
ENGROSSED SUBSTITUTE HOUSE BILL 2344

State of Washington

55th Legislature

1998 Regular Session

By House Committee on House Government Reform & Land Use (originally sponsored by Representatives Reams, Dyer and Sullivan)

Read first time 01/22/98. Referred to Committee on .

1 AN ACT Relating to local government land use permitting; amending
2 RCW 35A.63.110, 36.70.810, 36.70.830, 36.70.860, 36.70.880, 36.70.890,
3 58.17.020, 58.17.060, 58.17.090, 58.17.095, and 58.17.100; and
4 reenacting and amending RCW 36.70B.110.

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

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

8 A code city which pursuant to this chapter creates a planning
9 agency and which has twenty-five hundred or more inhabitants, by
10 ordinance, shall create a board of adjustment and provide for its
11 membership, terms of office, organization, and jurisdiction. A code
12 city which pursuant to this chapter creates a planning agency and which
13 has a population of less than twenty-five hundred may, by ordinance,
14 similarly create a board of adjustment. In the event a code city with
15 a population of less than twenty-five hundred creates a planning
16 agency, but does not create a board of adjustment, the code city shall
17 provide that the city legislative authority shall itself hear and
18 decide the items listed in (~~subdivisions~~) subsections (1), (2), and
19 (3) of this section. The action of the board of adjustment shall be

1 final and conclusive, unless(~~(, within ten days from the date of the~~
2 ~~action, the original applicant or an adverse party makes application to~~
3 ~~the superior court for the county in which that city is located for a~~
4 ~~writ of certiorari, a writ of prohibition, or a writ of mandamus)) a~~
5 land use petition is filed with a superior court as provided in chapter
6 36.70C RCW. No member of the board of adjustment shall be a member of
7 the planning agency or the legislative body. Subject to conditions,
8 safeguards, and procedures provided by ordinance, the board of
9 adjustment may be empowered to hear and decide:

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

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

19 (a) The variance shall not constitute a grant of special privilege
20 inconsistent with the limitation upon uses of other properties in the
21 vicinity and zone in which the property on behalf of which the
22 application was filed is located; ((and))

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

28 (c) That the granting of such variance will not be materially
29 detrimental to the public welfare or injurious to the property or
30 improvements in the vicinity and zone in which the subject property is
31 situated.

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

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

1 In deciding any of the matters referred to in subsections (1), (2),
2 (3), and (4) of this section, the board of adjustment shall issue a
3 written report giving the reasons for its decision. If a code city
4 provides for a hearing examiner and vests in him or her the authority
5 to hear and decide the items listed in (~~subdivisions~~) subsections
6 (1), (2), and (3) of this section pursuant to RCW 35A.63.170, then the
7 provisions of this section shall not apply to such a city.

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

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

14 (1) Applications for conditional uses or other permits when the
15 zoning ordinance sets forth the specific uses to be made subject to
16 conditional use permits and establishes criteria for determining the
17 conditions to be imposed;

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

25 (a) Because of special circumstances applicable to subject
26 property, including size, shape, topography, location, or surroundings,
27 the strict application of the zoning ordinance is found to deprive
28 subject property of rights and privileges enjoyed by other properties
29 in the vicinity and under identical zone classification;

30 (b) That the granting of the variance will not be materially
31 detrimental to the public welfare or injurious to the property or
32 improvements in the vicinity and zone in which subject property is
33 situated(~~is~~);

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

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

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

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

11 In exercising the powers granted by RCW 36.70.810 and 36.70.820,
12 the board of adjustment may, in conformity with this chapter and
13 chapter 36.70B RCW, reverse or affirm, wholly or in part, or may modify
14 the order, requirement, decision, or determination appealed from, and
15 may make such order, requirement, decision, or determination as should
16 be made and, to that end, shall have all the powers of the officer from
17 whom the appeal is taken, insofar as the decision on the particular
18 issue is concerned.

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

21 Except as otherwise provided in chapter 36.70B RCW, the action by
22 the zoning adjustor on all matters coming before him or her shall be
23 final and conclusive unless within ~~((ten))~~ fourteen days after the
24 zoning adjustor has made his or her order, requirement, decision, or
25 determination, an appeal in writing is filed with the board of
26 adjustment. Such an appeal may be taken by the original applicant, or
27 by opponents of record in the case.

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

30 The action by the board of adjustment on an application for a
31 conditional use permit or a variance, or on an appeal from the decision
32 of the zoning adjustor or an administrative officer shall be final and
33 conclusive unless ~~((within ten days from the date of said action the~~
34 ~~original applicant or an adverse party makes application to a court of~~
35 ~~competent jurisdiction for a writ of certiorari, a writ of prohibition~~

1 ~~or a writ of mandamus))~~ a land use petition is filed with superior
2 court as provided in chapter 36.70C RCW.

3 **Sec. 7.** RCW 36.70B.110 and 1997 c 429 s 48 and 1997 c 396 s 1 are
4 each reenacted and amended to read as follows:

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

19 (2) The notice of application shall be provided within fourteen
20 days after the determination of completeness as provided in RCW
21 36.70B.070 and, except as limited by the provisions of subsection
22 (4)(b) of this section, shall include the following in whatever
23 sequence or format the local government deems appropriate:

24 (a) The date of application, the date of the notice of completion
25 for the application, and the date of the notice of application;

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

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

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

36 (e) A statement of the public comment period, which shall be not
37 less than fourteen nor more than thirty days following the date of
38 notice of application, and statements of the right of any person to

1 comment on the application, receive notice of and participate in any
2 hearings, request a copy of the decision once made, and any appeal
3 rights. A local government may accept public comments at any time
4 prior to the closing of the record of an open record predecision
5 hearing, if any, or, if no open record predecision hearing is provided,
6 prior to the decision on the project permit;

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

9 (g) A statement of the preliminary determination, if one has been
10 made at the time of notice, of those development regulations that will
11 be used for project mitigation and of consistency as provided in RCW
12 36.70B.030(2) and 36.70B.040; and

13 (h) Any other information determined appropriate by the local
14 government.

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

18 (4) A local government shall use reasonable methods to give the
19 notice of application to the public and agencies with jurisdiction and
20 may use its existing notice procedures. A local government may use
21 different types of notice for different categories of project permits
22 or types of project actions. If a local government by resolution or
23 ordinance does not specify its method of public notice, the local
24 government shall use the methods provided for in (a) and (b) of this
25 subsection. Examples of reasonable methods to inform the public are:

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

27 (b) Publishing notice, including at least the project location,
28 description, type of permit(s) required, comment period dates, and
29 location where the notice of application required by subsection (2) of
30 this section and the complete application may be reviewed, in the
31 newspaper of general circulation in the general area where the proposal
32 is located or in a local land use newsletter published by the local
33 government;

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

36 (d) Notifying the news media;

37 (e) Placing notices in appropriate regional or neighborhood
38 newspapers or trade journals;

1 (f) Publishing notice in agency newsletters or sending notice to
2 agency mailing lists, either general lists or lists for specific
3 proposals or subject areas; and

4 (g) Mailing to neighboring property owners.

5 (5) A notice of application shall not be required for project
6 permits that are categorically exempt under chapter 43.21C RCW, unless
7 an open record predecision hearing is required or an open record appeal
8 hearing is allowed on the project permit decision.

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

12 (a) Except for a threshold determination and except as otherwise
13 expressly allowed in this section, the local government may not issue
14 its decision or a recommendation on a project permit until the
15 expiration of the public comment period on the notice of application.

16 (b) If an open record predecision hearing is required, the local
17 government shall issue its threshold determination at least fifteen
18 days prior to the open record predecision hearing.

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

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

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

30 (a) The hearing is held within the geographic boundary of the local
31 government; and

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

1 actions as may be necessary to hold joint hearings consistent with each
2 of their respective statutory obligations.

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

6 (a) The agency is not expressly prohibited by statute from doing
7 so;

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

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

14 (9) A local government is not required to provide for
15 administrative appeals. If provided, an administrative appeal of the
16 project decision and of any environmental determination((~~7~~)) shall be
17 filed within fourteen days after the notice of the decision or after
18 other notice that the decision has been made and is appealable. The
19 local government shall extend the appeal period for an additional seven
20 days, if state or local rules adopted pursuant to chapter 43.21C RCW
21 allow public comment on a determination of nonsignificance issued as
22 part of the appealable project permit decision.

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

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

29 **Sec. 8.** RCW 58.17.020 and 1995 c 32 s 2 are each amended to read
30 as follows:

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

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

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

4 (3) "Dedication" is the deliberate appropriation of land by an
5 owner for any general and public uses, reserving to himself or herself
6 no other rights than such as are compatible with the full exercise and
7 enjoyment of the public uses to which the property has been devoted.
8 The intention to dedicate shall be evidenced by the owner by the
9 presentment for filing of a final plat or short plat showing the
10 dedication thereon; and, the acceptance by the public shall be
11 evidenced by the approval of such plat for filing by the appropriate
12 governmental unit.

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

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

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

25 (6) "Short subdivision" is the division or redivision of land into
26 four or fewer lots, tracts, parcels, sites, or divisions for the
27 purpose of sale, lease, or transfer of ownership(~~(;—PROVIDED, That)~~).
28 However, the legislative authority of any city or town may by local
29 ordinance increase the number of lots, tracts, or parcels to be
30 regulated as short subdivisions to a maximum of nine. The legislative
31 authority of any county planning under RCW 36.70A.040 that has adopted
32 a comprehensive plan and development regulations in compliance with
33 chapter 36.70A RCW may by ordinance increase the number of lots,
34 tracts, or parcels to be regulated as short subdivisions to a maximum
35 of nine in any urban growth area.

36 (7) "Binding site plan" means a drawing to a scale specified by
37 local ordinance which: (a) Identifies and shows the areas and
38 locations of all streets, roads, improvements, utilities, open spaces,
39 and any other matters specified by local regulations; (b) contains

1 inscriptions or attachments setting forth such appropriate limitations
2 and conditions for the use of the land as are established by the local
3 government body having authority to approve the site plan; and (c)
4 contains provisions making any development be in conformity with the
5 site plan.

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

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

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

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

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

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

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

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

27 **Sec. 9.** RCW 58.17.060 and 1990 1st ex.s. c 17 s 51 are each
28 amended to read as follows:

29 (1) The legislative body of a city, town, or county shall adopt
30 regulations and procedures, and appoint administrative personnel for
31 the summary approval of short plats and short subdivisions or
32 alteration or vacation thereof. When an alteration or vacation
33 involves a public dedication, the alteration or vacation shall be
34 processed as provided in RCW 58.17.212 or 58.17.215. Such regulations
35 shall be adopted by ordinance and shall provide that a short plat and
36 short subdivision may be approved only if written findings that are
37 appropriate, as provided in RCW 58.17.110, are made by the
38 administrative personnel, and may contain wholly different requirements

1 than those governing the approval of preliminary and final plats of
2 subdivisions and may require surveys and monumentations and shall
3 require filing of a short plat, or alteration or vacation thereof, for
4 record in the office of the county auditor: PROVIDED, That such
5 regulations must contain a requirement that land in short subdivisions
6 may not be further divided in any manner within a period of five years
7 without the filing of a final plat, except that when the short plat
8 contains fewer than (~~four parcels~~) the maximum number of lots,
9 tracts, or parcels permitted by local ordinance under RCW 58.17.020(6),
10 nothing in this section shall prevent the owner who filed the short
11 plat from filing an alteration within the five-year period to create up
12 to a total of (~~four lots~~) the maximum number of lots, tracts, or
13 parcels permitted by local ordinance under RCW 58.17.020(6) within the
14 original short plat boundaries: PROVIDED FURTHER, That such
15 regulations are not required to contain a penalty clause as provided in
16 RCW 36.32.120 and may provide for wholly injunctive relief.

17 An ordinance requiring a survey shall require that the survey be
18 completed and filed with the application for approval of the short
19 subdivision.

20 (2) Cities, towns, and counties shall include in their short plat
21 regulations and procedures pursuant to subsection (1) of this section
22 provisions for considering sidewalks and other planning features that
23 assure safe walking conditions for students who walk to and from
24 school.

25 **Sec. 10.** RCW 58.17.090 and 1995 c 347 s 426 are each amended to
26 read as follows:

27 (1) (~~Upon~~) Following receipt of an application for preliminary
28 plat approval the administrative officer charged by ordinance with
29 responsibility for administration of regulations pertaining to platting
30 and subdivisions shall provide public notice and set a date for (~~a~~
31 ~~public~~) an open record hearing. Except as provided in RCW 36.70B.110,
32 at a minimum, notice of the open record hearing shall be given in the
33 following manner:

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

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

13 (2) All open record hearings shall be public. All open record
14 hearing notices shall include a description of the location of the
15 proposed subdivision. The description may be in the form of either a
16 vicinity location sketch or a written description other than a legal
17 description.

18 **Sec. 11.** RCW 58.17.095 and 1986 c 233 s 1 are each amended to read
19 as follows:

20 (1) A county, city, or town may adopt an ordinance providing for
21 the administrative review of a preliminary plat without ~~((a public))~~ an
22 open record hearing by adopting an ordinance providing for such
23 administrative review. The ordinance may specify a threshold number of
24 lots in a subdivision above which ~~((a public))~~ an open record hearing
25 must be held, and may specify other factors which necessitate the
26 holding of ~~((a public))~~ an open record hearing.

27 (2) The administrative review process shall include the following
28 minimum conditions:

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

32 (b) In a county, city, or town not planning under RCW 36.70A.040:

33 (i) Publication shall be made within ten days of the filing of the
34 application~~((. Additionally,))~~; and

35 (ii) At least ten days after the filing of the application notice
36 both shall be:

1 (~~(a)~~) (A) Posted on or around the land proposed to be subdivided
2 in at least five conspicuous places designed to attract public
3 awareness of the proposal; and

4 (~~(b)~~) (B) Mailed to the owner of each lot or parcel of property
5 located within at least three hundred feet of the site. The applicant
6 shall provide the county, city, or town with a list of such property
7 owners and their addresses.

8 (c) The notice shall include notification that no (~~public~~) open
9 record hearing will be held on the application, except as provided by
10 this section. The notice shall set out the procedures and time
11 limitations for persons to require (~~a public~~) an open record hearing
12 and make comments.

13 (~~(2)~~) (3) Any person shall have a period of twenty days from the
14 date of the notice to comment upon the proposed preliminary plat or a
15 period of not less than fourteen nor more than thirty days for a city,
16 county, or town planning under RCW 36.70A.040. All comments received
17 shall be provided to the applicant. The applicant has seven days from
18 receipt of the comments to respond thereto.

19 (~~(3) A public~~) (4) An open record hearing on the proposed
20 subdivision shall be held if any person files a request for a hearing
21 with the county, city, or town within twenty-one days of the publishing
22 of such notice. If (~~such a~~) an open record hearing is requested,
23 notice requirements for the (~~public~~) hearing shall be in conformance
24 with RCW 58.17.090, and the (~~ninety-day~~) period for approval or
25 disapproval of the proposed subdivision provided for in RCW 58.17.140
26 shall commence with the date of the filing of the request for (~~a~~
27 ~~public~~) an open record hearing. Any hearing ordered under this
28 subsection shall be conducted by the planning commission or hearings
29 officer as required by county or city ordinance.

30 (~~(4)~~) (5) On its own initiative within twenty-one days of the
31 filing of the request for approval of the subdivision, the governing
32 body, or a designated employee or official, of the county, city, or
33 town, shall be authorized to cause (~~a public~~) an open record hearing
34 to be held on the proposed subdivision within ninety days of the filing
35 of the request for the subdivision.

36 (~~(5)~~) (6) If the (~~public~~) open record hearing is waived as
37 provided in this section, the planning commission or planning agency
38 shall complete the review of the proposed preliminary plat and transmit

1 its recommendation to the legislative body as provided in RCW
2 58.17.100.

3 **Sec. 12.** RCW 58.17.100 and 1995 c 347 s 428 are each amended to
4 read as follows:

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

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

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

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

37 (4) A record of all ~~((public meetings and public hearings))~~ open
38 record hearings and closed record appeals shall be kept by the

1 appropriate city, town, or county authority and shall be open to public
2 inspection.
3 (5) Sole authority (~~to approve final plats, and~~) to adopt or
4 amend platting ordinances shall reside in the legislative bodies.

--- END ---