
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2244

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Reams, Mulliken, Bush and Thompson)

Read first time 03/10/97.

1 AN ACT Relating to revising the recommendations of the land use
2 study commission; amending RCW 36.70A.030, 36.70A.070, 36.70A.160,
3 36.70A.130, 36.70A.270, 36.70A.290, 36.70A.300, 36.70A.305, 36.70A.320,
4 36.70A.330, 36.70A.140, 36.70A.110, 36.70A.130, 43.62.035, 36.70A.500,
5 84.34.020, 84.34.060, 84.34.065; 84.40.030, 90.60.030, 35.13.130,
6 35A.14.295, 35.13.174, 36.93.170, 84.14.010, 90.61.040, and 90.61.020;
7 adding new sections to chapter 36.70A RCW; adding a new section to
8 chapter 42.17 RCW; adding a new section to chapter 35.13 RCW; creating
9 new sections; repealing RCW 36.70A.250, 36.70A.260, 36.70A.270,
10 36.70A.280, 36.70A.290, 36.70A.300, 36.70A.305, 36.70A.310, 36.70A.320,
11 36.70A.330, 36.70A.340, and 36.70A.345; providing a contingent
12 effective date; and providing expiration dates.

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

14 NEW SECTION. **Sec. 1.** A new section is added to chapter 36.70A RCW
15 to read as follows:

16 In enacting the section 4(5), chapter . . . , Laws of 1997 (section
17 4(5) of this act) amendments to RCW 36.70A.070(5), the legislature
18 finds that chapter 36.70A RCW is intended to recognize the importance
19 of both agricultural and rural lands and rural character to

1 Washington's economy, its people, and its environment, while respecting
2 regional differences and protecting the property rights of landowners
3 from arbitrary and discriminatory actions. Agricultural and rural
4 lands and rural-based economies enhance the economic desirability of
5 the state, help to preserve traditional economic activities, and
6 contribute to the state's overall quality of life. The legislature
7 also finds that in developing its rural element under RCW
8 36.70A.070(5), a county should foster land use patterns and develop a
9 local vision of rural character that: Will help preserve rural-based
10 economies and traditional rural lifestyles; will foster opportunities
11 for small-scale, rural-based employment and self-employment; will
12 permit the operation of rural-based commercial, recreational, and
13 tourist businesses that are consistent with existing and planned land
14 use patterns; be compatible with the use of the land by wildlife and
15 for fish and wildlife habitat; will foster the private stewardship of
16 the land and preservation of open space; and will enhance the rural
17 sense of community and quality of life. The legislature recognizes
18 that there will be a variety of interpretations by counties of how best
19 to implement a rural element, reflecting the diverse needs and local
20 circumstances found across the state. RCW 36.70A.070(5) provides a
21 framework for local elected officials to make these determinations.

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

24 In amending RCW 36.70A.320(3) by section 13(3), chapter . . ., Laws
25 of 1997 (section 13(3) of this act), the legislature intends that the
26 boards apply a more deferential standard of review to actions of
27 counties and cities than the preponderance of the evidence standard
28 provided for under existing law. In recognition of the broad range of
29 discretion that may be exercised by counties and cities consistent with
30 the requirements of this chapter, the legislature intends for the
31 boards to grant substantial deference to counties and cities in how
32 they plan for growth, consistent with the requirements and goals of
33 this chapter. Local comprehensive plans and development regulations
34 require counties and cities to balance priorities and options for
35 action in full consideration of local circumstances. The legislature
36 finds that while this chapter requires local planning to take place
37 within a framework of state goals and requirements, the ultimate burden

1 and responsibility for planning and implementing a county's or city's
2 future rests with that community.

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

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.

7 (1) "Adopt a comprehensive land use plan" means to enact a new
8 comprehensive land use plan or to update an existing comprehensive land
9 use plan.

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

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

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

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

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

29 (7) "Development regulations" or "regulation" means the controls
30 placed on development or land use activities by a county or city,
31 including, but not limited to, zoning ordinances, critical areas
32 ordinances, shoreline master programs, official controls, planned unit
33 development ordinances, subdivision ordinances, and binding site plan
34 ordinances together with any amendments thereto. A development
35 regulation does not include a decision to approve a project permit
36 application, as defined in RCW 36.70B.020, even though the decision may
37 be expressed in a resolution or ordinance of the legislative body of
38 the county or city.

1 (8) "Forest land" means land primarily devoted to growing trees for
2 long-term commercial timber production on land that can be economically
3 and practically managed for such production, including Christmas trees
4 subject to the excise tax imposed under RCW 84.33.100 through
5 84.33.140, and that has long-term commercial significance. In
6 determining whether forest land is primarily devoted to growing trees
7 for long-term commercial timber production on land that can be
8 economically and practically managed for such production, the following
9 factors shall be considered: (a) The proximity of the land to urban,
10 suburban, and rural settlements; (b) surrounding parcel size and the
11 compatibility and intensity of adjacent and nearby land uses; (c) long-
12 term local economic conditions that affect the ability to manage for
13 timber production; and (d) the availability of public facilities and
14 services conducive to conversion of forest land to other uses.

15 (9) "Geologically hazardous areas" means areas that because of
16 their susceptibility to erosion, sliding, earthquake, or other
17 geological events, are not suited to the siting of commercial,
18 residential, or industrial development consistent with public health or
19 safety concerns.

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

24 (11) "Minerals" include gravel, sand, and valuable metallic
25 substances.

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

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

33 (14) "Rural character" refers to the patterns of land use and
34 development established by a county:

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

37 (b) That foster traditional rural lifestyles and rural-based
38 economies; and

1 (c) That generally do not require the extension of urban
2 governmental services.

3 (15) "Rural development" refers to nonagricultural and nonforestry
4 development outside the urban growth area and outside agricultural,
5 forest, and mineral resource lands designated pursuant to RCW
6 36.70A.170. Rural development can consist of a variety of uses and
7 residential densities, including clustered residential development, at
8 levels that are consistent with the preservation of rural character and
9 the requirements of the rural element.

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

18 (17) "Urban growth" refers to growth that makes intensive use of
19 land for the location of buildings, structures, and impermeable
20 surfaces to such a degree as to be incompatible with the primary use of
21 ((such)) land for the production of food, other agricultural products,
22 or fiber, or the extraction of mineral resources, rural uses, rural
23 development, and natural resource lands designated pursuant to RCW
24 36.70A.170. A pattern of more intensive rural development, as provided
25 in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread
26 over wide areas, urban growth typically requires urban governmental
27 services. "Characterized by urban growth" refers to land having urban
28 growth located on it, or to land located in relationship to an area
29 with urban growth on it as to be appropriate for urban growth.

30 ((+15+)) (18) "Urban growth areas" means those areas designated by
31 a county pursuant to RCW 36.70A.110.

32 ((+16+)) (19) "Urban governmental services" or "urban services"
33 include those ((governmental)) public services and public facilities at
34 an intensity historically and typically ((delivered by)) provided in
35 cities, ((and include)) specifically including storm and sanitary sewer
36 systems, domestic water systems, street cleaning services, fire and
37 police protection services, public transit services, and other public
38 utilities associated with urban areas and normally not associated with
39 ((nonurban)) rural areas.

1 (~~(17)~~) (20) "Wetland" or "wetlands" means areas that are
2 inundated or saturated by surface water or ground water at a frequency
3 and duration sufficient to support, and that under normal circumstances
4 do support, a prevalence of vegetation typically adapted for life in
5 saturated soil conditions. Wetlands generally include swamps, marshes,
6 bogs, and similar areas. Wetlands do not include those artificial
7 wetlands intentionally created from nonwetland sites, including, but
8 not limited to, irrigation and drainage ditches, grass-lined swales,
9 canals, detention facilities, wastewater treatment facilities, farm
10 ponds, and landscape amenities, or those wetlands (~~created after July~~
11 ~~1, 1990, that were~~) unintentionally created as a result of the
12 construction of a road, street, or highway. Wetlands may include those
13 artificial wetlands intentionally created from nonwetland areas created
14 to mitigate conversion of wetlands. Wetlands must measurably and
15 demonstrably perform a wetland function. Any land farmed, developed,
16 or otherwise employed in a nonwetland use prior to 1987 shall not be
17 considered or designated a wetland.

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

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

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

29 (1) A land use element designating the proposed general
30 distribution and general location and extent of the uses of land, where
31 appropriate, for agriculture, timber production, housing, commerce,
32 industry, recreation, open spaces, general aviation airports, public
33 utilities, public facilities, and other land uses. The land use
34 element shall include population densities, building intensities, and
35 estimates of future population growth. The land use element shall
36 provide for protection of the quality and quantity of ground water used
37 for public water supplies. Where applicable, the land use element
38 shall review drainage, flooding, and storm water run-off in the area

1 and nearby jurisdictions and provide guidance for corrective actions to
2 mitigate or cleanse those discharges that pollute waters of the state,
3 including Puget Sound or waters entering Puget Sound.

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

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

29 (4) A utilities element consisting of the general location,
30 proposed location, and capacity of all existing and proposed utilities,
31 including, but not limited to, electrical lines, telecommunication
32 lines, and natural gas lines.

33 (5) Rural development. Counties shall include a rural element
34 including lands that are not designated for urban growth, agriculture,
35 forest, or mineral resources. The following provisions shall apply to
36 the rural element:

37 (a) Growth management act goals and local circumstances. Because
38 circumstances vary from county to county, in establishing patterns of
39 rural densities and uses, a county may consider local circumstances,

1 and the boards shall give substantial deference to the record
2 explaining how the rural element harmonizes the planning goals in RCW
3 36.70A.020 and meets the requirements of this chapter.

4 (b) Rural development. The rural element shall permit
5 ((appropriate land uses that are compatible with the rural character of
6 such lands)) rural development and provide for a variety of rural
7 densities ((and)), uses ((and may also provide)), essential public
8 facilities, and rural governmental services needed to serve the
9 permitted densities and uses. Except as otherwise specifically
10 provided in this chapter, residential and nonresidential uses shall not
11 require urban services. In order to achieve a variety of rural
12 densities and uses, counties may provide for clustering, density
13 transfer, design guidelines, conservation easements, and other
14 innovative techniques that will accommodate appropriate rural densities
15 and uses that are not characterized by urban growth and that are
16 consistent with rural character.

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

20 (i) Containing or otherwise controlling rural development;

21 (ii) Reducing the inappropriate conversion of undeveloped land into
22 sprawling, low-density development in the rural area; and

23 (iii) Protecting against conflicts with the use of agricultural,
24 forest, and mineral resource lands designated under RCW 36.70A.170.

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

31 (i) Rural development consisting of the infill, development, or
32 redevelopment of existing commercial, industrial, residential, or
33 mixed-use areas, whether characterized as shoreline development,
34 villages, hamlets, rural activity centers, or crossroads developments.
35 An industrial area is not required to be principally designed to serve
36 the existing and projected rural population as required by (b) of this
37 subsection;

38 (ii) The intensification of development on lots containing, or new
39 development of, small-scale recreational or tourist uses, including

1 commercial facilities to serve those recreational or tourist uses, that
2 rely on a rural location and setting, but that do not include
3 residential development. Public services and public facilities shall
4 be limited to those necessary to serve the recreation or tourist use
5 and shall be provided in a manner that does not permit low-density
6 sprawl;

7 (iii) The intensification of development on lots containing
8 isolated nonresidential uses;

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

26 (e) Exception. This subsection shall not be interpreted to permit
27 in the rural area a major industrial development or a master planned
28 resort unless otherwise specifically permitted under RCW 36.70A.360 and
29 36.70A.365 and does not prohibit agricultural, forestry, or resource-
30 based nonresidential uses.

31 (6) A transportation element that implements, and is consistent
32 with, the land use element. The transportation element shall include
33 the following subelements:

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

35 (b) Facilities and services needs, including:

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

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

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

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

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

12 (c) Finance, including:

13 (i) An analysis of funding capability to judge needs against
14 probable funding resources;

15 (ii) A multiyear financing plan based on the needs identified in
16 the comprehensive plan, the appropriate parts of which shall serve as
17 the basis for the six-year street, road, or transit program required by
18 RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
19 35.58.2795 for public transportation systems;

20 (iii) If probable funding falls short of meeting identified needs,
21 a discussion of how additional funding will be raised, or how land use
22 assumptions will be reassessed to ensure that level of service
23 standards will be met;

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

27 (e) Demand-management strategies.

28 After adoption of the comprehensive plan by jurisdictions required
29 to plan or who choose to plan under RCW 36.70A.040, local jurisdictions
30 must adopt and enforce ordinances which prohibit development approval
31 if the development causes the level of service on a transportation
32 facility to decline below the standards adopted in the transportation
33 element of the comprehensive plan, unless transportation improvements
34 or strategies to accommodate the impacts of development are made
35 concurrent with the development. These strategies may include
36 increased public transportation service, ride sharing programs, demand
37 management, and other transportation systems management strategies.
38 For the purposes of this subsection (6) "concurrent with the
39 development" shall mean that improvements or strategies are in place at

1 the time of development, or that a financial commitment is in place to
2 complete the improvements or strategies within six years.

3 The transportation element described in this subsection, and the
4 six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for
5 counties, and RCW 35.58.2795 for public transportation systems, must be
6 consistent.

7 **Sec. 5.** RCW 36.70A.160 and 1992 c 227 s 1 are each amended to read
8 as follows:

9 (1) Each county and city that is required or chooses to prepare a
10 comprehensive land use plan under RCW 36.70A.040 shall identify open
11 space corridors within and between urban growth areas. They shall
12 include lands useful for recreation, wildlife habitat, trails, and
13 connection of critical areas as defined in RCW 36.70A.030.
14 ((Identification of a corridor under this section by a county or city
15 shall not restrict the use or management of lands within the corridor
16 for agricultural or forest purposes. Restrictions on the use or
17 management of such lands for agricultural or forest purposes imposed
18 after identification solely to maintain or enhance the value of such
19 lands as a corridor may occur only if the county or city acquires
20 sufficient interest to prevent development of the lands or to control
21 the resource development of the lands.))

22 (2) Counties and cities that identify open space corridors must use
23 and manage those corridors in cooperation with adjacent property owners
24 and shall respect private property rights. A map indicating any
25 corridors shall designate such corridors as "private land closed to
26 trespass and public use."

27 (3) Land use restrictions apply to open space corridors only under
28 the following circumstances:

29 (a) The property owner and the county or city have agreed to
30 restrictions; or

31 (b) The county or city acquires sufficient interest to prevent
32 development of the lands.

33 (4) The requirement for acquisition of sufficient interest does not
34 include those corridors regulated by the interstate commerce
35 commission, under provisions of 16 U.S.C. Sec. 1247(d), 16 U.S.C. Sec.
36 1248, or 43 U.S.C. Sec. 912. Nothing in this section shall be
37 interpreted to alter the authority of the state, or a county or city,
38 to regulate land use activities.

1 (5) The city or county may acquire by donation or purchase the fee
2 simple or lesser interests in these open space corridors using funds
3 authorized by RCW 84.34.230 or other sources.

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

6 (1) The public participation requirements of this chapter shall
7 include notice procedures that are reasonably calculated to provide
8 notice to property owners and other affected and interested
9 individuals, tribes, government agencies, businesses, and organizations
10 of proposed amendments to comprehensive plans and development
11 regulation. Examples of reasonable notice provisions include:

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

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

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

18 (d) Placing notices in appropriate regional, neighborhood, ethnic,
19 or trade journals; and

20 (e) Publishing notice in agency newsletters or sending notice to
21 agency mailing lists, including general lists or lists for specific
22 proposals or subject areas.

23 (2)(a) Except as otherwise provided in (b) of this subsection, if
24 the legislative body for a county or city chooses to consider a change
25 to an amendment to a comprehensive plan or development regulation, and
26 the change is proposed after the opportunity for review and comment has
27 passed under the county's or city's procedures, an opportunity for
28 review and comment on the proposed change shall be provided before the
29 local legislative body votes on the proposed change.

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

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

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

1 (iii) The proposed change only corrects typographical errors,
2 corrects cross-references, makes address or name changes, or clarifies
3 language of a proposed ordinance or resolution without changing its
4 effect;

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

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

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

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

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

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

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

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

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

29 (iii) The amendment of the capital facilities element of a
30 comprehensive plan that occurs concurrently with the adoption or
31 amendment of a county or city budget.

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

1 of a comprehensive plan filed with a growth management hearings board
2 or with the court.

3 (3) Each county that designates urban growth areas under RCW
4 36.70A.110 shall review, at least every ten years, its designated urban
5 growth area or areas, and the densities permitted within both the
6 incorporated and unincorporated portions of each urban growth area. In
7 conjunction with this review by the county, each city located within an
8 urban growth area shall review the densities permitted within its
9 boundaries, and the extent to which the urban growth occurring within
10 the county has located within each city and the unincorporated portions
11 of the urban growth areas. The county comprehensive plan designating
12 urban growth areas, and the densities permitted in the urban growth
13 areas by the comprehensive plans of the county and each city located
14 within the urban growth areas, shall be revised to accommodate the
15 urban growth projected to occur in the county for the succeeding
16 twenty-year period.

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

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

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

29 (2) Each board member shall receive reimbursement for travel
30 expenses incurred in the discharge of his or her duties in accordance
31 with RCW 43.03.050 and 43.03.060. If it is determined that the review
32 boards shall operate on a full-time basis, each member shall receive an
33 annual salary to be determined by the governor pursuant to RCW
34 43.03.040. If it is determined that a review board shall operate on a
35 part-time basis, each member shall receive compensation pursuant to RCW
36 43.03.250, provided such amount shall not exceed the amount that would
37 be set if they were a full-time board member. The principal office of
38 each board shall be located by the governor within the jurisdictional

1 boundaries of each board. The boards shall operate on either a part-
2 time or full-time basis, as determined by the governor.

3 (3) Each board member shall not: (a) Be a candidate for or hold
4 any other public office or trust; (b) engage in any occupation or
5 business interfering with or inconsistent with his or her duty as a
6 board member; and (c) for a period of one year after the termination of
7 his or her board membership, act in a representative capacity before
8 the board on any matter.

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

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

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

37 (7) All proceedings before the board, any of its members, or a
38 hearing examiner appointed by the board shall be conducted in
39 accordance with such administrative rules of practice and procedure as

1 the boards jointly prescribe. All three boards shall jointly meet to
2 develop and adopt joint rules of practice and procedure, including
3 rules regarding expeditious and summary disposition of appeals. The
4 boards shall publish such rules and decisions they render and arrange
5 for the reasonable distribution of the rules and decisions. Except as
6 it conflicts with specific provisions of this chapter, the
7 administrative procedure act, chapter 34.05 RCW, and specifically
8 including the provisions of RCW 34.05.455 governing ex parte
9 communications, shall govern the practice and procedure of the boards.

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

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

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

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

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

33 (a) Except as provided in (c) of this subsection, the date of
34 publication for a city shall be the date the city publishes the
35 ordinance, or summary of the ordinance, adopting the comprehensive plan
36 or development regulations, or amendment thereto, as is required to be
37 published.

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

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

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

18 (3) Unless the board dismisses the petition as frivolous or finds
19 that the person filing the petition lacks standing, the board shall,
20 within ten days of receipt of the petition, set a time for hearing the
21 matter.

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

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

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

32 (1) In lieu of filing a petition to the growth management hearings
33 board, a petition may be filed directly in superior court. A party
34 against whom a petition is filed may also demand transfer of the matter
35 to superior court within ten days after the date the petition is filed.
36 A transfer shall be accomplished as provided in the joint rules of
37 practice and procedure.

1 (2) Except as otherwise provided in subsection (3)(a) and (b) of
2 this section, the provisions of RCW 36.70A.280 through 36.70A.330 apply
3 to the review by the superior court.

4 (3) The superior court:

5 (a) Shall not have jurisdiction to directly review or modify an
6 office of financial management population projection; and

7 (b) Except as otherwise provided in RCW 36.70A.330(2)(b), shall
8 render its decision on the petition within one hundred eighty days of
9 the filing of the petition.

10 (4) Unless otherwise specifically provided in this section, the
11 superior court civil rules shall apply.

12 (5) Review of a final judgment of the superior court shall be
13 secured in the manner provided by law for review of superior court
14 decisions in other civil cases.

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

17 (1) The board shall issue a final order (~~((within one hundred eighty
18 days of receipt of the petition for review, or, when multiple petitions
19 are filed, within one hundred eighty days of receipt of the last
20 petition that is consolidated. — Such a final order))~~) that shall be
21 based exclusively on whether or not a state agency, county, or city is
22 in compliance with the requirements of this chapter, chapter 90.58 RCW
23 as it relates to adoption or amendment of shoreline master programs, or
24 chapter 43.21C RCW as it relates to adoption of plans, development
25 regulations, and amendments thereto, (~~(adopted)~~) under RCW 36.70A.040
26 or chapter 90.58 RCW.

27 (2)(a) Except as provided in (b) of this subsection, the final
28 order shall be issued within one hundred eighty days of receipt of the
29 petition for review, or, if multiple petitions are filed, within one
30 hundred eighty days of receipt of the last petition that is
31 consolidated.

32 (b) The board may extend the period of time for issuing a decision
33 to enable the parties to settle the dispute if additional time is
34 necessary to achieve a settlement, and (i) an extension is requested by
35 all parties, or (ii) an extension is requested by the petitioner and
36 respondent and the board determines that a negotiated settlement
37 between the remaining parties could resolve significant issues in
38 dispute. The request must be filed with the board not later than seven

1 days before the date scheduled for the hearing on the merits of the
2 petition. The board may authorize one or more extensions for up to
3 ninety days each, subject to the requirements of this section.

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

5 (a) Find that the state agency, county, or city is in compliance
6 with the requirements of this chapter ~~((or))~~, chapter 90.58 RCW as it
7 relates to the adoption or amendment of shoreline master programs, or
8 chapter 43.21C RCW as it relates to adoption of plans, development
9 regulations, and amendments thereto, under RCW 36.70A.040 or chapter
10 90.58 RCW; or

11 (b) Find that the state agency, county, or city is not in
12 compliance with the requirements of this chapter ~~((or))~~, chapter 90.58
13 RCW as it relates to the adoption or amendment of shoreline master
14 programs, or chapter 43.21C RCW as it relates to adoption of plans,
15 development regulations, and amendments thereto, under RCW 36.70A.040
16 or chapter 90.58 RCW, in which case the board shall remand the matter
17 to the affected state agency, county, or city ~~((and))~~. The board shall
18 specify a reasonable time not in excess of one hundred eighty days, or
19 such longer period as determined by the board in cases of unusual scope
20 or complexity, within which the state agency, county, or city shall
21 comply with the requirements of this chapter. The board may require
22 periodic reports to the board on the progress the jurisdiction is
23 making towards compliance.

24 ~~((2))~~ (4) A finding of noncompliance and an order of remand shall
25 not affect the validity of comprehensive plans and development
26 regulations during the period of remand~~(, unless the board's final~~
27 ~~order also:~~

28 ~~(a) Includes a determination, supported by findings of fact and~~
29 ~~conclusions of law, that the continued validity of the plan or~~
30 ~~regulation would substantially interfere with the fulfillment of the~~
31 ~~goals of this chapter; and~~

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

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

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

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

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

12 (5) Any party aggrieved by a final decision of the hearings board
13 may appeal the decision to superior court as provided in RCW 34.05.514
14 or 36.01.050 within thirty days of the final order of the board.

15 **Sec. 12.** RCW 36.70A.305 and 1996 c 325 s 4 are each amended to
16 read as follows:

17 (1) The court shall provide expedited review of ((a determination
18 of invalidity or)) an order ((effectuating)) that includes a
19 determination of invalidity made or issued under RCW 36.70A.300((. The
20 matter must be set for hearing within sixty days of the date set for
21 submitting the board's record, absent a showing of good cause for a
22 different date or a stipulation of the parties)) and section 15 of this
23 act.

24 (2) If the court finds that the board properly determined that a
25 county, city, or agency action substantially interferes with the
26 fulfillment of the goals of the growth management act, it shall issue
27 a final order affirming the decision of the board.

28 (3) If the court finds that the board properly determined that a
29 county, city, or agency's comprehensive plans, development regulations,
30 or amendments thereto merited a determination of invalidity, the court
31 shall remand the matter for the board's continuing jurisdiction under
32 section 15 of this act.

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

35 (1) Except as provided in subsection ~~((2))~~ (4) of this section,
36 comprehensive plans and development regulations, and amendments
37 thereto, adopted under this chapter are presumed valid upon adoption.

1 (2) The burden is on the petitioner to demonstrate that any action
2 taken by a state agency, county, or city under this chapter is not in
3 compliance with the requirements of this chapter.

4 (3) In any petition under this chapter, the board, after full
5 consideration of the petition, shall determine whether there is
6 compliance with the requirements of this chapter. In making its
7 determination, the board shall consider the criteria adopted by the
8 department under RCW 36.70A.190(4). The board shall find compliance
9 unless it ((finds by a preponderance of the evidence that the state
10 agency, county, or city erroneously interpreted or applied this
11 chapter)) determines that the action by the state agency, county, or
12 city is clearly erroneous in view of the entire record before the board
13 and in light of the goals and requirements of this chapter.

14 ~~((+2))~~ (4) The shoreline element of a comprehensive plan and the
15 applicable development regulations adopted by a county or city shall
16 take effect as provided in chapter 90.58 RCW.

17 **Sec. 14.** RCW 36.70A.330 and 1995 c 347 s 112 are each amended to
18 read as follows:

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

25 (2) The board shall conduct a hearing and issue a finding of
26 compliance or noncompliance with the requirements of this chapter. A
27 person with standing to challenge the legislation enacted in response
28 to the board's final order may participate in the hearing along with
29 the petitioner and the state agency, ~~((city, or))~~ county, or city. A
30 hearing under this subsection shall be given the highest priority of
31 business to be conducted by the board, and a finding shall be issued
32 within forty-five days of the filing of the motion under subsection (1)
33 of this section with the board. The board shall issue any order
34 necessary to make adjustments to the compliance schedule and set
35 additional hearings as provided in subsection (4) of this section.

36 (3) If the board after a compliance hearing finds that the state
37 agency, county, or city is not in compliance, the board shall transmit
38 its finding to the governor. The board may recommend to the governor

1 that the sanctions authorized by this chapter be imposed. The board
2 shall take into consideration the county's or city's efforts to meet
3 its compliance schedule in making the decision to recommend sanctions
4 to the governor.

5 (4) In a compliance hearing upon petition of a party, the board
6 shall also reconsider its final order and decide((÷

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

10 ~~(b))~~, if no determination of invalidity has been made, whether one
11 now should be made ((under the standards in RCW 36.70A.300(2))) under
12 section 15 of this act. The board shall schedule additional hearings
13 as appropriate pursuant to subsections (1) and (2) of this section.

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

16 A county or city subject to an order of invalidity issued before
17 the effective date of section 11 of this act, by motion may request the
18 board to review the order of invalidity in light of the section 11,
19 chapter . . . , Laws of 1997 (section 11 of this act) amendments to RCW
20 36.70A.300, the section 14, chapter . . . , Laws of 1997 (section 14 of
21 this act) amendments to RCW 36.70A.330, and section 16 of this act. If
22 a request is made, the board shall rescind or modify the order of
23 invalidity as necessary to make it consistent with the section 11,
24 chapter . . . , Laws of 1997 (section 11 of this act) amendments to RCW
25 36.70A.300, the section 14, chapter . . . , Laws of 1997 (section 14 of
26 this act) amendments to RCW 36.70A.330, and section 16 of this act.

27 NEW SECTION. Sec. 16. A new section is added to chapter 36.70A
28 RCW to read as follows:

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

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

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

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

4 (d) A determination of invalidity shall take effect immediately and
5 shall remain in effect for no longer than thirty days unless otherwise
6 ordered by a reviewing court as provided in RCW 36.70A.305.

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

13 (3)(a) Except as otherwise provided in (b) of this subsection, a
14 completed development permit application not vested under state or
15 local law on or before the date of the board's determination of
16 invalidity vests to the local ordinance or resolution that is
17 determined by the board not to substantially interfere with the
18 fulfillment of the goals of this chapter.

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

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

28 (ii) A building permit and related construction permits for
29 remodeling or expansion of an existing structure on a lot existing
30 before receipt by the county or city; and

31 (iii) A boundary line adjustment or a division of land that does
32 not increase the number of buildable lots existing before receipt by
33 the county or city.

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

1 (5) A county or city subject to a determination of invalidity may
2 adopt interim controls and other measures to be in effect until it
3 adopts a comprehensive plan and development regulations that comply
4 with the requirements of this chapter. A development permit
5 application may vest under an interim control or measure upon
6 determination by the board that the interim controls and other measures
7 do not substantially interfere with the fulfillment of the goals of
8 this chapter.

9 (6) A county or city subject to a determination of invalidity may
10 file a motion requesting that the board clarify, modify, or rescind the
11 order. The board shall expeditiously schedule a hearing on the motion.
12 At the hearing on the motion, the parties may present information to
13 the board to clarify the part or parts of the comprehensive plan or
14 development regulations to which the final order applies. The board
15 shall issue any supplemental order based on the information provided at
16 the hearing not later than thirty days after the date of the hearing.

17 (7)(a) If a determination of invalidity has been made and the
18 county or city has enacted an ordinance or resolution amending the
19 invalidated part or parts of the plan or regulation or establishing
20 interim controls on development affected by the order of invalidity,
21 after a compliance hearing, the board shall modify or rescind the
22 determination of invalidity if it determines under the standard in
23 subsection (1) of this section that the plan or regulation, as amended
24 or made subject to such interim controls, will no longer substantially
25 interfere with the fulfillment of the goals of this chapter.

26 (b) If the board determines that part or parts of the plan or
27 regulation are no longer invalid as provided in this subsection, but
28 does not find that the plan or regulation is in compliance with all of
29 the requirements of this chapter, the board, in its order, may require
30 periodic reports to the board on the progress the jurisdiction is
31 making towards compliance.

32 **Sec. 17.** RCW 36.70A.140 and 1995 c 347 s 107 are each amended to
33 read as follows:

34 Each county and city that is required or chooses to plan under RCW
35 36.70A.040 shall establish and broadly disseminate to the public a
36 public participation program identifying procedures providing for early
37 and continuous public participation in the development and amendment of
38 comprehensive land use plans and development regulations implementing

1 such plans. The procedures shall provide for broad dissemination of
2 proposals and alternatives, opportunity for written comments, public
3 meetings after effective notice, provision for open discussion,
4 communication programs, information services, and consideration of and
5 response to public comments. ((In enacting legislation in response to
6 the board's decision pursuant to RCW 36.70A.300 declaring part or all
7 of a comprehensive plan or development regulation invalid, the county
8 or city shall provide for public participation that is appropriate and
9 effective under the circumstances presented by the board's order.
10 Errors in exact compliance with the established program and procedures
11 shall not render the comprehensive land use plan or development
12 regulations invalid if the spirit of the program and procedures is
13 observed.))

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

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

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

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

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

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

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

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

1 **Sec. 19.** RCW 36.70A.110 and 1995 c 400 s 2 are each amended to
2 read as follows:

3 (1) Each county that is required or chooses to plan under RCW
4 36.70A.040 shall designate an urban growth area or areas within which
5 urban growth shall be encouraged and outside of which growth can occur
6 only if it is not urban in nature. Each city that is located in such
7 a county shall be included within an urban growth area. An urban
8 growth area may include more than a single city. An urban growth area
9 may include territory that is located outside of a city only if such
10 territory already is characterized by urban growth whether or not the
11 urban growth area includes a city, or is adjacent to territory already
12 characterized by urban growth, or is a designated new fully contained
13 community as defined by RCW 36.70A.350.

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

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

1 the urban growth area within which it is located. Where appropriate,
2 the department shall attempt to resolve the conflicts, including the
3 use of mediation services.

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

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

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

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

37 **Sec. 20.** RCW 36.70A.130 and 1995 c 347 s 106 are each amended to
38 read as follows:

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

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

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

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

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

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

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

1 within the urban growth areas, shall be revised to accommodate the
2 urban growth projected to occur in the county for the succeeding
3 twenty-year period. The review required in this subsection may be
4 combined with the review and evaluation required in section 21 of this
5 act.

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

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

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

23 (b) Identify reasonable measures, other than adjusting urban growth
24 areas, that will be taken to comply with this chapter.

25 (2) The review and evaluation program shall:

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

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

1 (c) Provide for methods to resolve disputes among jurisdictions
2 relating to the county-wide planning policies required by this section
3 and procedures to resolve inconsistencies in collection and analysis of
4 data; and

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

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

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

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

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

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

1 the measures adopted under this subsection to determine their effect
2 and may revise or rescind them as appropriate.

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

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

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

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

26 **Sec. 22.** RCW 43.62.035 and 1995 c 162 s 1 are each amended to read
27 as follows:

28 The office of financial management shall determine the population
29 of each county of the state annually as of April 1st of each year and
30 on or before July 1st of each year shall file a certificate with the
31 secretary of state showing its determination of the population for each
32 county. The office of financial management also shall determine the
33 percentage increase in population for each county over the preceding
34 ten-year period, as of April 1st, and shall file a certificate with the
35 secretary of state by July 1st showing its determination. At least
36 once every (~~ten~~) five years or upon the availability of decennial
37 census data, whichever is later, the office of financial management
38 shall prepare twenty-year growth management planning population

1 projections required by RCW 36.70A.110 for each county that adopts a
2 comprehensive plan under RCW 36.70A.040 and shall review these
3 projections with such counties and the cities in those counties before
4 final adoption. The county and its cities may provide to the office
5 such information as they deem relevant to the office's projection, and
6 the office shall consider and comment on such information before
7 adoption. Each projection shall be expressed as a reasonable range
8 developed within the standard state high and low projection. The
9 middle range shall represent the office's estimate of the most likely
10 population projection for the county. If any city or county believes
11 that a projection will not accurately reflect actual population growth
12 in a county, it may petition the office to revise the projection
13 accordingly. The office shall complete the first set of ranges for
14 every county by December 31, 1995.

15 A comprehensive plan adopted or amended before December 31, 1995,
16 shall not be considered to be in noncompliance with the twenty-year
17 growth management planning population projection if the projection used
18 in the comprehensive plan is in compliance with the range later adopted
19 under this section.

20 NEW SECTION. **Sec. 23.** A new section is added to chapter 42.17 RCW
21 to read as follows:

22 (1) Notwithstanding other provisions of this chapter, a county or
23 city that provides maps or other standard or customized products from
24 an electronic geographic information system may establish fees by
25 ordinance or resolution for providing the services and products to
26 persons who request them. The county or city shall base the fees on
27 the recovery of the actual cost of providing the electronic services
28 and products and a reasonable portion of the cost of developing and
29 maintaining them.

30 (2) A county or city may by ordinance or resolution establish
31 standards for the reduction or waiver of the fees if the services and
32 products are to be used for noncommercial public purposes, including
33 but not limited to the support of other agencies, the support of public
34 benefit nonprofit activities, public information or education, academic
35 research, or other purposes that the county or city determines are
36 beneficial to the public. The county or city shall apply the fee
37 reductions or waivers uniformly for each noncommercial use.

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

3 NEW SECTION. Sec. 24. To ensure that there will be no unfunded
4 mandates imposed on counties and cities, if funds for the purposes of
5 section 23 of this act are not provided in the 1997-99 biennial budget
6 by June 30, 1997, referencing this act by bill or chapter number,
7 section number, and subject matter, section 23 of this act is null and
8 void.

9 **Sec. 25.** RCW 36.70A.500 and 1995 c 347 s 116 are each amended to
10 read as follows:

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

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

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

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

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

35 (a) Demonstrate that it will prepare an environmental analysis
36 pursuant to chapter 43.21C RCW and subsection (2) of this section that
37 is integrated with a comprehensive plan (~~or subarea plan and~~

1 ~~development regulations))~~ plan element, county-wide planning policy,
2 monitoring program, or other planning activity adopted under or
3 implementing this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 **Sec. 26.** RCW 84.34.020 and 1992 c 69 s 4 are each amended to read
15 as follows:

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

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

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

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

1 Agricultural lands shall also include such incidental uses as are
2 compatible with agricultural purposes, including wetlands preservation,
3 provided such incidental use does not exceed twenty percent of the
4 classified land and the land on which appurtenances necessary to the
5 production, preparation, or sale of the agricultural products exist in
6 conjunction with the lands producing such products. Agricultural lands
7 shall also include any parcel of land of one to five acres, which is
8 not contiguous, but which otherwise constitutes an integral part of
9 farming operations being conducted on land qualifying under this
10 section as "farm and agricultural lands"; (~~or~~)

11 (d) The land on which housing for employees and the principal place
12 of residence of the farm operator or owner of land classified pursuant
13 to (a) of this subsection is sited if: The housing or residence is on
14 or contiguous to the classified parcel; and the use of the housing or
15 the residence is integral to the use of the classified land for
16 agricultural purposes;

17 (e) Any parcel of land designated as agricultural land under RCW
18 36.70A.170; or

19 (f) Any parcel of land not within an urban growth area zoned as
20 agricultural land under a comprehensive plan adopted under chapter
21 36.70A RCW.

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

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

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

36 (6) "Contiguous" means land adjoining and touching other property
37 held by the same ownership. Land divided by a public road, but
38 otherwise an integral part of a farming operation, shall be considered
39 contiguous.

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

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

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

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

13 **Sec. 27.** RCW 84.34.060 and 1992 c 69 s 8 are each amended to read
14 as follows:

15 In determining the true and fair value of open space land and
16 timber land, which has been classified as such under the provisions of
17 this chapter, the assessor shall consider only the use to which such
18 property and improvements is currently applied and shall not consider
19 potential uses of such property. The assessed valuation of open space
20 land shall not be less than the minimum value per acre of classified
21 farm and agricultural land except that the assessed valuation of open
22 space land may be valued based on the public benefit rating system
23 adopted under RCW 84.34.055: PROVIDED FURTHER, That timber land shall
24 be valued according to chapter 84.33 RCW. In valuing any tract or
25 parcel of real property designated and zoned under a comprehensive plan
26 adopted under chapter 36.70A RCW as agricultural, forest, or open space
27 land, the appraisal shall not be based on similar sales of parcels that
28 have been converted to nonagricultural, nonforest, or nonopen-space
29 uses within five years after the sale.

30 **Sec. 28.** RCW 84.34.065 and 1992 c 69 s 9 are each amended to read
31 as follows:

32 The true and fair value of farm and agricultural land shall be
33 determined by consideration of the earning or productive capacity of
34 comparable lands from crops grown most typically in the area averaged
35 over not less than five years, capitalized at indicative rates. The
36 earning or productive capacity of farm and agricultural lands shall be
37 the "net cash rental", capitalized at a "rate of interest" charged on

1 long term loans secured by a mortgage on farm or agricultural land plus
2 a component for property taxes. The current use value of land under
3 RCW 84.34.020(2)(d) shall be established as: The prior year's average
4 value of open space farm and agricultural land used in the county plus
5 the value of land improvements such as septic, water, and power used to
6 serve the residence. This shall not be interpreted to require the
7 assessor to list improvements to the land with the value of the land.

8 In valuing any tract or parcel of real property designated and
9 zoned under a comprehensive plan adopted under chapter 36.70A RCW as
10 agricultural, forest, or open space land, the appraisal shall not be
11 based on similar sales of parcels that have been converted to
12 nonagricultural, nonforest, or nonopen-space uses within five years
13 after the sale.

14 For the purposes of the above computation:

15 (1) The term "net cash rental" shall mean the average rental paid
16 on an annual basis, in cash, for the land being appraised and other
17 farm and agricultural land of similar quality and similarly situated
18 that is available for lease for a period of at least three years to any
19 reliable person without unreasonable restrictions on its use for
20 production of agricultural crops. There shall be allowed as a
21 deduction from the rental received or computed any costs of crop
22 production charged against the landlord if the costs are such as are
23 customarily paid by a landlord. If "net cash rental" data is not
24 available, the earning or productive capacity of farm and agricultural
25 lands shall be determined by the cash value of typical or usual crops
26 grown on land of similar quality and similarly situated averaged over
27 not less than five years. Standard costs of production shall be
28 allowed as a deduction from the cash value of the crops.

29 The current "net cash rental" or "earning capacity" shall be
30 determined by the assessor with the advice of the advisory committee as
31 provided in RCW 84.34.145, and through a continuing internal study,
32 assisted by studies of the department of revenue. This net cash rental
33 figure as it applies to any farm and agricultural land may be
34 challenged before the same boards or authorities as would be the case
35 with regard to assessed values on general property.

36 (2) The term "rate of interest" shall mean the rate of interest
37 charged by the farm credit administration and other large financial
38 institutions regularly making loans secured by farm and agricultural

1 lands through mortgages or similar legal instruments, averaged over the
2 immediate past five years.

3 The "rate of interest" shall be determined annually by a rule
4 adopted by the department of revenue and such rule shall be published
5 in the state register not later than January 1 of each year for use in
6 that assessment year. The department of revenue determination may be
7 appealed to the state board of tax appeals within thirty days after the
8 date of publication by any owner of farm or agricultural land or the
9 assessor of any county containing farm and agricultural land.

10 (3) The "component for property taxes" shall be a figure obtained
11 by dividing the assessed value of all property in the county into the
12 property taxes levied within the county in the year preceding the
13 assessment and multiplying the quotient obtained by one hundred.

14 **Sec. 29.** RCW 84.40.030 and 1994 c 124 s 20 are each amended to
15 read as follows:

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

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

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

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

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

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

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

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

26 **Sec. 30.** RCW 90.60.030 and 1995 c 347 s 603 are each amended to
27 read as follows:

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

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

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

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

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

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

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

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

20 **Sec. 31.** RCW 35.13.130 and 1990 c 33 s 566 are each amended to
21 read as follows:

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

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

14 **Sec. 32.** RCW 35A.14.295 and 1967 ex.s. c 119 s 35A.14.295 are each
15 amended to read as follows:

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

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

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

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

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

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

3 NEW SECTION. **Sec. 33.** A new section is added to chapter 35.13 RCW
4 to read as follows:

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

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

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

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

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

29 **Sec. 34.** RCW 35.13.174 and 1973 1st ex.s. c 164 s 17 are each
30 amended to read as follows:

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

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

3 **Sec. 35.** RCW 36.93.170 and 1989 c 84 s 5 are each amended to read
4 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 **Sec. 37.** RCW 90.61.040 and 1995 c 347 s 804 are each amended to
7 read as follows:

8 The commission shall:

9 (1) Consider the effectiveness of state and local government
10 efforts to consolidate and integrate the growth management act, the
11 state environmental policy act, the shoreline management act, and other
12 land use, planning, environmental, and permitting laws.

13 (2) Identify the revisions and modifications needed in state land
14 use, planning, and environmental law and practice to adequately plan
15 for growth and achieve economically and environmentally sustainable
16 development, to adequately assess environmental impacts of
17 comprehensive plans, development regulations, and growth, and to reduce
18 the time and cost of obtaining project permits.

19 (3) Draft a consolidated land use procedure, following these
20 guidelines:

21 (a) Conduct land use planning through the comprehensive planning
22 process under chapter 36.70A RCW rather than through review of
23 individual projects;

24 (b) Involve diverse sectors of the public in the planning process.
25 Early and informal environmental analysis should be incorporated into
26 planning and decision making;

27 (c) Recognize that different questions need to be answered and
28 different levels of detail applied at each planning phase, from the
29 initial development of plan concepts or plan elements to implementation
30 programs;

31 (d) Integrate and combine to the fullest extent possible the
32 processes, analysis, and documents currently required under chapters
33 36.70A and 43.21C RCW, so that subsequent plan decisions and subsequent
34 implementation will incorporate measures to promote the environmental,
35 economic, and other goals and to mitigate undesirable or unintended
36 adverse impacts on a community's quality of life;

1 (e) Focus environmental review and the level of detail needed for
2 different stages of plan and project decisions on the environmental
3 considerations most relevant to that stage of the process;

4 (f) Avoid duplicating review that has occurred for plan decisions
5 when specific projects are proposed;

6 (g) Use environmental review on projects to: (i) Review and
7 document consistency with comprehensive plans and development
8 regulations; (ii) provide prompt and coordinated review by agencies,
9 tribes, and the public on compliance with applicable environmental laws
10 and plans, including mitigation for site specific project impacts that
11 have not been considered and addressed at the plan or development
12 regulation level; and (iii) ensure accountability by local government
13 to applicants and the public for requiring and implementing mitigation
14 measures;

15 (h) Maintain or improve the quality of environmental analysis both
16 for plan and for project decisions, while integrating these analyses
17 with improved state and local planning and permitting processes;

18 (i) Examine existing land use and environmental permits for
19 necessity and utility. To the extent possible, existing permits should
20 be combined into fewer permits, assuring that the values and principles
21 intended to be protected by those permits remain protected; and

22 (j) Consolidate local government appeal processes to allow a single
23 appeal of permits at local government levels, a single state level
24 administrative appeal, and a final judicial appeal.

25 (4) Monitor instances state-wide of the vesting of project permit
26 applications during the period that an appeal is pending before a
27 growth management hearings board, as authorized under RCW 36.70A.300.
28 The commission shall also review the extent to which such vesting
29 results in the approval of projects that are inconsistent with a
30 comprehensive plan or development regulation provision ultimately found
31 to be in compliance with a board's order or remand. The commission
32 shall analyze the impact of such approvals on ensuring the attainment
33 of the goals and policies of chapter 36.70A RCW, and make
34 recommendations to the governor and the legislature on statutory
35 changes to address any adverse impacts from the provisions of RCW
36 36.70A.300. The commission shall provide an initial report on its
37 findings and recommendations by November 1, 1995, and submit its
38 further findings and recommendations subsequently in the reports
39 required under RCW 90.61.030.

1 (5) Monitor local government consolidated permit procedures and the
2 effectiveness of the timelines established by RCW 36.70B.090. The
3 commission shall include in its report submitted to the governor and
4 the legislature on November 1, 1997, its recommendation about what
5 timelines, if any, should be imposed on the local government
6 consolidated permit process required by chapter 36.70B RCW.

7 (6) Evaluate funding mechanisms that will enable local governments
8 to pay for and recover the costs of conducting integrated planning and
9 environmental analysis. The commission shall include its conclusions
10 in its first report to the legislature on November 1, 1995, and include
11 any recommended statutory changes.

12 (7) Study, in cooperation with the state board for registration of
13 professional engineers and the state building code council, ways in
14 which state agencies and local governments could authorize
15 professionals with appropriate qualifications to certify a project's
16 compliance with certain state and local land use and environmental
17 requirements. The commission shall report to the legislature on
18 measures necessary to implement such a system of professional
19 certification.

20 (8) Review long-term approaches for resolving disputes that arise
21 under the growth management act, chapter 36.70A RCW; the shoreline
22 management act, chapter 90.58 RCW; and other environmental laws. In
23 particular, in the commission's recommendations on a consolidated land
24 use procedure and integration and consolidation of Washington's land
25 use and environmental laws, identify needed changes to the structure of
26 the boards that hear environmental appeals as well as the extent to
27 which quasi-judicial bodies are needed to provide continued oversight
28 of matters currently brought before the growth management hearings
29 board and other boards that hear environmental appeals.

30 These guidelines are intended to guide the work of the commission,
31 without limiting its charge to integrate and consolidate Washington's
32 land use and environmental laws into a single, manageable statutory
33 framework.

34 This section expires June 30, 1998.

35 NEW SECTION. Sec. 38. This act is prospective in effect and shall
36 not affect the validity of actions taken or decisions made before the
37 effective date of this section.

1 NEW SECTION. **Sec. 39.** The following acts or parts of acts, as now
2 existing or hereafter amended, are each repealed, effective December
3 31, 1999:

4 (1) RCW 36.70A.250 and 1994 c 249 s 29 & 1991 sp.s. c 32 s 5;

5 (2) RCW 36.70A.260 and 1994 c 249 s 30 & 1991 sp.s. c 32 s 6;

6 (3) RCW 36.70A.270 and 1996 c 325 s 1, 1994 c 257 s 1, & 1991 sp.s.
7 c 32 s 7;

8 (4) RCW 36.70A.280 and 1996 c 325 s 2, 1995 c 347 s 108, 1994 c 249
9 s 31, & 1991 sp.s. c 32 s 9;

10 (5) RCW 36.70A.290 and 1995 c 347 s 109;

11 (6) RCW 36.70A.300 and 1995 c 347 s 110 & 1991 sp.s. c 32 s 11;

12 (7) RCW 36.70A.305 and 1996 c 325 s 4;

13 (8) RCW 36.70A.310 and 1994 c 249 s 32 & 1991 sp.s. c 32 s 12;

14 (9) RCW 36.70A.320 and 1995 c 347 s 111 & 1991 sp.s. c 32 s 13;

15 (10) RCW 36.70A.330 and 1995 c 347 s 112 & 1991 sp.s. c 32 s 14;

16 (11) RCW 36.70A.340 and 1991 sp.s. c 32 s 26; and

17 (12) RCW 36.70A.345 and 1994 c 249 s 33 & 1993 sp.s. c 6 s 5.

18 NEW SECTION. **Sec. 40.** Section 39 of this act shall take effect
19 if, by July 1, 1998, the legislature finds, after considering the
20 recommendations of the land use study commission, that there is no
21 continuing need for the growth management hearings boards.

22 **Sec. 41.** RCW 90.61.020 and 1995 c 347 s 802 are each amended to
23 read as follows:

24 The commission shall consist of not more than (~~fourteen~~) twenty-
25 two members. (~~Eleven~~) Fifteen members of the commission shall be
26 appointed by the governor. (~~Membership~~) The commission members
27 appointed by the governor shall reflect the interests of business,
28 (~~agriculture~~) small business operators, small property owners,
29 livestock producers, irrigated agriculture, dryland farmers or major
30 crop commodity producers, labor, the environment, neighborhood groups,
31 other citizens, the legislature, cities, counties, and federally
32 recognized Indian tribes. (~~Members~~) The commission members appointed
33 by the governor shall have substantial experience in matters relating
34 to land use and environmental planning and regulation, and shall have
35 the ability to work toward cooperative solutions among diverse
36 interests. The director of the department of community, trade, and
37 economic development, or the director s designee, shall be a member and

1 shall serve as chair of the commission. The director of the department
2 of ecology, or the director s designee, and the secretary of the
3 department of transportation, or the secretary's designee, shall also
4 be members of the commission. Two members of the commission shall be
5 members of the senate, one from each caucus appointed by the president
6 of the senate, and two members of the commission shall be members of
7 the house of representatives, one from each caucus appointed by the
8 speaker of the house of representatives. Staff for the commission
9 shall be provided by the department of community, trade, and economic
10 development, with additional staff to be provided by other state
11 agencies and the legislature, as may be required. State agencies shall
12 provide the commission with information and assistance as needed.

13 This section expires June 30, 1998.

14 NEW SECTION. **Sec. 42.** If any provision of this act or its
15 application to any person or circumstance is held invalid, the
16 remainder of the act or the application of the provision to other
17 persons or circumstances is not affected.

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