



1 businesses, particularly those providing housing, because of the size  
2 of those businesses and the regulations imposed upon them. This  
3 disproportionate impact reduces competition, innovation, employment,  
4 and new employment opportunities, and threatens the very existence of  
5 some small businesses. Further, because most providers of housing are  
6 small businesses, this disproportionate impact upon them significantly  
7 reduces the availability of housing to Washington residents,  
8 particularly those with lower incomes and middle incomes. The  
9 legislature therefore enacts the Regulatory Fairness Act with the  
10 intent of reducing the disproportionate impact of state administrative  
11 rules on small business and housing.

12 **Sec. 102.** RCW 19.85.020 and 1994 c 249 s 10 are each amended to  
13 read as follows:

14 Unless the context clearly indicates otherwise, the definitions in  
15 this section apply through this chapter.

16 (1) "Small business" means any business entity, including a sole  
17 proprietorship, corporation, partnership, or other legal entity, that  
18 is owned and operated independently from all other businesses, that has  
19 the purpose of making a profit, and that has fifty or fewer employees.

20 (2) "Small business economic impact statement" means a statement  
21 meeting the requirements of RCW 19.85.040 prepared by a state agency  
22 pursuant to RCW 19.85.030.

23 (3) "Industry" means all of the businesses in this state in any one  
24 four-digit standard industrial classification as published by the  
25 United States department of commerce. However, if the use of a four-  
26 digit standard industrial classification would result in the release of  
27 data that would violate state confidentiality laws, "industry" means  
28 all businesses in a three-digit standard industrial classification.

29 (4) "Housing" means residential housing that is rented or owned by  
30 a person or household.

31 (5) "Housing impact statement" means a statement meeting the  
32 requirements of RCW 19.85.040 prepared by a state agency pursuant to  
33 RCW 19.85.030.

34 (6) "Provider of housing" means a business that engages, in whole  
35 or in any part, in the development and building of housing.

36 (7) "Significant adverse impact on housing" means causing an  
37 increase of five percent or more on the cost on housing, or on the cost  
38 of a component of housing.

1       **Sec. 103.** RCW 19.85.025 and 1997 c 409 s 212 are each amended to  
2 read as follows:

3       (1) Unless an agency receives a written objection to the expedited  
4 repeal of a rule, this chapter does not apply to a rule proposed for  
5 expedited repeal pursuant to RCW 34.05.354. If an agency receives a  
6 written objection to expedited repeal of the rule, this chapter applies  
7 to the rule-making proceeding.

8       (2) This chapter does not apply to a rule proposed for expedited  
9 adoption under RCW 34.05.230 (1) through (8), unless a written  
10 objection is timely filed with the agency and the objection is not  
11 withdrawn.

12       (3) This chapter does not apply to the adoption of a rule described  
13 in RCW 34.05.310(4).

14       (4) An agency is not required to prepare a separate small business  
15 economic impact statement or a housing impact statement under RCW  
16 19.85.040 if it prepared an analysis under RCW 34.05.328 that meets the  
17 requirements of a small business economic impact statement or a housing  
18 impact statement, respectively, and if the agency reduced the costs  
19 imposed by the rule on small business or the significant adverse impact  
20 on housing to the extent required by RCW 19.85.030(3). The portion of  
21 the analysis that meets the requirements of RCW 19.85.040 shall be  
22 filed with the code reviser and provided to any person requesting it in  
23 lieu of a separate small business economic impact statement or housing  
24 impact statement.

25       **Sec. 104.** RCW 19.85.030 and 1995 c 403 s 402 are each amended to  
26 read as follows:

27       (1) In the adoption of a rule under chapter 34.05 RCW, an agency  
28 shall prepare:

29       (a) A small business economic impact statement: ((+a)) (i) If the  
30 proposed rule will impose more than minor costs on businesses in an  
31 industry; or ((+b)) (ii) if requested to do so by a majority vote of  
32 the joint administrative rules review committee within forty-five days  
33 of receiving the notice of proposed rule making under RCW 34.05.320; or

34       (b) A housing impact statement if the proposed rule will have a  
35 significant adverse impact on housing. However, if the agency has  
36 completed the pilot rule process as defined by RCW 34.05.313 before  
37 filing the notice of a proposed rule, the agency is not required to

1 prepare a small business economic impact statement or a housing impact  
2 statement.

3 An agency shall prepare the small business economic impact  
4 statement or housing impact statement in accordance with RCW 19.85.040,  
5 and file it with the code reviser along with the notice required under  
6 RCW 34.05.320. An agency shall file a statement prepared at the  
7 request of the joint administrative rules review committee with the  
8 code reviser upon its completion before the adoption of the rule. An  
9 agency shall provide a copy of the small business economic impact  
10 statement or housing impact statement to any person requesting it.

11 ~~((An agency may request assistance from the business assistance~~  
12 ~~center in the preparation of the small business economic impact~~  
13 ~~statement.))~~ If a housing impact statement is required to be prepared,  
14 it may be included as a component of a small business economic impact  
15 statement.

16 (2) The ~~((business assistance center))~~ department of community,  
17 trade, and economic development, in consultation with the governor's  
18 housing advisory board, shall develop guidelines to assist agencies in  
19 determining whether a proposed rule will impose more than minor costs  
20 on businesses in an industry, or create a significant adverse impact on  
21 housing, and therefore require preparation of a small business economic  
22 impact statement or a housing impact statement. The ~~((business~~  
23 ~~assistance center))~~ department of community, trade, and economic  
24 development may review an agency determination that a proposed rule  
25 will not impose such costs or have such an impact, and shall advise the  
26 joint administrative rules review committee on disputes involving  
27 agency determinations under this section.

28 (3) Based upon the extent of disproportionate impact on small  
29 business or the extent of the significant adverse impact on housing  
30 identified in the statement prepared under RCW 19.85.040, the agency  
31 shall, where legal and feasible in meeting the stated objectives of the  
32 statutes upon which the rule is based, reduce the costs imposed by the  
33 rule on small businesses or reduce the significant adverse impact on  
34 housing. Methods to reduce the costs on small businesses or reduce the  
35 significant adverse impact on housing may include:

36 (a) Reducing, modifying, or eliminating substantive regulatory  
37 requirements;

38 (b) Simplifying, reducing, or eliminating record keeping and  
39 reporting requirements;

- 1 (c) Reducing the frequency of inspections;
- 2 (d) Delaying compliance timetables;
- 3 (e) Reducing or modifying fine schedules for noncompliance; or
- 4 (f) Any other mitigation techniques.

5 **Sec. 105.** RCW 19.85.040 and 1995 c 403 s 403 are each amended to  
6 read as follows:

7 (1) A small business economic impact statement and housing impact  
8 statement must include a brief description of the reporting, record  
9 keeping, and other compliance requirements of the proposed rule, and  
10 the kinds of professional services that a small business or provider of  
11 housing is likely to need in order to comply with such requirements.  
12 It shall analyze the costs of compliance for businesses or providers of  
13 housing required to comply with the proposed rule adopted pursuant to  
14 RCW 34.05.320, including costs of equipment, supplies, labor,  
15 financing, and increased administrative costs. It shall consider,  
16 based on input received, whether compliance with the rule will cause  
17 businesses or providers of housing to lose sales or revenue. To  
18 determine whether the proposed rule will have a disproportionate impact  
19 on small businesses or the affordability of housing, the impact  
20 statement must compare the cost of compliance for small business or  
21 providers of housing with the cost of compliance for the ten percent of  
22 businesses or providers of housing that are the largest businesses or  
23 providers of housing required to comply with the proposed rules using  
24 one or more of the following as a basis for comparing costs:

- 25 (a) Cost per employee;
- 26 (b) Cost per hour of labor; ((or))
- 27 (c) Cost per one hundred dollars of sales; or
- 28 (d) Cost per unit of housing.

29 (2) ((A small business economic)) An impact statement must also  
30 include:

31 (a) A statement of the steps taken by the agency to reduce the  
32 costs of the rule on small businesses or providers of housing as  
33 required by RCW 19.85.030(3), or reasonable justification for not doing  
34 so, addressing the options listed in RCW 19.85.030(3);

35 (b) A description of how the agency will involve small businesses  
36 or providers of housing in the development of the rule; and

37 (c) A list of industries that will be required to comply with the  
38 rule. However, this subsection (2)(c) shall not be construed to

1 preclude application of the rule to any business or industry to which  
2 it would otherwise apply.

3 (3) To obtain information for purposes of this section, an agency  
4 may survey a representative sample of affected businesses or trade  
5 associations and should, whenever possible, appoint a committee under  
6 RCW 34.05.310(2) to assist in the accurate assessment of the costs of  
7 a proposed rule, and the means to reduce the costs imposed on small  
8 business or providers of housing.

9 **Sec. 106.** RCW 19.85.050 and 1989 c 175 s 74 are each amended to  
10 read as follows:

11 (1) Within one year after June 10, 1982, each agency shall publish  
12 and deliver to the office of financial management and to all persons  
13 who make requests of the agency for a copy of a plan to periodically  
14 review all rules then in effect and which have been issued by the  
15 agency which have an economic impact on more than twenty percent of all  
16 industries or ten percent of the businesses in any one industry. Such  
17 plan may be amended by the agency at any time by publishing a revision  
18 to the review plan and delivering such revised plan to the office of  
19 financial management and to all persons who make requests of the agency  
20 for the plan. The purpose of the review is to determine whether such  
21 rules should be continued without change or should be amended or  
22 rescinded, consistent with the stated objectives of applicable  
23 statutes, to minimize the economic impact on small businesses and  
24 providers of housing as described by this chapter. The plan shall  
25 provide for the review of all such agency rules in effect on June 10,  
26 1982, within ten years of that date.

27 (2) In reviewing rules to minimize any significant economic impact  
28 of the rule on small businesses and any significant adverse impact on  
29 housing as described by this chapter, and in a manner consistent with  
30 the stated objectives of applicable statutes, the agency shall consider  
31 the following factors:

32 (a) The continued need for the rule;

33 (b) The nature of complaints or comments received concerning the  
34 rule from the public;

35 (c) The complexity of the rule;

36 (d) The extent to which the rule overlaps, duplicates, or conflicts  
37 with other state or federal rules, and, to the extent feasible, with  
38 local governmental rules; and

1 (e) The degree to which technology, economic conditions, or other  
2 factors have changed in the subject area affected by the rule.

3 (3) Each year each agency shall publish a list of rules which are  
4 to be reviewed pursuant to this section during the next twelve months  
5 and deliver a copy of the list to the office of financial management  
6 and all persons who make requests of the agency for the list. The list  
7 shall include a brief description of the legal basis for each rule as  
8 described by RCW 34.05.360, and shall invite public comment upon the  
9 rule.

10 **Sec. 107.** RCW 19.85.070 and 1992 c 197 s 1 are each amended to  
11 read as follows:

12 When any rule is proposed for which a small business economic  
13 impact statement or a housing impact statement is required, the  
14 adopting agency shall provide notice to small businesses or providers  
15 of housing of the proposed rule through any of the following:

16 (1) Direct notification of known interested small businesses,  
17 providers of housing, or trade organizations affected by the proposed  
18 rule; or

19 (2) Providing information of the proposed rule making to  
20 publications likely to be obtained by small businesses or providers of  
21 housing of the types affected by the proposed rule.

## 22 PART II

### 23 MANUFACTURED HOUSING

24 NEW SECTION. **Sec. 201.** The legislature finds that limiting  
25 competition for housing types, manufacturing methods, and housing  
26 designs stifles housing choices, arbitrarily reduces competition, and  
27 increases costs which in turn reduces housing affordability. These  
28 restrictions on the siting of manufactured housing go beyond  
29 regulations needed to adequately protect the life and safety of the  
30 citizens of the state. The legislature further finds that manufactured  
31 housing built to federal standards should not be prohibited or  
32 restrained beyond restraints or prohibitions placed on site-built  
33 single-family residences, either through personal or public  
34 restrictions, and that any such restrictions are contrary to the public  
35 policy of the state that encourages housing affordability and consumer  
36 choice absent restraint of trade by private or public entities.

1       The legislature recognizes that federal standards for manufactured  
2 housing supersedes state and local building and energy codes and that  
3 compliance with state or local building or energy codes as a  
4 requirement for issuing a permit for siting a manufactured housing unit  
5 may not be required as a condition for allowing manufactured homes in  
6 the state.

7       **Sec. 202.** RCW 35.63.110 and 1965 c 7 s 35.63.110 are each amended  
8 to read as follows:

9       For any or all of such purposes the council or board, on  
10 recommendation of its commission, may divide the municipality or any  
11 portion thereof into districts of such size, shape and area, or may  
12 establish such official maps, or development plans for the whole or any  
13 portion of the municipality as may be deemed best suited to carry out  
14 the purposes of this chapter and within such districts it may regulate  
15 and restrict the erection, construction, reconstruction, alteration,  
16 repair or use of buildings, structures, or land.

17       However, in any zoning district for single-family residences,  
18 single-family designated manufactured homes, as defined in RCW  
19 35.63.160, that are thermally equivalent to the state energy code,  
20 shall be sited on individual lots subject only to land use regulations  
21 applicable to all other single-family residences on individual lots in  
22 such districts. This section does not prevent the adoption of home  
23 design regulations to assure neighborhood compatibility provided such  
24 regulations apply equally to homes regulated under the state building  
25 code and designated manufactured homes as defined in RCW 35.63.160.

26       **Sec. 203.** RCW 35.63.160 and 1988 c 239 s 1 are each amended to  
27 read as follows:

28       ~~(1) ((Each comprehensive plan which does not allow for the siting~~  
29 ~~of manufactured homes on individual lots shall be subject to a review~~  
30 ~~by the city of the need and demand for such homes. The review shall be~~  
31 ~~completed by December 31, 1990.~~

32       ~~(2) For the purpose of providing an optional reference for cities~~  
33 ~~which choose to allow manufactured homes on individual lots,)) A~~  
34 "designated manufactured home" is a manufactured home constructed after  
35 June 15, 1976, in accordance with state and federal requirements for  
36 manufactured homes, which:



1 (a) Is comprised of at least two fully enclosed parallel sections  
2 each of not less than twelve feet wide by thirty-six feet long;

3 (b) Was originally constructed with and now has a composition or  
4 wood shake or shingle, coated metal, or similar roof of (~~not less~~  
5 ~~than~~) nominal 3:12 pitch; and

6 (c) Has exterior siding similar in appearance to siding materials  
7 commonly used on conventional site-built uniform building code single-  
8 family residences.

9 (~~(+3+)~~) (2) Nothing in this section precludes cities from allowing  
10 any manufactured home from being sited on individual lots through local  
11 standards which differ from the designated manufactured home as  
12 described in this section, except that the term "designated  
13 manufactured home" shall not be used except as defined in subsection  
14 (~~(+2+)~~) (1) of this section.

15 **Sec. 204.** RCW 35A.63.100 and 1979 ex.s. c 170 s 8 are each amended  
16 to read as follows:

17 After approval of the comprehensive plan, as set forth above, the  
18 legislative body, in developing the municipality and in regulating the  
19 use of land, may implement or give effect to the comprehensive plan or  
20 parts thereof by ordinance or other action to such extent as the  
21 legislative body deems necessary or appropriate. Such ordinances or  
22 other action may provide for:

23 (1) Adoption of an official map and regulations relating thereto  
24 designating locations and requirements for one or more of the  
25 following: Streets, parks, public buildings, and other public  
26 facilities, and protecting such sites against encroachment by buildings  
27 and other physical structures.

28 (2) Dividing the municipality, or portions thereof, into  
29 appropriate zones within which specific standards, requirements, and  
30 conditions may be provided for regulating the use of public and private  
31 land, buildings, and structures, and the location, height, bulk, number  
32 of stories, and size of buildings and structures, size of yards,  
33 courts, open spaces, density of population, ratio of land area to the  
34 area of buildings and structures, setbacks, area required for off-  
35 street parking, protection of access to direct sunlight for solar  
36 energy systems, and such other standards, requirements, regulations,  
37 and procedures as are appropriately related thereto. The ordinance  
38 encompassing the matters of this subsection is hereinafter called the

1 "zoning ordinance". No zoning ordinance, or amendment thereto, shall  
2 be enacted by the legislative body without at least one public hearing,  
3 notice of which shall be given as set forth in RCW 35A.63.070. Such  
4 hearing may be held before the planning agency or the board of  
5 adjustment or such other body as the legislative body shall designate.

6 However, in any zoning district for single-family residences,  
7 single-family designated manufactured homes, as defined in RCW  
8 35A.63.145, that are thermally equivalent to the state energy code,  
9 shall be sited on individual lots subject only to land use regulations  
10 applicable to all other single-family residences on individual lots in  
11 such districts. This section does not prevent the adoption of home  
12 design regulations to assure neighborhood compatibility provided such  
13 regulations apply equally to homes regulated under the state building  
14 code and designated manufactured homes as defined in RCW 35A.63.145.

15 (3) Adoption of design standards, requirements, regulations, and  
16 procedures for the subdivision of land into two or more parcels,  
17 including, but not limited to, the approval of plats, dedications,  
18 acquisitions, improvements, and reservation of sites for public use.

19 (4) Scheduling public improvements on the basis of recommended  
20 priorities over a period of years, subject to periodic review.

21 (5) Such other matters as may be otherwise authorized by law or as  
22 the legislative body deems necessary or appropriate to effectuate the  
23 goals and objectives of the comprehensive plan or parts thereof and the  
24 purposes of this chapter.

25 **Sec. 205.** RCW 35A.63.145 and 1988 c 239 s 2 are each amended to  
26 read as follows:

27 ~~(1) ((Each comprehensive plan which does not allow for the siting~~  
28 ~~of manufactured homes on individual lots shall be subject to a review~~  
29 ~~by the city of the need and demand for such homes. The review shall be~~  
30 ~~completed by December 31, 1990.~~

31 ~~(2) For the purpose of providing an optional reference for cities~~  
32 ~~which choose to allow manufactured homes on individual lots,)) A~~  
33 "designated manufactured home" is a manufactured home constructed after  
34 June 15, 1976, in accordance with state and federal requirements for  
35 manufactured homes, which:

36 (a) Is comprised of at least two fully enclosed parallel sections  
37 each of not less than twelve feet wide by thirty-six feet long;

1 (b) Was originally constructed with and now has a composition or  
2 wood shake or shingle, coated metal, or similar roof of (~~not less~~  
3 ~~than~~) nominal 3:12 pitch; and

4 (c) Has exterior siding similar in appearance to siding materials  
5 commonly used on conventional site-built uniform building code single-  
6 family residences.

7 (~~(3)~~) (2) Nothing in this section precludes cities from allowing  
8 any manufactured home from being sited on individual lots through local  
9 standards which differ from the designated manufactured home as  
10 described in this section, except that the term "designated  
11 manufactured home" shall not be used except as defined in subsection  
12 (~~(2)~~) (1) of this section.

13 **Sec. 206.** RCW 36.70.750 and 1963 c 4 s 36.70.750 are each amended  
14 to read as follows:

15 Any board, by ordinance, may establish classifications, within each  
16 of which, specific controls are identified, and which will:

17 (1) Regulate the use of buildings, structures, and land as between  
18 agriculture, industry, business, residence, and other purposes.

19 However, in any zoning district for single-family residences,  
20 single-family designated manufactured homes, as defined in RCW  
21 35.63.160, that are thermally equivalent to the state energy code,  
22 shall be sited on individual lots subject only to land use regulations  
23 applicable to all other single-family residences on individual lots in  
24 such districts. This subsection does not prevent the adoption of home  
25 design regulations to assure neighborhood compatibility provided such  
26 regulations apply equally to homes regulated under the state building  
27 code and designated manufactured homes as defined in RCW 35.63.160;

28 (2) Regulate location, height, bulk, number of stories and size of  
29 buildings and structures; the size of yards, courts, and other open  
30 spaces; the density of population; the percentage of a lot which may be  
31 occupied by buildings and structures; and the area required to provide  
32 off-street facilities for the parking of motor vehicles.

33 NEW SECTION. **Sec. 207.** A new section is added to chapter 36.70A  
34 RCW to read as follows:

35 Any city or county that plans or elects to plan under this chapter  
36 must allow in any zoning district for single-family residences, single-  
37 family designated manufactured homes as defined in RCW 43.63B.010,

1 35.63.160, or 35A.63.145 that are thermally equivalent to the state  
2 energy code, to be sited on individual lots subject only to land use  
3 regulations applicable to all other single-family residences on  
4 individual lots in such districts. This section does not prevent the  
5 adoption of home design regulations to assure neighborhood  
6 compatibility provided such regulations apply equally to homes  
7 regulated under the state building code and designated manufactured  
8 homes as defined in RCW 43.63B.010, 35.63.160, or 35A.63.145.

9 **PART III**

10 **GROWTH MANAGEMENT**

11 **Sec. 301.** RCW 36.70A.010 and 1990 1st ex.s. c 17 s 1 are each  
12 amended to read as follows:

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

25 **Sec. 302.** RCW 36.70A.020 and 1990 1st ex.s. c 17 s 2 are each  
26 amended to read as follows:

27 The following goals are adopted to guide the development and  
28 adoption of comprehensive plans and development regulations of those  
29 counties and cities that are required or choose to plan under RCW  
30 36.70A.040. The following goals are not listed in order of priority  
31 and shall be used exclusively for the purpose of guiding the  
32 development of comprehensive plans and development regulations:

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

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

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

6 (4) Housing. Encourage the availability of affordable housing to  
7 all economic segments of the population of this state, promote a  
8 variety of residential densities and housing types, and encourage  
9 preservation of existing housing stock.

10 (5) Economic development. Encourage economic development  
11 throughout the state that is consistent with adopted comprehensive  
12 plans, promote economic opportunity for all citizens of this state,  
13 (~~((especially for))~~) including unemployed and (~~((for))~~) disadvantaged  
14 persons, and encourage growth in areas experiencing insufficient  
15 economic growth(~~(, all within the capacities of the state's natural~~  
16 ~~resources, public services, and public facilities))~~).

17 (6) Property rights. Private property shall not be taken for  
18 public use without just compensation having been made. The property  
19 rights of landowners shall be protected from arbitrary and  
20 discriminatory actions.

21 (7) Permits. Applications for both state and local government  
22 permits should be processed in a timely and fair manner to ensure  
23 predictability. Counties and cities shall issue permits for single-  
24 family residential construction within seven business days of  
25 application. Counties and cities shall issue permits for multifamily  
26 construction within thirty days of application. Counties and cities  
27 shall issue permits for short-plat applications within thirty days of  
28 application and long-subdivision applications within ninety days of  
29 application.

30 (8) Natural resource industries. Maintain (~~((and enhance))~~) natural  
31 resource-based industries, including productive timber, agricultural,  
32 and fisheries industries. Encourage the conservation of productive  
33 forest lands and productive agricultural lands(~~(, and discourage~~  
34 ~~incompatible uses))~~).

35 (9) Open space and recreation. Encourage the retention of open  
36 space and development of recreational opportunities, conserve fish and  
37 wildlife habitat, increase access to natural resource lands and water,  
38 and develop parks.

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

4 (11) Citizen participation and coordination. Encourage the  
5 involvement of citizens in the planning process and ensure coordination  
6 between ~~((communities))~~ property owners and jurisdictions to reconcile  
7 conflicts.

8 (12) Public facilities and services. Ensure that those public  
9 facilities and services necessary to support development shall be  
10 ~~((adequate))~~ planned to ~~((serve))~~ provide services to the development  
11 at the time the development is available for occupancy ~~((and use~~  
12 ~~without decreasing current service levels below locally established~~  
13 ~~minimum standards))~~. A city that operates public facilities and  
14 services shall serve within its service area if service is technically  
15 feasible and in compliance with local regulations.

16 A city that provides water or sewer service outside the corporate  
17 boundaries of the city shall not require, as a condition of providing  
18 water or sewer service, the property owner who has requested water or  
19 sewer service to agree to:

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

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

24 (13) Historic preservation. Identify and encourage the  
25 preservation of lands, sites, and structures, that have historical or  
26 archaeological significance.

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

30 **Sec. 303.** RCW 36.70A.030 and 1997 c 429 s 3 are each amended to  
31 read as follows:

32 Unless the context clearly requires otherwise, the definitions in  
33 this section apply throughout this chapter.

34 (1) "Adopt a comprehensive land use plan" means to enact a new  
35 comprehensive land use plan or to update an existing comprehensive land  
36 use plan.

37 (2) "Agricultural land" means land primarily devoted to the  
38 commercial production of horticultural, viticultural, floricultural,

1 dairy, apiary, vegetable, or animal products or of berries, grain, hay,  
2 straw, turf, seed, Christmas trees not subject to the excise tax  
3 imposed by RCW 84.33.100 through 84.33.140, finfish in upland  
4 hatcheries, or livestock, and that has long-term commercial  
5 significance for agricultural production.

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

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

11 (5) "Critical areas" include the following areas and ecosystems:  
12 (a) Wetlands, limited to the United States army corps of engineers'  
13 definition of wetlands, as now existing or subsequently amended under  
14 its authority, under section 401 of the clean water act, 33 U.S.C. Sec.  
15 1344; (b) areas with a documented critical ((recharging)) recharge  
16 effect ((en)) that is necessary for the health and sanitation of  
17 aquifers used for potable water; (c) fish and wildlife habitat  
18 conservation areas as limited in chapter 75.20 RCW; (d) frequently  
19 flooded areas no larger than areas within one hundred year flood plains  
20 under Title 86 RCW; and (e) geologically hazardous areas.

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

23 (7) "Development regulations" or "regulation" means the controls  
24 placed on development or land use activities by a county or city,  
25 ~~((including, but not limited to,))~~ zoning ordinances, critical areas  
26 ordinances, shoreline master programs, shoreline management act  
27 provisions or official controls, ((planned unit development ordinances,  
28 subdivision ordinances, and binding site plan ordinances together with  
29 any amendments thereto)) each with their own separate approval  
30 processes. A development regulation ~~((does not))~~ includes ~~((a))~~ the  
31 decision to approve a project permit application, ((as defined in))  
32 notwithstanding RCW 36.70B.020, even though the decision may be  
33 expressed in a resolution or ordinance of the legislative body of the  
34 county or city.

35 (8) "Forest land" means land primarily devoted to growing trees for  
36 long-term commercial timber production on land that can be economically  
37 and practically managed for such production, including Christmas trees  
38 subject to the excise tax imposed under RCW 84.33.100 through  
39 84.33.140, and that has long-term commercial significance. In

1 determining whether forest land is primarily devoted to growing trees  
2 for long-term commercial timber production on land that can be  
3 economically and practically managed for such production, the following  
4 factors shall be considered: (a) The proximity of the land to urban,  
5 suburban, and rural settlements; (b) surrounding parcel size and the  
6 compatibility and intensity of adjacent and nearby land uses; (c) long-  
7 term local economic conditions that affect the ability to manage for  
8 timber production; and (d) the availability of public facilities and  
9 services conducive to conversion of forest land to other uses.

10 (9) "Geologically hazardous areas" means areas that because of  
11 their susceptibility to erosion, sliding, earthquake, or other  
12 geological events, are not suited to the siting of commercial,  
13 residential, or industrial development consistent with public health or  
14 safety concerns. The county or city has the burden of proving  
15 geologically hazardous areas exist and cannot safely support  
16 development. The cost of this burden shall not be borne by the  
17 property owner.

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

22 (11) "Minerals" include gravel, sand, and valuable metallic  
23 substances.

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

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

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

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

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

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



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

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

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

7 (g) That are consistent with the protection of natural surface  
8 water flows and ground water and surface water recharge and discharge  
9 areas.

10 (15) "Rural development" refers to development outside the urban  
11 growth area and outside agricultural, forest, and mineral resource  
12 lands designated pursuant to RCW 36.70A.170. Rural development can  
13 consist of a variety of uses and residential densities, including  
14 clustered residential development, at levels that are consistent with  
15 the preservation of rural character and the requirements of the rural  
16 element. Rural development does not refer to agriculture or forestry  
17 activities that may be conducted in rural areas.

18 (16) "Rural governmental services" or "rural services" include  
19 those public services and public facilities historically and typically  
20 delivered at an intensity usually found in rural areas, and may include  
21 domestic water systems, fire and police protection services,  
22 transportation and public transit services, and other public utilities  
23 associated with rural development and normally not associated with  
24 urban areas. Rural services do not include storm or sanitary sewers,  
25 except as otherwise authorized by RCW 36.70A.110(4).

26 (17) "Service area" means a specific geographic area serviced or  
27 for which service is planned by a purveyor.

28 (18) "Urban growth" refers to growth that makes intensive use of  
29 land for the location of buildings, structures, and impermeable  
30 surfaces to ((such a degree as to be incompatible with the primary use  
31 of land for the production of food, other agricultural products, or  
32 fiber, or the extraction of mineral resources, rural uses, rural  
33 development, and natural resource lands designated pursuant to RCW  
34 36.70A.170. A pattern of more intensive rural development, as provided  
35 in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread  
36 over wide areas, urban growth)) provide for housing, business, and  
37 commerce, which typically requires urban governmental services.  
38 "Characterized by urban growth" refers to land ((having)) that: (a)  
39 Has urban growth located on it, or to land located in relationship to

1 an area with urban growth on it (~~as to be appropriate for urban~~  
2 ~~growth~~); or (b) is so located in relationship to facilities,  
3 infrastructure, and services as to make urban growth on the land  
4 feasible through public or private extensions of service.

5 (~~(18)~~) (19) "Urban growth areas" means those areas designated by  
6 a county pursuant to RCW 36.70A.110.

7 (~~(19)~~) (20) "Urban governmental services" or "urban services"  
8 include those public services and public facilities at an intensity  
9 historically and typically provided in cities, specifically including  
10 storm and sanitary sewer systems, domestic water systems, street  
11 cleaning services, fire and police protection services, public transit  
12 services, and other public utilities associated with urban areas (~~and~~  
13 ~~normally not associated with rural areas~~)).

14 (~~(20)~~) (21) "Wetland" or "wetlands" means areas that are  
15 inundated or saturated by surface water or ground water at a frequency  
16 and duration sufficient to support, and that under normal circumstances  
17 do support, a prevalence of vegetation typically adapted for life in  
18 saturated soil conditions. Wetlands generally include swamps, marshes,  
19 bogs, and similar areas. Wetlands are limited to wetlands under the  
20 United States army corps of engineers' definition under section 401 of  
21 the clean water act, 33 U.S.C. Sec. 1344, as now existing or hereafter  
22 amended. Wetlands do not include those artificial wetlands  
23 intentionally created from nonwetland sites, including, but not limited  
24 to, irrigation and drainage ditches, grass-lined swales, canals,  
25 detention facilities, wastewater treatment facilities, farm ponds, and  
26 landscape amenities, or those wetlands created after July 1, 1990, that  
27 were unintentionally created as a result of the construction of a road,  
28 street, or highway. Wetlands may include those artificial wetlands  
29 intentionally created from nonwetland areas created to mitigate  
30 conversion of wetlands.

31 NEW SECTION. **Sec. 304.** The department of ecology shall  
32 expeditiously and summarily waive the water quality certification  
33 process of the clean water act, 33 U.S.C. Sec. 1341, as now existing or  
34 hereafter amended.

35 NEW SECTION. **Sec. 305.** Land developing under this chapter is  
36 exempt from RCW 76.09.050. For the purposes of this section, "land  
37 developing" means the division or platting of land in preparation for

1 development or the actual building, constructing, or erecting of  
2 residences or commercial buildings.

3 NEW SECTION. **Sec. 306.** Critical areas shall be regulated only for  
4 the limited purpose of protecting the public's health and safety.

5 NEW SECTION. **Sec. 307.** Development regulations shall only be  
6 adopted for the limited purpose of protecting the public's health and  
7 safety.

8 NEW SECTION. **Sec. 308.** Geologically hazardous areas are not  
9 restricted from development activities unless a city or county meets  
10 its burden to prove that the identified geologic conditions preclude  
11 the safe siting of commercial, residential, or industrial development.

12 NEW SECTION. **Sec. 309.** Outside an established urban growth area,  
13 if a project applicant has an approved water system and an approval for  
14 sewer or a septic tank system, the city or county shall issue permits  
15 necessary for building single-family residences.

16 **Sec. 310.** RCW 36.70A.050 and 1990 1st ex.s. c 17 s 5 are each  
17 amended to read as follows:

18 (1) Subject to the definitions provided in RCW 36.70A.030, the  
19 department shall adopt guidelines, under chapter 34.05 RCW, no later  
20 than September 1, 1990, and shall amend these guidelines to conform to  
21 this chapter by December 31, 1999, to guide the classification of: (a)  
22 Agricultural lands; (b) forest lands; (c) mineral resource lands; and  
23 (d) critical areas. The department shall consult with the department  
24 of agriculture regarding guidelines for agricultural lands, the  
25 department of natural resources regarding forest lands and mineral  
26 resource lands, and the department of ecology regarding critical areas.

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

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

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

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

18 **Sec. 311.** RCW 36.70A.060 and 1998 c 286 s 5 are each amended to  
19 read as follows:

20 (1) Each county that is required or chooses to plan under RCW  
21 36.70A.040, and each city within such county, shall adopt development  
22 regulations on or before September 1, 1991, to assure the conservation  
23 of agricultural, forest, and mineral resource lands designated under  
24 RCW 36.70A.170. Regulations adopted under this subsection may not  
25 prohibit uses legally existing on any parcel prior to their adoption  
26 and shall remain in effect until the county or city adopts development  
27 regulations pursuant to RCW 36.70A.040. ((Such regulations shall  
28 assure that the use of lands adjacent to agricultural, forest, or  
29 mineral resource lands shall not interfere with the continued use, in  
30 the accustomed manner and in accordance with best management practices,  
31 of these designated lands for the production of food, agricultural  
32 products, or timber, or for the extraction of minerals.)) Counties and  
33 cities shall require that all plats, short plats, development permits,  
34 and building permits issued for development activities on, or within  
35 five hundred feet of, lands designated as agricultural lands, forest  
36 lands, or mineral resource lands, contain a notice that the subject  
37 property is within or near designated agricultural lands, forest lands,  
38 or mineral resource lands on which a variety of commercial activities

1 may occur that are not compatible with residential development for  
2 certain periods of limited duration. The notice for mineral resource  
3 lands shall also inform that an application might be made for mining-  
4 related activities, including mining, extraction, washing, crushing,  
5 stockpiling, blasting, transporting, and recycling of minerals.

6 (2) Each county and city shall adopt development regulations that  
7 protect critical areas from hazards and health and safety risks that  
8 are required to be designated under RCW 36.70A.170. For counties and  
9 cities that are required or choose to plan under RCW 36.70A.040, such  
10 development regulations shall be adopted on or before September 1,  
11 1991. For the remainder of the counties and cities, such development  
12 regulations shall be adopted on or before March 1, 1992, but cities and  
13 counties shall amend their development regulations to conform with this  
14 chapter by December 1, 1999.

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

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

25 **Sec. 312.** RCW 36.70A.070 and 1998 c 171 s 2 are each amended to  
26 read as follows:

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

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

36 (1) A land use element designating the proposed general  
37 distribution and general location and extent of the uses of land, where  
38 appropriate, for agriculture, timber production, housing, commerce,

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

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

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

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

1 (5) Rural element. Counties shall include a rural element  
2 (~~including lands that are not designated for urban growth,~~  
3 ~~agriculture, forest, or mineral resources~~). The following provisions  
4 shall apply to the rural element:

5 (a) Growth management act goals and local circumstances. Because  
6 circumstances vary from county to county, in establishing patterns of  
7 rural densities and uses, a county may consider local circumstances,  
8 but shall develop a written record explaining how the rural element  
9 harmonizes the planning goals in RCW 36.70A.020 and meets the  
10 requirements of this chapter.

11 (b) Rural development. The rural element shall permit rural  
12 development, forestry, and agriculture in rural areas. The rural  
13 element shall provide for a variety of rural densities, uses, essential  
14 public facilities, and rural governmental services needed to serve the  
15 permitted densities and uses. In order to achieve a variety of rural  
16 densities and uses, counties may provide for clustering, density  
17 transfer, design guidelines, conservation easements, and other  
18 innovative techniques that will accommodate appropriate rural densities  
19 and uses that are not characterized by urban growth and that are  
20 consistent with rural character. For the purposes of this subsection,  
21 "compatible with the rural character of such lands" means development  
22 of less than ten single-family residential units by a property owner.

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

26 (i) Containing or otherwise controlling rural development;

27 (ii) Assuring visual compatibility of rural development with the  
28 surrounding rural area;

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

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

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

35 (d) Limited areas of more intensive rural development. Subject to  
36 the requirements of this subsection and except as otherwise  
37 specifically provided in this subsection (5)(d), the rural element may  
38 allow for limited areas of more intensive rural development, including

1 necessary public facilities and public services to serve the limited  
2 area as follows:

3 (i) Rural development consisting of the infill, development, or  
4 redevelopment of existing commercial, industrial, residential, or  
5 mixed-use areas, whether characterized as shoreline development,  
6 villages, hamlets, rural activity centers, or crossroads developments.  
7 A commercial, industrial, residential, shoreline, or mixed-use area  
8 shall be subject to the requirements of (d)(iv) of this subsection, but  
9 shall not be subject to the requirements of (c)(ii) and (iii) of this  
10 subsection. An industrial area is not required to be principally  
11 designed to serve the existing and projected rural population;

12 (ii) The intensification of development on lots containing, or new  
13 development of, small-scale recreational or tourist uses, including  
14 commercial facilities to serve those recreational or tourist uses, that  
15 rely on a rural location and setting, but that do not include new  
16 residential development. A small-scale recreation or tourist use is  
17 not required to be principally designed to serve the existing and  
18 projected rural population. Public services and public facilities  
19 shall be limited to those necessary to serve the recreation or tourist  
20 use and shall be provided in a manner that does not permit low-density  
21 sprawl;

22 (iii) The intensification of development on lots containing  
23 isolated nonresidential uses or new development of isolated cottage  
24 industries and isolated small-scale businesses that are not principally  
25 designed to serve the existing and projected rural population and  
26 nonresidential uses, but do provide job opportunities for rural  
27 residents. Public services and public facilities shall be limited to  
28 those necessary to serve the isolated nonresidential use and shall be  
29 provided in a manner that does not permit low-density sprawl;

30 (iv) A county shall adopt measures to minimize and contain the  
31 existing areas or uses of more intensive rural development, as  
32 appropriate, authorized under this subsection. Lands included in such  
33 existing areas or uses shall not extend beyond the logical outer  
34 boundary of the existing area or use, thereby allowing a new pattern of  
35 low-density sprawl. Existing areas are those that are clearly  
36 identifiable and contained and where there is a logical boundary  
37 delineated predominately by the built environment, but that may also  
38 include undeveloped lands if limited as provided in this subsection.  
39 The county shall establish the logical outer boundary of an area of



1 more intensive rural development. In establishing the logical outer  
2 boundary the county shall address (A) the need to preserve the  
3 character of existing natural neighborhoods and communities, (B)  
4 physical boundaries such as bodies of water, streets and highways, and  
5 land forms and contours, (C) the prevention of abnormally irregular  
6 boundaries, and (D) the ability to provide public facilities and public  
7 services in a manner that does not permit low-density sprawl;

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

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

12 (B) On the date the county adopted a resolution under RCW  
13 36.70A.040(2), in a county that is planning under all of the provisions  
14 of this chapter under RCW 36.70A.040(2); or

15 (C) On the date the office of financial management certifies the  
16 county's population as provided in RCW 36.70A.040(5), in a county that  
17 is planning under all of the provisions of this chapter pursuant to RCW  
18 36.70A.040(5).

19 (e) Exception. This subsection shall not be interpreted to permit  
20 in the rural area a major industrial development or a master planned  
21 resort unless otherwise specifically permitted under RCW 36.70A.360 and  
22 36.70A.365.

23 (6) A transportation element that implements, and is consistent  
24 with, the land use element.

25 (a) The transportation element shall include the following  
26 subelements:

27 (i) Land use assumptions used in estimating travel;

28 (ii) Estimated traffic impacts to state-owned transportation  
29 facilities resulting from land use assumptions to assist the department  
30 of transportation in monitoring the performance of state facilities, to  
31 plan improvements for the facilities, and to assess the impact of land-  
32 use decisions on state-owned transportation facilities;

33 (iii) Facilities and services needs, including:

34 (A) An inventory of air, water, and ground transportation  
35 facilities and services, including transit alignments and general  
36 aviation airport facilities, to define existing capital facilities and  
37 travel levels as a basis for future planning. This inventory must  
38 include state-owned transportation facilities within the city or  
39 county's jurisdiction boundaries;

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

4 (C) For state-owned transportation facilities, level of service  
5 standards for highways, as prescribed in chapters 47.06 and 47.80 RCW,  
6 to gauge the performance of the system. The purposes of reflecting  
7 level of service standards for state highways in the local  
8 comprehensive plan are to monitor the performance of the system, to  
9 evaluate improvement strategies, and to facilitate coordination between  
10 the county's or city's six-year street, road, or transit program and  
11 the department of transportation's six-year investment program. The  
12 concurrency requirements of (b) of this subsection do not apply to  
13 transportation facilities and services of state-wide significance  
14 except for counties consisting of islands whose only connection to the  
15 mainland are state highways or ferry routes. In these island counties,  
16 state highways and ferry route capacity must be a factor in meeting the  
17 concurrency requirements in (b) of this subsection;

18 (D) Specific actions (~~and requirements~~), by using motor vehicle  
19 excise tax and gas tax funds, for bringing into compliance locally  
20 owned transportation facilities or services that are below an  
21 established level of service standard;

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

25 (F) Identification of state and local system needs to meet current  
26 and future demands. Identified needs on state-owned transportation  
27 facilities must be consistent with the state-wide multimodal  
28 transportation plan required under chapter 47.06 RCW;

29 (iv) Finance, including:

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

32 (B) A multiyear financing plan based on the needs identified in the  
33 comprehensive plan, the appropriate parts of which shall serve as the  
34 basis for the six-year street, road, or transit program required by RCW  
35 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795  
36 for public transportation systems. The multiyear financing plan should  
37 be coordinated with the six-year improvement program developed by the  
38 department of transportation as required by RCW 47.05.030;

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

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

8 (vi) Demand-management strategies.

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

24 (c) The transportation element described in this subsection (6),  
25 and the six-year plans required by RCW 35.77.010 for cities, RCW  
26 36.81.121 for counties, RCW 35.58.2795 for public transportation  
27 systems, and RCW 47.05.030 for the state, must be consistent.

28 **Sec. 313.** RCW 36.70A.110 and 1997 c 429 s 24 are each amended to  
29 read as follows:

30 (1) Each county that is required or chooses to plan under RCW  
31 36.70A.040 shall designate an urban growth area or areas within which  
32 urban growth shall be encouraged (~~((and outside of which growth can~~  
33 ~~occur only if it is not urban in nature))~~). Each city that is located  
34 in such a county shall be included within an urban growth area. An  
35 urban growth area (~~(may))~~ shall include more than a single city. An  
36 urban growth area may include territory that is located outside of a  
37 city (~~((only if such territory already is characterized by urban growth~~  
38 ~~whether or not the urban growth area includes a city, or is adjacent to~~

1 ~~territory already characterized by urban growth, or is a designated new~~  
2 ~~fully contained community as defined by RCW 36.70A.350))~~ when a county  
3 determines the territory is necessary to provide an adequate land  
4 supply to expand the urban growth boundaries beyond the boundaries of  
5 existing cities. However, a county's designated urban growth areas  
6 shall be at least large enough to accommodate all projected growth and  
7 all growth that actually occurs. Cities and counties shall designate  
8 urban growth areas that favor expansive delineation of these areas.

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

24 Within one year of July 1, 1990, each county that as of June 1,  
25 1991, was required or chose to plan under RCW 36.70A.040, shall begin  
26 consulting with each city located within its boundaries and each city  
27 shall propose the location of an urban growth area. Within sixty days  
28 of the date the county legislative authority of a county adopts its  
29 resolution of intention or of certification by the office of financial  
30 management, all other counties that are required or choose to plan  
31 under RCW 36.70A.040 shall begin this consultation with each city  
32 located within its boundaries. The county shall attempt to reach  
33 agreement with each city on the location of an urban growth area within  
34 which the city is located. If such an agreement is not reached with  
35 each city located within the urban growth area, the county shall  
36 justify in writing why it so designated the area an urban growth area.  
37 A city may object formally with the department over the designation of  
38 the urban growth area within which it is located. Where appropriate,  
39 the department shall attempt to resolve the conflicts, including the

1 use of mediation services. This section is intended to establish only  
2 a minimum standard for the size of urban growth areas. This section  
3 neither limits the discretion of counties to include an ample land  
4 supply within urban growth areas nor compels counties to limit or  
5 disregard existing property rights.

6 (3)(a) Urban growth should be located (~~(first)~~) in areas already  
7 characterized by urban growth that have adequate existing public  
8 facility and service capacities to serve such development, (~~(second)~~)  
9 in areas already characterized by urban growth that will be served  
10 adequately by a combination of both existing public facilities and  
11 services and any additional needed public facilities and services that  
12 are provided by either public or private sources, and (~~(third)~~) in the  
13 remaining portions of the urban growth areas. Urban growth may also be  
14 located in designated new fully contained communities as defined by RCW  
15 36.70A.350. This chapter does not limit the common law duty of a  
16 public utility, whether publicly or privately owned, to make service  
17 available to all within its franchise area and within areas as to which  
18 a public utility has held itself out as a provider of service. "Public  
19 utility," as used in this subsection, refers to a private entity or  
20 municipal or quasi-municipal corporation that provides electricity,  
21 sanitary sewer, storm sewer, water, telephone, cable television,  
22 communications services, or natural gas to the public.

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

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

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

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

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

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

17 NEW SECTION. **Sec. 314.** (1) A county or city that downzones any  
18 property, in the course of planning, bears the burden of proving, by  
19 clear and convincing evidence, that the downzone is justified by  
20 reference to the common law standards governing downzones and is  
21 indispensable to government achieving compliance with this chapter.

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

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

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

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

1       **Sec. 315.** RCW 36.70A.130 and 1997 c 429 s 10 are each amended to  
2 read as follows:

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

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

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

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

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

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

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

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

1 located within an urban growth area shall review the densities  
2 permitted within its boundaries, and the extent to which the urban  
3 growth occurring within the county has located within each city and the  
4 unincorporated portions of the urban growth areas. The county  
5 comprehensive plan designating urban growth areas, and the densities  
6 permitted in the urban growth areas by the comprehensive plans of the  
7 county and each city located within the urban growth areas, shall be  
8 revised to accommodate the urban growth projected to occur in the  
9 county for the succeeding twenty-year period. The review required by  
10 this subsection may be combined with the review and evaluation required  
11 by RCW 36.70A.215.

12 **Sec. 316.** RCW 36.70A.160 and 1992 c 227 s 1 are each amended to  
13 read as follows:

14 Each county and city that is required or chooses to prepare a  
15 comprehensive land use plan under RCW 36.70A.040 shall identify open  
16 space corridors within and between urban growth areas. They shall  
17 include lands useful for recreation, wildlife habitat, trails, and  
18 connection of critical areas as defined in RCW 36.70A.030.  
19 Identification of a corridor under this section by a county or city  
20 shall not restrict the use or management of lands within the corridor  
21 for agricultural or forest purposes. Restrictions on the use or  
22 management of such lands for agricultural or forest purposes imposed  
23 after identification solely to maintain or enhance the value of such  
24 lands as a corridor may occur only if the county or city acquires  
25 sufficient interest to prevent development of the lands or to control  
26 the resource development of the lands. The requirement for acquisition  
27 of sufficient interest does not include those corridors regulated by  
28 the interstate commerce commission, under provisions of 16 U.S.C. Sec.  
29 1247(d), 16 U.S.C. Sec. 1248, or 43 U.S.C. Sec. 912. (~~Nothing in this~~  
30 ~~section shall be interpreted to alter the authority of the state, or a~~  
31 ~~county or city, to regulate land use activities.)) Private property  
32 shall not be taken for public use without just compensation having been  
33 made. The property rights of landowners shall be protected from  
34 arbitrary and discriminatory actions.~~

35 The city or county may acquire by donation or purchase the fee  
36 simple or lesser interests in these open space corridors using funds  
37 authorized by RCW 84.34.230 or other sources.



1       **Sec. 317.** RCW 36.70A.210 and 1998 c 171 s 4 are each amended to  
2 read as follows:

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

13       (2) The legislative authority of a county that plans under RCW  
14 36.70A.040 shall adopt a county-wide planning policy in cooperation  
15 with the cities located in whole or in part within the county as  
16 follows:

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

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

33       (c) If a county fails for any reason to convene a meeting with  
34 representatives of cities as required in (a) of this subsection, the  
35 governor may immediately impose any appropriate sanction or sanctions  
36 on the county from those specified under RCW 36.70A.340.

37       (d) If there is no agreement by October 1, 1991, in a county that  
38 was required or chose to plan under RCW 36.70A.040 as of June 1, 1991,  
39 or if there is no agreement within one hundred twenty days of the date

1 the county adopted its resolution of intention or was certified by the  
2 office of financial management in any other county that is required or  
3 chooses to plan under RCW 36.70A.040, the governor shall first inquire  
4 of the jurisdictions as to the reason or reasons for failure to reach  
5 an agreement. If the governor deems it appropriate, the governor may  
6 immediately request the assistance of the department of community,  
7 trade, and economic development to mediate any disputes that preclude  
8 agreement. If mediation is unsuccessful in resolving all disputes that  
9 will lead to agreement, the governor may impose appropriate sanctions  
10 from those specified under RCW 36.70A.340 on the county, city, or  
11 cities for failure to reach an agreement as provided in this section.  
12 The governor shall specify the reason or reasons for the imposition of  
13 any sanction.

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

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

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

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

29 (c) Policies for siting public capital facilities of a county-wide  
30 or state-wide nature, including transportation facilities of state-wide  
31 significance as defined in RCW 47.06.140;

32 (d) Policies for county-wide transportation facilities and  
33 strategies;

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

37 (f) Policies for joint county and city planning within urban growth  
38 areas;

1 (g) Policies for county-wide economic development and employment;  
2 and

3 (h) An analysis of the fiscal impact.

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

8 (5) Failure to adopt a county-wide planning policy that meets the  
9 requirements of this section may result in the imposition of a sanction  
10 or sanctions on a county or city within the county, as specified in RCW  
11 36.70A.340. In imposing a sanction or sanctions, the governor shall  
12 specify the reasons for failure to adopt a county-wide planning policy  
13 in order that any imposed sanction or sanctions are fairly and  
14 equitably related to the failure to adopt a county-wide planning  
15 policy.

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

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

25 **Sec. 318.** RCW 36.70A.370 and 1991 sp.s. c 32 s 18 are each amended  
26 to read as follows:

27 (1) The state attorney general shall establish by October 1, 1991,  
28 an orderly, consistent process, including a checklist if appropriate,  
29 that better enables state agencies and local governments to evaluate  
30 proposed regulatory or administrative actions to assure that such  
31 actions do not result in an unconstitutional taking of private  
32 property. It is not the purpose of this section to ((~~expand or~~))  
33 reduce the scope of private property protections provided in the state  
34 and federal Constitutions. The attorney general shall review and  
35 update the process at least on an annual basis to maintain consistency  
36 with changes in case law.

37 (2) Local governments that are required or choose to plan under RCW  
38 36.70A.040 and state agencies shall utilize the process established by

1 subsection (1) of this section to assure that proposed regulatory or  
2 administrative actions do not result in an unconstitutional taking of  
3 private property.

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

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

11 NEW SECTION. **Sec. 319.** It is necessary that the procedures  
12 established in this chapter ensure that all applicable permit  
13 processes, approvals, and reviews are processed concurrently, rather  
14 than consecutively. The lead environmental agency or counties and  
15 cities shall establish by rule or ordinance an expedited appeals  
16 process by which an applicant may appeal any failure by any permit  
17 agency, county, or city to take timely action on the issuance or denial  
18 of a permit or land-use approval or subdivision of land in accordance  
19 with the time limits established under this chapter. If the decision  
20 maker finds that the time limits under appeal have been violated  
21 without good cause, the decision maker shall establish a date certain  
22 by which the permit agency shall act on the permit application and  
23 provide for the full reimbursement of any filing or permit processing  
24 fees paid by the applicant to the local government or agency for the  
25 permit application under appeal.

26 **Sec. 320.** RCW 76.09.050 and 1997 c 173 s 2 are each amended to  
27 read as follows:

28 (1) The board shall establish by rule which forest practices shall  
29 be included within each of the following classes:

30 Class I: Minimal or specific forest practices that have no direct  
31 potential for damaging a public resource and that may be conducted  
32 without submitting an application or a notification except that when  
33 the regulating authority is transferred to a local governmental entity,  
34 those Class I forest practices that involve timber harvesting or road  
35 construction within "urban growth areas," designated pursuant to  
36 chapter 36.70A RCW, are processed as Class IV forest practices, but are  
37 not subject to environmental review under chapter 43.21C RCW;

1 Class II: Forest practices which have a less than ordinary  
2 potential for damaging a public resource that may be conducted without  
3 submitting an application and may begin five calendar days, or such  
4 lesser time as the department may determine, after written notification  
5 by the operator, in the manner, content, and form as prescribed by the  
6 department, is received by the department. However, the work may not  
7 begin until all forest practice fees required under RCW 76.09.065 have  
8 been received by the department. Class II shall not include forest  
9 practices:

10 (a) On lands platted after January 1, 1960, as provided in chapter  
11 58.17 RCW or on lands that have or are being converted to another use;

12 (b) Which require approvals under the provisions of the hydraulics  
13 act, RCW 75.20.100;

14 (c) Within "shorelines of the state" as defined in RCW 90.58.030;

15 (d) Excluded from Class II by the board; or

16 (e) Including timber harvesting or road construction within "urban  
17 growth areas," designated pursuant to chapter 36.70A RCW, which are  
18 Class IV;

19 Class III: Forest practices other than those contained in Class I,  
20 II, or IV. A Class III application must be approved or disapproved by  
21 the department within thirty calendar days from the date the department  
22 receives the application. However, the applicant may not begin work on  
23 that forest practice until all forest practice fees required under RCW  
24 76.09.065 have been received by the department;

25 Class IV: Forest practices other than those contained in Class I  
26 or II: (a) On lands platted after January 1, 1960, as provided in  
27 chapter 58.17 RCW, (b) on lands that have or are being converted to  
28 another use, (c) on lands which, pursuant to RCW 76.09.070 as now or  
29 hereafter amended, are not to be reforested because of the likelihood  
30 of future conversion to urban development, (d) except on those lands  
31 involving timber harvesting or road construction on lands that are  
32 contained within "urban growth areas," designated pursuant to chapter  
33 36.70A RCW, where the forest landowner provides: (i) A written  
34 statement of intent signed by the forest landowner not to convert to a  
35 use other than commercial forest product operations for ten years,  
36 accompanied by either a written forest management plan acceptable to  
37 the department or documentation that the land is enrolled under the  
38 provisions of chapter 84.33 RCW; or (ii) a conversion option harvest  
39 plan approved by the local governmental entity and submitted to the

1 department as part of the application, and/or (e) which have a  
2 potential for a substantial impact on the environment and therefore  
3 require an evaluation by the department as to whether or not a detailed  
4 statement must be prepared pursuant to the state environmental policy  
5 act, chapter 43.21C RCW. Such evaluation shall be made within ten days  
6 from the date the department receives the application: PROVIDED, That  
7 nothing herein shall be construed to prevent any local or regional  
8 governmental entity from determining that a detailed statement must be  
9 prepared for an action pursuant to a Class IV forest practice taken by  
10 that governmental entity concerning the land on which forest practices  
11 will be conducted. A Class IV application must be approved or  
12 disapproved by the department within thirty calendar days from the date  
13 the department receives the application, unless the department  
14 determines that a detailed statement must be made, in which case the  
15 application must be approved or disapproved by the department within  
16 sixty calendar days from the date the department receives the  
17 application, unless the commissioner of public lands, through the  
18 promulgation of a formal order, determines that the process cannot be  
19 completed within such period. However, the applicant may not begin  
20 work on that forest practice until all forest practice fees required  
21 under RCW 76.09.065 have been received by the department.

22 Forest practices under Classes I, II, and III are exempt from the  
23 requirements for preparation of a detailed statement under the state  
24 environmental policy act.

25 (2) Except for those forest practices being regulated by local  
26 governmental entities as provided elsewhere in this chapter, no Class  
27 II, Class III, or Class IV forest practice shall be commenced or  
28 continued after January 1, 1975, unless the department has received a  
29 notification with regard to a Class II forest practice or approved an  
30 application with regard to a Class III or Class IV forest practice  
31 containing all information required by RCW 76.09.060 as now or  
32 hereafter amended. However, in the event forest practices regulations  
33 necessary for the scheduled implementation of this chapter and RCW  
34 90.48.420 have not been adopted in time to meet such schedules, the  
35 department shall have the authority to regulate forest practices and  
36 approve applications on such terms and conditions consistent with this  
37 chapter and RCW 90.48.420 and the purposes and policies of RCW  
38 76.09.010 until applicable forest practices regulations are in effect.

1 (3) Except for those forest practices being regulated by local  
2 governmental entities as provided elsewhere in this chapter, if a  
3 notification or application is delivered in person to the department by  
4 the operator or the operator's agent, the department shall immediately  
5 provide a dated receipt thereof. In all other cases, the department  
6 shall immediately mail a dated receipt to the operator.

7 (4) Except for those forest practices being regulated by local  
8 governmental entities as provided elsewhere in this chapter, forest  
9 practices shall be conducted in accordance with the forest practices  
10 regulations, orders and directives as authorized by this chapter or the  
11 forest practices regulations, and the terms and conditions of any  
12 approved applications.

13 (5) Except for those forest practices being regulated by local  
14 governmental entities as provided elsewhere in this chapter, the  
15 department of natural resources shall notify the applicant in writing  
16 of either its approval of the application or its disapproval of the  
17 application and the specific manner in which the application fails to  
18 comply with the provisions of this section or with the forest practices  
19 regulations. Except as provided otherwise in this section, if the  
20 department fails to either approve or disapprove an application or any  
21 portion thereof within the applicable time limit, the application shall  
22 be deemed approved and the operation may be commenced: PROVIDED, That  
23 this provision shall not apply to applications which are neither  
24 approved nor disapproved pursuant to the provisions of subsection (7)  
25 of this section: PROVIDED, FURTHER, That if seasonal field conditions  
26 prevent the department from being able to properly evaluate the  
27 application, the department may issue an approval conditional upon  
28 further review within sixty days: PROVIDED, FURTHER, That the  
29 department shall have until April 1, 1975, to approve or disapprove an  
30 application involving forest practices allowed to continue to April 1,  
31 1975, under the provisions of subsection (2) of this section. Upon  
32 receipt of any notification or any satisfactorily completed application  
33 the department shall in any event no later than two business days after  
34 such receipt transmit a copy to the departments of ecology and fish and  
35 wildlife, and to the county, city, or town in whose jurisdiction the  
36 forest practice is to be commenced. Any comments by such agencies  
37 shall be directed to the department of natural resources.

38 (6) For those forest practices regulated by the board and the  
39 department, if the county, city, or town believes that an application

1 is inconsistent with this chapter, the forest practices regulations, or  
2 any local authority consistent with RCW 76.09.240 as now or hereafter  
3 amended, it may so notify the department and the applicant, specifying  
4 its objections.

5 (7) For those forest practices regulated by the board and the  
6 department, the department shall not approve portions of applications  
7 to which a county, city, or town objects if:

8 (a) The department receives written notice from the county, city,  
9 or town of such objections within fourteen business days from the time  
10 of transmittal of the application to the county, city, or town, or one  
11 day before the department acts on the application, whichever is later;  
12 and

13 (b) The objections relate to lands either:

14 (i) Platted after January 1, 1960, as provided in chapter 58.17  
15 RCW; or

16 (ii) On lands that have or are being converted to another use.

17 The department shall either disapprove those portions of such  
18 application or appeal the county, city, or town objections to the  
19 appeals board. If the objections related to subparagraphs (b)(i) and  
20 (ii) of this subsection are based on local authority consistent with  
21 RCW 76.09.240 as now or hereafter amended, the department shall  
22 disapprove the application until such time as the county, city, or town  
23 consents to its approval or such disapproval is reversed on appeal.  
24 The applicant shall be a party to all department appeals of county,  
25 city, or town objections. Unless the county, city, or town either  
26 consents or has waived its rights under this subsection, the department  
27 shall not approve portions of an application affecting such lands until  
28 the minimum time for county, city, or town objections has expired.

29 (8) For those forest practices regulated by the board and the  
30 department, in addition to any rights under the above paragraph, the  
31 county, city, or town may appeal any department approval of an  
32 application with respect to any lands within its jurisdiction. The  
33 appeals board may suspend the department's approval in whole or in part  
34 pending such appeal where there exists potential for immediate and  
35 material damage to a public resource.

36 (9) For those forest practices regulated by the board and the  
37 department, appeals under this section shall be made to the appeals  
38 board in the manner and time provided in RCW 76.09.220(8). In such



1 appeals there shall be no presumption of correctness of either the  
2 county, city, or town or the department position.

3 (10) For those forest practices regulated by the board and the  
4 department, the department shall, within four business days notify the  
5 county, city, or town of all notifications, approvals, and disapprovals  
6 of an application affecting lands within the county, city, or town,  
7 except to the extent the county, city, or town has waived its right to  
8 such notice.

9 (11) For those forest practices regulated by the board and the  
10 department, a county, city, or town may waive in whole or in part its  
11 rights under this section, and may withdraw or modify any such waiver,  
12 at any time by written notice to the department.

13 (12) This section does not apply to land development proceeding  
14 under Title 36 RCW.

15 (13) For the purposes of this section, "land development" means the  
16 division or platting of land in preparation for development or the  
17 actual building, constructing, or erecting of residences or commercial  
18 buildings.

19 **Sec. 321.** RCW 36.70B.010 and 1995 c 347 s 401 are each amended to  
20 read as follows:

21 The legislature finds and declares the following:

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

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

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

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

1       **Sec. 322.** RCW 36.70B.020 and 1995 c 347 s 402 are each amended to  
2 read as follows:

3       Unless the context clearly requires otherwise, the definitions in  
4 this section apply throughout this chapter.

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

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

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

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

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

1 public meeting may be recorded and a report (~~(or recommendation)~~) may  
2 be included in the local government's project permit application file.

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

6 **Sec. 323.** RCW 36.70B.040 and 1997 c 429 s 46 are each amended to  
7 read as follows:

8 (1) A proposed project's consistency with a local government's  
9 development regulations adopted under chapter 36.70A RCW, or, in the  
10 absence of applicable development regulations, the appropriate elements  
11 of the comprehensive plan adopted under chapter 36.70A RCW shall be  
12 decided by the local government during project review by consideration  
13 of:

14 (a) The type of land use;

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

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

19 ~~(d) The characteristics of the development, such as development~~  
20 ~~standards.~~

21 ~~(2) In deciding whether a project is consistent, the determinations~~  
22 ~~made pursuant to RCW 36.70B.030(2) shall be controlling).~~

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

28 ~~(4) Nothing in this section requires documentation, dictates an~~  
29 ~~agency's procedures for considering consistency, or limits a city or~~  
30 ~~county from asking more specific or related questions with respect to~~  
31 ~~any of the four main categories listed in subsection (1)(a) through (d)~~  
32 ~~of this section).~~

33 ~~((5))~~ (3) The department of community, trade, and economic  
34 development is authorized to develop and adopt by rule criteria to  
35 assist local governments planning under RCW 36.70A.040 to analyze the  
36 consistency of project actions. These criteria shall be jointly  
37 developed with the department of ecology.

1       **Sec. 324.** RCW 36.70B.060 and 1995 c 347 s 407 are each amended to  
2 read as follows:

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

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

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

12       (3) Except as provided in RCW 36.70B.140, an optional consolidated  
13 project permit review process as provided in RCW 36.70B.120. The  
14 review process shall provide for no more than one consolidated open  
15 record hearing and one closed record appeal~~((.—If an open record  
16 predecision hearing is provided prior to the decision on a project  
17 permit, the process shall not allow a subsequent open record appeal  
18 hearing));~~

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

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

34       (6) ~~Except for the appeal of a determination of significance as  
35 provided in RCW 43.21C.075, if a local government elects to provide an  
36 appeal of its threshold determinations or project permit decisions, the  
37 local government shall provide for no more than one consolidated open  
38 record hearing on such appeal.—The local government need not provide  
39 for any further appeal and may provide an appeal for some but not all~~

1 ~~project permit decisions. If an appeal is provided after the open~~  
2 ~~record hearing, it shall be a closed record appeal before a single~~  
3 ~~decision-making body or officer;~~

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

6 ~~((8))~~ (6) Completion of project review by the local government,  
7 including environmental review and public review and any appeals to the  
8 local government, within any applicable time periods under RCW  
9 36.70B.090; and

10 ~~((9))~~ (7) Any other provisions not inconsistent with the  
11 requirements of this chapter or chapter 43.21C RCW.

12 **Sec. 325.** RCW 36.70B.070 and 1995 c 347 s 408 are each amended to  
13 read as follows:

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

18 (a) That the application is complete; or

19 (b) That the application is incomplete and what is necessary to  
20 make the application complete.

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

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

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

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

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

1       ~~(c) Other information the local government chooses to include.~~  
2       ~~(4))~~ Additional requested information shall be of a clarifying  
3 nature and based on requirements of the underlying development  
4 regulations.

5       (3)(a) An application shall be deemed complete (~~under this~~  
6 ~~section~~) if the local government does not provide a written  
7 determination to the applicant that the application is incomplete as  
8 provided in subsection (1)(b) of this section.

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

16       **Sec. 326.** RCW 36.70B.090 and 1995 c 347 s 413 are each amended to  
17 read as follows:

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

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

35       (ii) If the local government determines that the information  
36 submitted by the applicant under (a)(i) of this subsection (~~is~~  
37 ~~insufficient~~) does not meet requirements of the underlying development  
38 regulations, it shall notify the applicant of the deficiencies and the

1 procedures under (a)(i) of this subsection shall apply (~~as if a new~~  
2 ~~request for studies had been made~~); and

3 (b) Any period during which an environmental impact statement is  
4 being prepared following a determination of significance pursuant to  
5 chapter 43.21C RCW, if the local government by ordinance or resolution  
6 has established time periods for completion of environmental impact  
7 statements, or if the local government and the applicant in writing  
8 agree to a time period for completion of an environmental impact  
9 statement(~~;~~

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

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

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

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

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

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

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

35 ~~((4))~~ (2) This section shall apply to project permit applications  
36 filed on or after April 1, 1996.

37 **Sec. 327.** RCW 36.70B.110 and 1997 c 429 s 48 and 1997 c 396 s 1  
38 are each reenacted and amended to read as follows:

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

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

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

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

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

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

32 (e) A statement of the public comment period, which shall be not  
33 less than fourteen nor more than thirty days following the date of  
34 notice of application, and statements of the right of any person to  
35 comment on the application, receive notice of and participate in any  
36 hearings, request a copy of the decision once made, and any appeal  
37 rights. A local government may accept public comments at any time  
38 prior to the closing of the record of an open record predecision



1 hearing, if any, or, if no open record predecision hearing is provided,  
2 prior to the decision on the project permit;

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

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

9 ~~(h) Any other information determined appropriate by the local~~  
10 ~~government.~~

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

14 ~~(4))~~ required in chapter 43.21C RCW.

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

24 ~~(a) Posting the property for site specific proposals;~~

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

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

33 ~~(d) Notifying the news media;~~

34 ~~(e) Placing notices in appropriate regional or neighborhood~~  
35 ~~newspapers or trade journals;~~

36 ~~(f) Publishing notice in agency newsletters or sending notice to~~  
37 ~~agency mailing lists, either general lists or lists for specific~~  
38 ~~proposals or subject areas; and~~

39 ~~(g) Mailing to neighboring property owners.~~

1       ~~(5))~~ (4) A notice of application shall not be required for project  
2 permits that are categorically exempt under chapter 43.21C RCW(~~(7~~  
3 ~~unless a public comment period or an open record predecision hearing is~~  
4 ~~required)~~).

5       ~~((6))~~ (5) A local government shall integrate the permit  
6 procedures in this section with its environmental review under chapter  
7 43.21C RCW as follows:

8       (a) Except for a threshold determination, the local government may  
9 not issue a decision or a recommendation on a project permit until the  
10 expiration of the public comment period on the notice of application.

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

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

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

31       ~~((8))~~ (7) All state and local agencies shall cooperate to the  
32 fullest extent possible with the local government in holding a joint  
33 hearing if requested to do so, as long as:

34       (a) The agency is not expressly prohibited by statute from doing  
35 so;

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

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

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

13 (~~(10)~~) (9) The applicant for a project permit is deemed to be a  
14 participant in any comment period, open record hearing, or closed  
15 record appeal.

16 (~~(11)~~) (10) Each local government planning under RCW 36.70A.040  
17 shall adopt procedures for administrative interpretation of its  
18 development regulations.

19 **Sec. 328.** RCW 36.70B.120 and 1995 c 347 s 416 are each amended to  
20 read as follows:

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

31 (2) Consolidated permit review may provide different procedures for  
32 different categories of project permits, but if a project action  
33 requires project permits from more than one category, the local  
34 government shall provide for consolidated permit review with a single  
35 open record hearing and no more than one closed record appeal as  
36 provided in RCW 36.70B.060. Each local government shall determine  
37 which project permits are subject to an open record hearing and a

1 closed record appeal. Examples of categories of project permits  
2 include but are not limited to:

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

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

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

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

23 **Sec. 329.** RCW 36.70B.130 and 1996 c 254 s 1 are each amended to  
24 read as follows:

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

1       **Sec. 330.** RCW 36.70B.140 and 1995 c 347 s 418 are each amended to  
2 read as follows:

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

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

19       **Sec. 331.** RCW 36.70B.160 and 1995 c 347 s 420 are each amended to  
20 read as follows:

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

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

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

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

1 NEW SECTION. Sec. 332. The following acts or parts of acts are  
2 each repealed:

3 (1) RCW 36.70B.030 (Project review--Required elements--Limitations)  
4 and 1995 c 347 s 404;

5 (2) RCW 36.70B.080 (Development regulations--Requirements) and 1995  
6 c 347 s 10, 1995 c 347 s 409, & 1994 c 257 s 3; and

7 (3) 1995 c 347 s 411 (uncodified).

8 NEW SECTION. Sec. 333. Sections 304 through 309, 314, and 319 of  
9 this act are each added to chapter 36.70A RCW.

10 NEW SECTION. Sec. 334. This act is remedial in nature and applies  
11 retroactively to July 1, 1990, and thereafter.

12 NEW SECTION. Sec. 335. Section 326 of this act expires June 30,  
13 2000.

14 **PART IV**  
15 **BUILDABLE LAND**

16 **Sec. 401.** RCW 36.70A.215 and 1997 c 429 s 25 are each amended to  
17 read as follows:

18 (1) Subject to the limitations in subsection (~~((7))~~) (11) of this  
19 section, a county shall adopt, in consultation with its cities, county-  
20 wide planning policies to establish a review and evaluation program.  
21 This program shall be in addition to the requirements of RCW  
22 36.70A.110, 36.70A.130, and 36.70A.210. In developing and implementing  
23 the review and evaluation program required by this section, the county  
24 and its cities shall consider information from other appropriate  
25 jurisdictions and sources. The purpose of the review and evaluation  
26 program shall be to:

27 (a) Determine whether a county and its cities are achieving urban  
28 densities within urban growth areas by comparing growth and development  
29 assumptions, targets, and objectives contained in the county-wide  
30 planning policies and the county and city comprehensive plans with  
31 actual growth and development that has occurred in the county and its  
32 cities; and

1 (b) Identify reasonable measures(~~((, other than adjusting urban~~  
2 ~~growth areas,))~~) that will be taken to comply with the requirements of  
3 this chapter.

4 (2) The review and evaluation program shall:

5 (a) Encompass land uses and activities both within and outside of  
6 urban growth areas and provide for annual collection of data on urban  
7 and rural land uses, development including the issuance of building  
8 permits and certificates of occupancy, critical areas, and capital  
9 facilities to the extent necessary to determine the quantity and type  
10 of land suitable for development, both for residential and employment-  
11 based activities;

12 (b) Provide for evaluation of the data collected under (a) of this  
13 subsection every (~~(five))~~ two years as provided in subsection (3) of  
14 this section. The first evaluation shall be completed not later than  
15 September 1, 2002. The county and its cities may establish in the  
16 county-wide planning policies indicators, benchmarks, and other similar  
17 criteria to use in conducting the evaluation;

18 (c) Provide for methods to resolve disputes among jurisdictions  
19 relating to the county-wide planning policies required by this section  
20 and procedures to resolve inconsistencies in collection and analysis of  
21 data; and

22 (d) Provide for the amendment of the county-wide policies and  
23 county and city comprehensive plans as needed to remedy an  
24 inconsistency identified through the evaluation required by this  
25 section, or to bring these policies into compliance with the  
26 requirements of this chapter.

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

29 (a) Determine whether there is sufficient land suitable (~~(land))~~  
30 for development to accommodate the county-wide population projection  
31 established for the county pursuant to RCW 43.62.035 and the subsequent  
32 population allocations within the county and between the county and its  
33 cities and the requirements of RCW 36.70A.110;

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

1 (c) Based on the actual density of development as determined under  
2 (b) of this subsection, review commercial, industrial, and housing  
3 needs by type and density range to determine the amount of land needed  
4 for commercial, industrial, and housing for the remaining portion of  
5 the twenty-year planning period used in the most recently adopted  
6 comprehensive plan.

7 (4) If the evaluation required by subsection (3) of this section  
8 demonstrates (~~(an inconsistency between what has occurred since the~~  
9 ~~adoption of the county-wide planning policies and the county and city~~  
10 ~~comprehensive plans and development regulations and what was envisioned~~  
11 ~~in those policies and plans and the planning goals and the requirements~~  
12 ~~of this chapter, as the inconsistency relates to)) the urban growth  
13 area does not contain sufficient land suitable for development to  
14 accommodate residential, commercial, and industrial needs for twenty  
15 years based on the evaluation factors specified in subsection (3) of  
16 this section, the county ((and its cities shall adopt and implement  
17 measures that are reasonably likely to increase consistency during the  
18 subsequent five-year period. If necessary, a county, in consultation  
19 with its cities as required by RCW 36.70A.210, shall adopt amendments  
20 to county-wide planning policies to increase consistency. The county  
21 and its cities shall annually monitor the measures adopted under this  
22 subsection to determine their effect and may revise or rescind them as  
23 appropriate)) shall take one or more of the following actions:~~

24 (a) Amend its comprehensive plan or development regulations to  
25 include new, incentive-based measures that demonstrably increase the  
26 likelihood that development will occur at densities sufficient to  
27 accommodate residential, commercial, and industrial needs for twenty  
28 years without expansion of the urban growth area;

29 (b) Amend its urban growth area to include sufficient land suitable  
30 for development to achieve consistency with county-wide planning  
31 policies under RCW 36.70A.210(3)(a) and to accommodate residential,  
32 commercial, and industrial needs for twenty years at the actual  
33 developed density during the period since the last periodic review or  
34 within the last five years, whichever is greater. As part of this  
35 process, the amendment must include sufficient land reasonably  
36 necessary to accommodate the siting of public facilities or other urban  
37 infrastructure that is or will be needed by new development within the  
38 expanded urban growth area; or

39 (c) Any combination of actions in (a) or (b) of this subsection.



1       (5) A county that amends its comprehensive plan or development  
2 regulations to include new, incentive-based measures shall annually  
3 monitor and record the level of development activity and development  
4 density following the date of the adoption of the new measures and may  
5 revise or rescind the measures as appropriate. If, after five years of  
6 initial implementation of incentive-based measures and annual  
7 monitoring, development is not occurring at densities sufficient to  
8 accommodate residential, commercial, and industrial needs for twenty  
9 years, the county shall amend its urban growth area as provided in  
10 subsection (4)(b) of this section.

11       (6) If the evaluation required in subsection (3) of this section  
12 demonstrates the urban growth area does not contain sufficient land  
13 suitable for development to accommodate residential, commercial, and  
14 industrial needs for twenty years based on the evaluation factors  
15 specified in subsection (3) of this section, the city or cities within  
16 the urban growth area shall amend their comprehensive plans or  
17 development regulations to include new, incentive-based measures that  
18 demonstrably increase the likelihood that development will occur at  
19 densities sufficient to accommodate residential, commercial, and  
20 industrial needs for twenty years without expansion of the urban growth  
21 area. A city that takes this action shall annually monitor and record  
22 the level of development activity and development density following the  
23 date of the adoption of the new measures and may revise or rescind the  
24 measures as appropriate.

25       (7) Amendments by the county and its cities to comprehensive plans  
26 or development regulations must comply with this chapter.

27       (8) In establishing that actions and measures adopted under  
28 subsections (4) and (5) of this section demonstrably increase the  
29 likelihood of higher density residential, commercial, and industrial  
30 development, the county, city, or town shall at a minimum ensure that  
31 land zoned for needed housing and commercial and industrial structures  
32 is in locations appropriate for such development and is zoned at  
33 density ranges that are likely to be achieved by the market using the  
34 analysis in subsection (3) of this section. Actions or incentive-based  
35 measures, or both, are adopted as part of development regulations and  
36 are available to all applicable properties within the zone, are not  
37 negotiated on a case-by-case basis, and may include, but are not  
38 limited to:

1        (a) Financial incentives for higher density housing, including, but  
2 not limited to removal of fees associated with development;  
3        (b) Removal or easing of approval standards or procedures;  
4        (c) Redevelopment and infill strategies; and  
5        (d) Authorization of housing types not previously allowed by the  
6 comprehensive plan or development regulations.

7        ~~((+5))~~ (9)(a) Not later than July 1, 1998, the department shall  
8 prepare a list of methods used by counties and cities in carrying out  
9 the types of activities required by this section. The department shall  
10 provide this information and appropriate technical assistance to  
11 counties and cities required to or choosing to comply with the  
12 provisions of this section.

13        (b) By December 31, ~~((2007))~~ 2002, the department shall submit to  
14 the appropriate committees of the legislature a report analyzing the  
15 effectiveness of the activities described and measures taken by the  
16 counties and cities in this section in achieving the goals envisioned  
17 by the county-wide planning policies and the comprehensive plans and  
18 development regulations of the counties and cities.

19        ~~((+6))~~ (10) From funds appropriated by the legislature for this  
20 purpose, the department shall provide grants to counties, cities, and  
21 regional planning organizations required under subsection ~~((+7))~~ (11)  
22 of this section to conduct the review and perform the evaluation  
23 required by this section.

24        ~~((+7))~~ (11) The provisions of this section shall apply to  
25 counties, and the cities within those counties, that were greater than  
26 one hundred fifty thousand in population in 1995 as determined by  
27 office of financial management population estimates and that are  
28 located west of the crest of the Cascade mountain range. Any other  
29 county planning under RCW 36.70A.040 may carry out the review,  
30 evaluation, and amendment programs and procedures as provided in this  
31 section.

32        (12) For the purposes of this section, "land suitable for  
33 development" means the land:

34        (a) Is not within any critical area or governed by any development  
35 regulation designed to protect critical areas adopted under RCW  
36 36.70A.060 that makes the land unbuildable to existing zoning;

37        (b) Is not otherwise constrained by governmental regulations or  
38 physical geography to the extent that it is unbuildable to existing  
39 zoning;

1 (c) Is serviced by all public facilities necessary for development  
2 or will be serviced by needed facilities within twenty years as  
3 provided in the capital facilities element of the county or city's  
4 comprehensive plan adopted under RCW 36.70A.070;

5 (d) May be developed without causing the level of service on a  
6 transportation facility to decline below the standards adopted in the  
7 transportation element of the comprehensive plan; and

8 (e) Is available for development, including both vacant, partially  
9 used, and redevelopable land. Redevelopable land is land on which  
10 development has already occurred but on which, due to present or  
11 expected market forces, there exists the strong likelihood that  
12 existing development will be converted to more intensive uses during  
13 the planning period. However, land that is developed with a building  
14 currently occupied and determined habitable by the local jurisdiction  
15 with an assessed value greater than the assessed value of the land on  
16 which the building is located may not be considered redevelopable land.

17 **PART V**  
18 **IMPACT FEES**

19 **Sec. 501.** RCW 82.02.060 and 1990 1st ex.s. c 17 s 44 are each  
20 amended to read as follows:

21 The local ordinance by which impact fees are imposed:

22 (1) Shall include a schedule of impact fees which shall be adopted  
23 for each type of development activity that is subject to impact fees,  
24 specifying the amount of the impact fee to be imposed for each type of  
25 system improvement. The schedule shall be based upon a formula or  
26 other method of calculating such impact fees. In determining  
27 proportionate share, the formula or other method of calculating impact  
28 fees shall incorporate, among other things, the following:

29 (a) The cost of public facilities necessitated by new development;

30 (b) An adjustment to the cost of the public facilities for past or  
31 future payments made or reasonably anticipated to be made by new  
32 development to pay for particular system improvements in the form of  
33 user fees, debt service payments, taxes, or other payments earmarked  
34 for or proratable to the particular system improvement;

35 (c) The availability of other means of funding public facility  
36 improvements;

37 (d) The cost of existing public facilities improvements; and

1 (e) The methods by which public facilities improvements were  
2 financed;

3 (2) May provide an exemption for low-income housing, and other  
4 development activities with broad public purposes, from these impact  
5 fees, provided that the impact fees for such development activity shall  
6 be paid from public funds other than impact fee accounts;

7 (3) Shall provide a credit for the value of any dedication of land  
8 for, improvement to, or new construction of any system improvements  
9 provided by the developer, to facilities that are identified in the  
10 capital facilities plan and that are required by the county, city, or  
11 town as a condition of approving the development activity;

12 (4) Shall provide that impact fees for residential construction be  
13 collected at the time of certificate of occupancy or final inspection  
14 or twelve months after the building permit is issued;

15 (5) Shall allow the county, city, or town imposing the impact fees  
16 to adjust the standard impact fee at the time the fee is imposed to  
17 consider unusual circumstances in specific cases to ensure that impact  
18 fees are imposed fairly;

19 ((+5)) (6) Shall include a provision for calculating the amount of  
20 the fee to be imposed on a particular development that permits  
21 consideration of studies and data submitted by the developer to adjust  
22 the amount of the fee;

23 ((+6)) (7) Shall establish one or more reasonable service areas  
24 within which it shall calculate and impose impact fees for various land  
25 use categories per unit of development;

26 ((+7)) (8) May provide for the imposition of an impact fee for  
27 system improvement costs previously incurred by a county, city, or town  
28 to the extent that new growth and development will be served by the  
29 previously constructed improvements provided such fee shall not be  
30 imposed to make up for any system improvement deficiencies.

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