision and dedication shall be approved,
7 disapproved, or returned to the applicant for modification or
8 correction within ninety days from date of filing thereof unless the
9 applicant consents to an extension of such time period or the ninety-
10 day limitation is extended to include up to twenty-one days as
11 specified under RCW 58.17.095(3)((~~PROVIDED, That~~)).

12 (b) If an environmental impact statement is required as provided in
13 RCW 43.21C.030, the ninety-day period shall not include the time spent
14 preparing and circulating the environmental impact statement by the
15 local government agency.

16 (2) Final plats and short plats shall be approved, disapproved, or
17 returned to the applicant within thirty days from the date of filing
18 thereof, unless the applicant consents to an extension of ((such)) the
19 time period.

20 (3) A final plat meeting all requirements of this chapter shall be
21 submitted to the legislative body of the city, town, or county for
22 approval within five years of the date of preliminary plat approval.
23 Nothing contained in this section shall act to prevent any city, town,
24 or county from adopting by ordinance procedures which would allow
25 extensions of time that may or may not contain additional or altered
26 conditions and requirements.

27 **Sec. 39.** RCW 90.58.090 and 1995 c 347 s 306 are each amended to
28 read as follows:

29 (1) A master program, segment of a master program, or an amendment
30 to a master program shall become effective when approved by the
31 department. Within the time period provided in RCW 90.58.080, each
32 local government shall have submitted a master program, either totally
33 or by segments, for all shorelines of the state within its jurisdiction
34 to the department for review and approval.

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

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

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

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

16 (d) Within thirty days after receipt of the local government
17 response pursuant to (c) of this subsection, make written findings and
18 conclusions regarding the consistency of the proposal with the policy
19 of RCW 90.58.020 and the applicable guidelines, provide a response to
20 the issues identified in (c) of this subsection, and either approve the
21 proposal as submitted, recommend specific changes necessary to make the
22 proposal approvable, or deny approval of the proposal in those
23 instances where no alteration of the proposal appears likely to be
24 consistent with the policy of RCW 90.58.020 and the applicable
25 guidelines. The written findings and conclusions shall be provided to
26 the local government, all interested persons, parties, groups, and
27 agencies of record on the proposal;

28 (e) If the department recommends changes to the proposed master
29 program or amendment, within thirty days after the department mails the
30 written findings and conclusions to the local government, the local
31 government may:

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

35 (ii) Submit an alternative proposal. If, in the opinion of the
36 department, the alternative is consistent with the purpose and intent
37 of the changes originally submitted by the department and with this
38 chapter it shall approve the changes and provide written notice to all
39 recipients of the written findings and conclusions. If the department

1 determines the proposal is not consistent with the purpose and intent
2 of the changes proposed by the department, the department may resubmit
3 the proposal for public and agency review pursuant to this section or
4 reject the proposal.

5 (3) The department shall approve the segment of a master program
6 relating to shorelines unless it determines that the submitted segments
7 are not consistent with the policy of RCW 90.58.020 and the applicable
8 guidelines.

9 (4) The department shall approve those segments of the master
10 program relating to shorelines of state-wide significance only after
11 determining the program provides the optimum implementation of the
12 policy of this chapter to satisfy the state-wide interest. If the
13 department does not approve a segment of a local government master
14 program relating to a shoreline of state-wide significance, the
15 department may develop and by rule adopt an alternative to the local
16 government s proposal.

17 (5) In the event a local government has not complied with the
18 requirements of RCW 90.58.070 it may thereafter upon written notice to
19 the department elect to adopt a master program for the shorelines
20 within its jurisdiction, in which event it shall comply with the
21 provisions established by this chapter for the adoption of a master
22 program for such shorelines.

23 Upon approval of such master program by the department it shall
24 supersede such master program as may have been adopted by the
25 department for such shorelines.

26 (6) A master program or amendment to a master program takes effect
27 when and in such form as approved or adopted by the department.
28 Shoreline master programs that were adopted by the department prior to
29 July 22, 1995, in accordance with the provisions of this section then
30 in effect, shall be deemed approved by the department in accordance
31 with the provisions of this section that became effective on that date.
32 The department shall maintain a record of each master program, the
33 action taken on any proposal for adoption or amendment of the master
34 program, and any appeal of the department's action. The department's
35 approved document of record constitutes the official master program.

36 **Sec. 40.** RCW 90.58.140 and 1995 c 347 s 309 are each amended to
37 read as follows:

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

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

8 A permit shall be granted:

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

14 (b) After adoption or approval, as appropriate, by the department
15 of an applicable master program, only when the development proposed is
16 consistent with the applicable master program and this chapter.

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

22 (4) Except as otherwise specifically provided in subsection (11) of
23 this section, the local government shall require notification of the
24 public of all applications for permits governed by any permit system
25 established pursuant to subsection (3) of this section by ensuring that
26 notice of the application is given by at least one of the following
27 methods:

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

32 (b) Posting of the notice in a conspicuous manner on the property
33 upon which the project is to be constructed; or

34 (c) Any other manner deemed appropriate by local authorities to
35 accomplish the objectives of reasonable notice to adjacent landowners
36 and the public.

37 The notices shall include a statement that any person desiring to
38 submit written comments concerning an application, or desiring to
39 receive notification of the final decision concerning an application as

1 expeditiously as possible after the issuance of the decision, may
2 submit the comments or requests for decisions to the local government
3 within thirty days of the (~~last~~) date the notice of application is
4 (~~to be published~~) issued pursuant to this subsection. The local
5 government shall forward, in a timely manner following the issuance of
6 a decision, a copy of the decision to each person who submits a request
7 for the decision.

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

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

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

23 (b) Construction may be commenced no sooner than thirty days after
24 the date of the appeal of the board's decision is filed if a permit is
25 granted by the local government and (i) the granting of the permit is
26 appealed to the shorelines hearings board within twenty-one days of the
27 date of filing, (ii) the hearings board approves the granting of the
28 permit by the local government or approves a portion of the substantial
29 development for which the local government issued the permit, and (iii)
30 an appeal for judicial review of the hearings board decision is filed
31 pursuant to chapter 34.05 RCW. The appellant may request, within ten
32 days of the filing of the appeal with the court, a hearing before the
33 court to determine whether construction pursuant to the permit approved
34 by the hearings board or to a revised permit issued pursuant to the
35 order of the hearings board should not commence. If, at the conclusion
36 of the hearing, the court finds that construction pursuant to such a
37 permit would involve a significant, irreversible damaging of the
38 environment, the court shall prohibit the permittee from commencing the
39 construction pursuant to the approved or revised permit until all

1 review proceedings are final. Construction pursuant to a permit
2 revised at the direction of the hearings board may begin only on that
3 portion of the substantial development for which the local government
4 had originally issued the permit, and construction pursuant to such a
5 revised permit on other portions of the substantial development may not
6 begin until after all review proceedings are terminated. In such a
7 hearing before the court, the burden of proving whether the
8 construction may involve significant irreversible damage to the
9 environment and demonstrating whether such construction would or would
10 not be appropriate is on the appellant;

11 (c) If the permit is for a substantial development meeting the
12 requirements of subsection (11) of this section, construction pursuant
13 to that permit may not begin or be authorized until twenty-one days
14 from the date the permit decision was filed as provided in subsection
15 (6) of this section.

16 If a permittee begins construction pursuant to ~~((subsections))~~ (a),
17 (b), or (c) of this subsection, the construction is begun at the
18 permittee's own risk. If, as a result of judicial review, the courts
19 order the removal of any portion of the construction or the restoration
20 of any portion of the environment involved or require the alteration of
21 any portion of a substantial development constructed pursuant to a
22 permit, the permittee is barred from recovering damages or costs
23 involved in adhering to such requirements from the local government
24 that granted the permit, the hearings board, or any appellant or
25 intervener.

26 (6) Any decision on an application for a permit under the authority
27 of this section, whether it is an approval or a denial, shall,
28 concurrently with the transmittal of the ruling to the applicant, be
29 filed with the department and the attorney general. With regard to a
30 permit other than a permit governed by subsection (10) of this section,
31 "date of filing" as used herein means the date of actual receipt by the
32 department. With regard to a permit for a variance or a conditional
33 use, "date of filing" means the date a decision of the department
34 rendered on the permit pursuant to subsection (10) of this section is
35 transmitted by the department to the local government. The department
36 shall notify in writing the local government and the applicant of the
37 date of filing.

38 (7) Applicants for permits under this section have the burden of
39 proving that a proposed substantial development is consistent with the

1 criteria that must be met before a permit is granted. In any review of
2 the granting or denial of an application for a permit as provided in
3 RCW 90.58.180 (1) and (2), the person requesting the review has the
4 burden of proof.

5 (8) Any permit may, after a hearing with adequate notice to the
6 permittee and the public, be rescinded by the issuing authority upon
7 the finding that a permittee has not complied with conditions of a
8 permit. If the department is of the opinion that noncompliance exists,
9 the department shall provide written notice to the local government and
10 the permittee. If the department is of the opinion that the
11 noncompliance continues to exist thirty days after the date of the
12 notice, and the local government has taken no action to rescind the
13 permit, the department may petition the hearings board for a rescission
14 of the permit upon written notice of the petition to the local
15 government and the permittee if the request by the department is made
16 to the hearings board within fifteen days of the termination of the
17 thirty-day notice to the local government.

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

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

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

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

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

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

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

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

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

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

10 **Sec. 41.** RCW 90.58.143 and 1996 c 62 s 1 are each amended to read
11 as follows:

12 (1) The time requirements of this section shall apply to all
13 substantial development permits and to any development authorized
14 pursuant to a variance or conditional use permit authorized under this
15 chapter. Upon a finding of good cause, based on the requirements and
16 circumstances of the project proposed and consistent with the policy
17 and provisions of the master program and this chapter, local government
18 may adopt different time limits from those set forth in subsections (2)
19 and (3) of this section as a part of action on a substantial
20 development permit.

21 (2) Construction activities shall be commenced or, where no
22 construction activities are involved, the use or activity shall be
23 commenced within two years of the effective date of a substantial
24 development permit. However, local government may authorize a single
25 extension for a period not to exceed one year based on reasonable
26 factors, if a request for extension has been filed before the
27 expiration date and notice of the proposed extension is given to
28 parties of record on the substantial development permit and to the
29 department.

30 (3) Authorization to conduct construction activities shall
31 terminate five years after the effective date of a substantial
32 development permit. However, local government may authorize a single
33 extension for a period not to exceed one year based on reasonable
34 factors, if a request for extension has been filed before the
35 expiration date and notice of the proposed extension is given to
36 parties of record and to the department.

37 (4) The effective date of a substantial development permit shall be
38 the date of (~~the last action required on the substantial development~~

1 ~~permit and all~~) filing as provided in RCW 90.58.140(6). The permit
2 time periods in subsections (2) and (3) of this section do not include
3 the time during which a use or activity was not actually pursued due to
4 the pendency of administrative appeals or legal actions or due to the
5 need to obtain any other government permits and approvals for the
6 development that authorize the development to proceed, including all
7 reasonably related administrative ((and)) or legal actions on any such
8 permits or approvals.

9 **Sec. 42.** RCW 90.60.020 and 1995 c 347 s 602 are each amended to
10 read as follows:

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout this chapter.

13 (1) "Center" means the permit assistance center established in the
14 ~~((commission-[department]))~~ department by RCW 90.60.030.

15 (2) "Coordinating permit agency" means the permit agency that has
16 the greatest overall jurisdiction over a project.

17 (3) "Department" means the department of ecology.

18 (4) "Participating permit agency" means a permit agency, other than
19 the coordinating permit agency, that is responsible for the issuance of
20 a permit for a project.

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

24 (6) "Permit agency" means:

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

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

31 (7) "Project" means an activity, the conduct of which requires
32 permits from one or more permit agencies.

33 **Sec. 43.** RCW 90.60.040 and 1995 c 347 s 604 are each amended to
34 read as follows:

35 (1) Not later than January 1, 1996, the center shall establish by
36 rule an administrative process for the designation of a coordinating
37 permit agency for a project.

1 (2) The administrative process shall consist of the establishment
2 of guidelines for designating the coordinating permit agency for a
3 project. If a permit agency is the lead agency for purposes of chapter
4 43.21C RCW, that permit agency shall either be the coordinating permit
5 agency, or request the center to designate another permit agency as the
6 coordinating permit agency. In other cases, the guidelines shall
7 require that at least the following factors be considered in
8 determining which permit agency has the greatest overall jurisdiction
9 over the project:

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

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

13 (c) The environmental medium that may be affected by the project,
14 the extent of those potential effects, and the environmental protection
15 measures that may be taken to prevent the occurrence of, or to
16 mitigate, those potential effects;

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

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

22 NEW SECTION. Sec. 44. Sections 21 through 29 of this act apply to
23 land use petitions filed on or after the effective date of this
24 section.

25 NEW SECTION. Sec. 45. Sections 1 through 20, 30 through 37, and
26 39 through 43 of this act are necessary for the immediate preservation
27 of the public peace, health, or safety, or support of the state
28 government and its existing public institutions, and take effect
29 immediately.

30 NEW SECTION. Sec. 46. Section 38 of this act takes effect July 1,
31 1998.

32 NEW SECTION. Sec. 47. Sections 13 and 37 of this act expire June
33 30, 1998.

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