
SUBSTITUTE HOUSE BILL 2806

State of Washington

56th Legislature

2000 Regular Session

By House Committee on Local Government (originally sponsored by Representatives G. Chandler, Doumit, Mulliken, Buck, Grant, Mastin, Hatfield and Parlette)

Read first time 02/03/2000. Referred to Committee on .

1 AN ACT Relating to the integration of shoreline master programs
2 into growth management planning; amending RCW 90.58.030, 90.58.050,
3 90.58.060, 90.58.080, 90.58.090, 90.58.100, 90.58.190, 36.70A.030,
4 36.70A.060, 36.70A.106, 36.70A.130, 36.70A.170, 36.70A.290, and
5 36.70A.480; adding a new section to chapter 36.70A RCW; and creating a
6 new section.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that since the
9 shoreline management act was first adopted, a number of other land use
10 protections have been enacted by the legislature, including the
11 requirement under the growth management act for all counties and cities
12 to adopt ordinances that designate and protect critical areas. Under
13 the growth management act, the department of community, trade, and
14 economic development develops recommendations to local governments for
15 meeting different requirements under the act, but local governments may
16 choose to make different decisions than those developed by the
17 department and still remain in compliance with the act. The
18 legislature finds that under the growth management act, counties and
19 cities have developed the capacity to make decisions which protect the

1 environment while encouraging economic development and accommodating
2 growth, and that this decision-making framework can also be utilized to
3 make decisions regarding shorelines.

4 In addition to growth management activities, many of the cities and
5 counties in the state are also engaged in watershed planning and salmon
6 recovery efforts. The legislature recognizes that watershed planning
7 and salmon recovery have direct links to shoreline development and
8 protection. The specific information developed through these watershed
9 planning processes and salmon recovery efforts may constitute the best
10 available science necessary for local elected officials to make
11 informed decisions regarding shorelines that take into account local
12 variations in the land and hydrology. The legislature believes that by
13 allowing some greater flexibility to local governments regarding
14 shoreline protection, shoreline protection can be maintained and
15 coordination increased between growth management and other planning
16 efforts.

17 It is the intent of the legislature to provide for more local
18 government flexibility in protecting shorelines, while upholding the
19 public trust doctrine as it applies to shorelines of the state.
20 Nothing in this act is intended to change the authority of the
21 department of ecology to adopt guidelines pertaining to shorelines of
22 state-wide significance which are mandatory for local governments.
23 Nothing in this act is intended to change the current process
24 established for obtaining permits under the shoreline management act.

25 The legislature also finds that it is unnecessary for local
26 governments to fully review all elements of their comprehensive plans
27 and development regulations every five years, and that any updates to
28 shoreline guidelines should be coordinated with growth management act
29 updates. The legislature further finds that it is more practical for
30 state agencies to stagger the review of growth management plans and
31 shoreline plan updates so that all of these plans are not subject to
32 review at the same time. It is the intent of the legislature to have
33 a schedule developed that allows for these periodic reviews to be
34 staggered, and that schedules the larger counties with the more
35 sophisticated resources for review before the smaller counties with
36 less resources.

37 **Sec. 2.** RCW 90.58.030 and 1996 c 265 s 1 are each amended to read
38 as follows:

1 As used in this chapter, unless the context otherwise requires, the
2 following definitions and concepts apply:

3 (1) Administration:

4 (a) "Department" means the department of ecology;

5 (b) "Director" means the director of the department of ecology;

6 (c) "Local government" means any county, incorporated city, or town
7 which contains within its boundaries any lands or waters subject to
8 this chapter;

9 (d) "Person" means an individual, partnership, corporation,
10 association, organization, cooperative, public or municipal
11 corporation, or agency of the state or local governmental unit however
12 designated;

13 (e) "Hearing board" means the shoreline hearings board established
14 by this chapter.

15 (2) Geographical:

16 (a) "Extreme low tide" means the lowest line on the land reached by
17 a receding tide;

18 (b) "Ordinary high water mark" on all lakes, streams, and tidal
19 water is that mark that will be found by examining the bed and banks
20 and ascertaining where the presence and action of waters are so common
21 and usual, and so long continued in all ordinary years, as to mark upon
22 the soil a character distinct from that of the abutting upland, in
23 respect to vegetation as that condition exists on June 1, 1971, as it
24 may naturally change thereafter, or as it may change thereafter in
25 accordance with permits issued by a local government or the department:
26 PROVIDED, That in any area where the ordinary high water mark cannot be
27 found, the ordinary high water mark adjoining salt water shall be the
28 line of mean higher high tide and the ordinary high water mark
29 adjoining fresh water shall be the line of mean high water;

30 (c) "Shorelines of the state" are the total of all "shorelines" and
31 "shorelines of state-wide significance" within the state;

32 (d) "Shorelines" means all of the water areas of the state,
33 including reservoirs, and their associated shorelands, together with
34 the lands underlying them; except (i) shorelines of state-wide
35 significance; (ii) shorelines on segments of streams upstream of a
36 point where the mean annual flow is twenty cubic feet per second or
37 less and the wetlands associated with such upstream segments; and (iii)
38 shorelines on lakes less than twenty acres in size and wetlands
39 associated with such small lakes;

1 (e) "Shorelines of state-wide significance" means the following
2 shorelines of the state:

3 (i) The area between the ordinary high water mark and the western
4 boundary of the state from Cape Disappointment on the south to Cape
5 Flattery on the north, including harbors, bays, estuaries, and inlets;

6 (ii) Those areas of Puget Sound and adjacent salt waters and the
7 Strait of Juan de Fuca between the ordinary high water mark and the
8 line of extreme low tide as follows:

9 (A) Nisqually Delta--from DeWolf Bight to Tatsolo Point,

10 (B) Birch Bay--from Point Whitehorn to Birch Point,

11 (C) Hood Canal--from Tala Point to Foulweather Bluff,

12 (D) Skagit Bay and adjacent area--from Brown Point to Yokeko Point,
13 and

14 (E) Padilla Bay--from March Point to William Point;

15 (iii) Those areas of Puget Sound and the Strait of Juan de Fuca and
16 adjacent salt waters north to the Canadian line and lying seaward from
17 the line of extreme low tide;

18 (iv) Those lakes, whether natural, artificial, or a combination
19 thereof, with a surface acreage of one thousand acres or more measured
20 at the ordinary high water mark;

21 (v) Those natural rivers or segments thereof as follows:

22 (A) Any west of the crest of the Cascade range downstream of a
23 point where the mean annual flow is measured at one thousand cubic feet
24 per second or more,

25 (B) Any east of the crest of the Cascade range downstream of a
26 point where the annual flow is measured at two hundred cubic feet per
27 second or more, or those portions of rivers east of the crest of the
28 Cascade range downstream from the first three hundred square miles of
29 drainage area, whichever is longer;

30 (vi) Those shorelands associated with (i), (ii), (iv), and (v) of
31 this subsection (2)(e);

32 (f) "Shorelands" or "shoreland areas" means those lands extending
33 landward for two hundred feet in all directions as measured on a
34 horizontal plane from the ordinary high water mark; floodways and
35 contiguous floodplain areas landward two hundred feet from such
36 floodways; and all wetlands and river deltas associated with the
37 streams, lakes, and tidal waters which are subject to the provisions of
38 this chapter; the same to be designated as to location by the
39 department of ecology. Any county or city may determine that portion

1 of a one-hundred-year-flood plain to be included in its master program
2 as long as such portion includes, as a minimum, the floodway and the
3 adjacent land extending landward two hundred feet therefrom;

4 (g) "Floodway" means those portions of the area of a river valley
5 lying streamward from the outer limits of a watercourse upon which
6 flood waters are carried during periods of flooding that occur with
7 reasonable regularity, although not necessarily annually, said floodway
8 being identified, under normal condition, by changes in surface soil
9 conditions or changes in types or quality of vegetative ground cover
10 condition. The floodway shall not include those lands that can
11 reasonably be expected to be protected from flood waters by flood
12 control devices maintained by or maintained under license from the
13 federal government, the state, or a political subdivision of the state;

14 (h) "Wetlands" means areas that are inundated or saturated by
15 surface water or ground water at a frequency and duration sufficient to
16 support, and that under normal circumstances do support, a prevalence
17 of vegetation typically adapted for life in saturated soil conditions.
18 Wetlands generally include swamps, marshes, bogs, and similar areas.
19 Wetlands do not include those artificial wetlands intentionally created
20 from nonwetland sites, including, but not limited to, irrigation and
21 drainage ditches, grass-lined swales, canals, detention facilities,
22 wastewater treatment facilities, farm ponds, and landscape amenities,
23 or those wetlands created after July 1, 1990, that were unintentionally
24 created as a result of the construction of a road, street, or highway.
25 Wetlands may include those artificial wetlands intentionally created
26 from nonwetland areas to mitigate the conversion of wetlands.

27 (3) Procedural terms:

28 (a) "Guidelines" means those standards (~~adopted~~) developed to
29 (~~implement~~) assist in the implementation of the policy of this
30 chapter for regulation of use of the shorelines of the state prior to
31 adoption of master programs. Such standards shall also provide
32 criteria to local governments and the department in developing master
33 programs. The standards pertaining to shorelines of state-wide
34 significance shall be considered mandatory for local governments,
35 except to the extent that variations are authorized by the department
36 in accordance with this chapter. The standards pertaining to
37 shorelines shall be considered as recommendations for local governments
38 to incorporate into their master programs as specified in RCW
39 90.58.080;

1 (b) "Master program" shall mean the comprehensive use plan for a
2 described area, and the use regulations together with maps, diagrams,
3 charts, or other descriptive material and text, a statement of desired
4 goals, and standards developed in accordance with the policies
5 enunciated in RCW 90.58.020. A master program includes the critical
6 area ordinances adopted by local governments pertaining to shorelines,
7 and the provisions adopted or approved by the department pertaining to
8 shorelines of state-wide significance;

9 (c) "State master program" is the cumulative total of all master
10 programs approved or adopted by the department of ecology, together
11 with the master programs or portions of master programs adopted by
12 local governments pertaining to shorelines;

13 (d) "Development" means a use consisting of the construction or
14 exterior alteration of structures; dredging; drilling; dumping;
15 filling; removal of any sand, gravel, or minerals; bulkheading; driving
16 of piling; placing of obstructions; or any project of a permanent or
17 temporary nature which interferes with the normal public use of the
18 surface of the waters overlying lands subject to this chapter at any
19 state of water level;

20 (e) "Substantial development" shall mean any development of which
21 the total cost or fair market value exceeds two thousand five hundred
22 dollars, or any development which materially interferes with the normal
23 public use of the water or shorelines of the state; except that the
24 following shall not be considered substantial developments for the
25 purpose of this chapter:

26 (i) Normal maintenance or repair of existing structures or
27 developments, including damage by accident, fire, or elements;

28 (ii) Construction of the normal protective bulkhead common to
29 single family residences;

30 (iii) Emergency construction necessary to protect property from
31 damage by the elements;

32 (iv) Construction and practices normal or necessary for farming,
33 irrigation, and ranching activities, including agricultural service
34 roads and utilities on shorelands, and the construction and maintenance
35 of irrigation structures including but not limited to head gates,
36 pumping facilities, and irrigation channels. A feedlot of any size,
37 all processing plants, other activities of a commercial nature,
38 alteration of the contour of the shorelands by leveling or filling
39 other than that which results from normal cultivation, shall not be

1 considered normal or necessary farming or ranching activities. A
2 feedlot shall be an enclosure or facility used or capable of being used
3 for feeding livestock hay, grain, silage, or other livestock feed, but
4 shall not include land for growing crops or vegetation for livestock
5 feeding and/or grazing, nor shall it include normal livestock wintering
6 operations;

7 (v) Construction or modification of navigational aids such as
8 channel markers and anchor buoys;

9 (vi) Construction on shorelands by an owner, lessee, or contract
10 purchaser of a single family residence for his own use or for the use
11 of his family, which residence does not exceed a height of thirty-five
12 feet above average grade level and which meets all requirements of the
13 state agency or local government having jurisdiction thereof, other
14 than requirements imposed pursuant to this chapter;

15 (vii) Construction of a dock, including a community dock, designed
16 for pleasure craft only, for the private noncommercial use of the
17 owner, lessee, or contract purchaser of single and multiple family
18 residences. This exception applies if either: (A) In salt waters, the
19 fair market value of the dock does not exceed two thousand five hundred
20 dollars; or (B) in fresh waters, the fair market value of the dock does
21 not exceed ten thousand dollars, but if subsequent construction having
22 a fair market value exceeding two thousand five hundred dollars occurs
23 within five years of completion of the prior construction, the
24 subsequent construction shall be considered a substantial development
25 for the purpose of this chapter;

26 (viii) Operation, maintenance, or construction of canals,
27 waterways, drains, reservoirs, or other facilities that now exist or
28 are hereafter created or developed as a part of an irrigation system
29 for the primary purpose of making use of system waters, including
30 return flow and artificially stored ground water for the irrigation of
31 lands;

32 (ix) The marking of property lines or corners on state owned lands,
33 when such marking does not significantly interfere with normal public
34 use of the surface of the water;

35 (x) Operation and maintenance of any system of dikes, ditches,
36 drains, or other facilities existing on September 8, 1975, which were
37 created, developed, or utilized primarily as a part of an agricultural
38 drainage or diking system;

1 (xi) Site exploration and investigation activities that are
2 prerequisite to preparation of an application for development
3 authorization under this chapter, if:

4 (A) The activity does not interfere with the normal public use of
5 the surface waters;

6 (B) The activity will have no significant adverse impact on the
7 environment including, but not limited to, fish, wildlife, fish or
8 wildlife habitat, water quality, and aesthetic values;

9 (C) The activity does not involve the installation of a structure,
10 and upon completion of the activity the vegetation and land
11 configuration of the site are restored to conditions existing before
12 the activity;

13 (D) A private entity seeking development authorization under this
14 section first posts a performance bond or provides other evidence of
15 financial responsibility to the local jurisdiction to ensure that the
16 site is restored to preexisting conditions; and

17 (E) The activity is not subject to the permit requirements of RCW
18 90.58.550;

19 (xii) The process of removing or controlling an aquatic noxious
20 weed, as defined in RCW 17.26.020, through the use of an herbicide or
21 other treatment methods applicable to weed control that are recommended
22 by a final environmental impact statement published by the department
23 of agriculture or the department jointly with other state agencies
24 under chapter 43.21C RCW.

25 **Sec. 3.** RCW 90.58.050 and 1995 c 347 s 303 are each amended to
26 read as follows:

27 This chapter establishes a cooperative program of shoreline
28 management between local government and the state. Local government
29 shall have the primary responsibility for initiating the planning
30 required by this chapter and administering the regulatory program
31 consistent with the policy and provisions of this chapter. For
32 shorelines of state-wide significance, the department shall act
33 primarily in a supportive and review capacity with an emphasis on
34 providing assistance to local government and on insuring compliance
35 with the policy and provisions of this chapter. For shorelines, the
36 department shall act primarily in a supportive capacity to local
37 government by developing recommendations for implementing the policy
38 and provisions of this chapter related to shorelines. The department

1 may review and comment on proposed critical area ordinances pertaining
2 to shorelines.

3 **Sec. 4.** RCW 90.58.060 and 1995 c 347 s 304 are each amended to
4 read as follows:

5 (1) The department shall periodically review and adopt guidelines
6 consistent with RCW 90.58.020, containing the elements specified in RCW
7 90.58.100 for:

8 (a) Local governments to consider in the development of master
9 programs for regulation of the uses of shorelines; and

10 (b) Development of master programs for regulation of the uses of
11 shorelines of state-wide significance.

12 (2) Before adopting or amending guidelines under this section, the
13 department shall provide an opportunity for public review and comment
14 as follows:

15 (a) The department shall mail copies of the proposal to all cities,
16 counties, and federally recognized Indian tribes, and to any other
17 person who has requested a copy, and shall publish the proposed
18 guidelines in the Washington state register. Comments shall be
19 submitted in writing to the department within sixty days from the date
20 the proposal has been published in the register.

21 (b) The department shall hold at least four public hearings on the
22 proposal in different locations throughout the state to provide a
23 reasonable opportunity for residents in all parts of the state to
24 present statements and views on the proposed guidelines. Notice of the
25 hearings shall be published at least once in each of the three weeks
26 immediately preceding the hearing in one or more newspapers of general
27 circulation in each county of the state. If an amendment to the
28 guidelines addresses an issue limited to one geographic area, the
29 number and location of hearings may be adjusted consistent with the
30 intent of this subsection to assure all parties a reasonable
31 opportunity to comment on the proposed amendment. The department shall
32 accept written comments on the proposal during the sixty-day public
33 comment period and for seven days after the final public hearing.

34 (c) At the conclusion of the public comment period, the department
35 shall review the comments received and modify the proposal consistent
36 with the provisions of this chapter. The proposal shall then be
37 published for adoption pursuant to the provisions of chapter 34.05 RCW.

1 (3) The department may propose amendments to the guidelines not
2 more than once each year. At least once every five years the
3 department shall conduct a review of the guidelines pursuant to the
4 procedures outlined in subsection (2) of this section.

5 **Sec. 5.** RCW 90.58.080 and 1995 c 347 s 305 are each amended to
6 read as follows:

7 (1) Shorelines of state-wide significance and shorelines must both
8 be designated as critical areas under RCW 36.70A.172. Critical area
9 designations for shorelines of state-wide significance and shorelines
10 shall continue to recognize and allow the preferred uses and current
11 exemptions of this chapter, including those exemptions and exceptions
12 from the definitions contained in RCW 90.58.030. Proposed master
13 programs, portions of a master program, or an amendment to a master
14 program related to shorelines of state-wide significance shall be
15 submitted and approved in accordance with RCW 90.58.090. Proposed
16 master programs, portions of a master program, or an amendment to a
17 master program related to shorelines shall be adopted in accordance
18 with the requirements for adopting critical area ordinances under
19 chapter 36.70A RCW. The provisions of this chapter apply to shorelines
20 except where they are made expressly applicable only to shorelines of
21 state-wide significance, or the context clearly dictates a different
22 result.

23 (2) Local governments shall develop or amend, within twenty-four
24 months after the adoption of guidelines as provided in RCW 90.58.060,
25 a master program for regulation of uses of ((the)) shorelines of ((the
26 state)) state-wide significance consistent with the required elements
27 of the guidelines adopted by the department.

28 (3) Local governments must consider guidelines recommended by the
29 department for shorelines within twenty-four months after their
30 adoption as provided in RCW 90.58.060. Local governments may adopt
31 alternative techniques than those contained in the guidelines to
32 protect shorelines so long as those alternatives protect the
33 shorelines, are consistent with the policy of RCW 90.58.020, and are
34 supported by best available science. The department may review and
35 comment on proposed master program amendments or new master programs
36 related to shorelines. Guidelines for shorelines become effective when
37 the critical areas ordinances adopted under chapter 36.70A RCW

1 pertaining to the guidelines become effective, and are presumed to be
2 valid upon adoption.

3 **Sec. 6.** RCW 90.58.090 and 1997 c 429 s 50 are each amended to read
4 as follows:

5 (1)(a) A master program, segment of a master program, or an
6 amendment to a master program, as they relate to shorelines of state-
7 wide significance, shall become effective when approved by the
8 department. Within the time period provided in RCW 90.58.080, each
9 local government shall have submitted a master program, either totally
10 or by segments, for all shorelines of ~~((the—state))~~ state-wide
11 significance within its jurisdiction to the department for review and
12 approval.

13 (b) A master program, segment of a master program, or an amendment
14 to a master program, as they relate to shorelines, shall become
15 effective as provided in RCW 90.58.080(3).

16 (2) Upon receipt of a proposed master program or amendment
17 pertaining to a shoreline of state-wide significance, the department
18 shall:

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

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

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

34 (d) Within thirty days after receipt of the local government
35 response pursuant to (c) of this subsection, make written findings and
36 conclusions regarding the consistency of the proposal with the policy
37 of RCW 90.58.020 and the applicable guidelines, provide a response to
38 the issues identified in (c) of this subsection, and either approve the

1 proposal as submitted, recommend specific changes necessary to make the
2 proposal approvable, or deny approval of the proposal in those
3 instances where no alteration of the proposal appears likely to be
4 consistent with the policy of RCW 90.58.020 and the applicable
5 guidelines. The written findings and conclusions shall be provided to
6 the local government, all interested persons, parties, groups, and
7 agencies of record on the proposal;

8 (e) If the department recommends changes to the proposed master
9 program or amendment, within thirty days after the department mails the
10 written findings and conclusions to the local government, the local
11 government may:

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

15 (ii) Submit an alternative proposal. If, in the opinion of the
16 department, the alternative is consistent with the purpose and intent
17 of the changes originally submitted by the department and with this
18 chapter it shall approve the changes and provide written notice to all
19 recipients of the written findings and conclusions. If the department
20 determines the proposal is not consistent with the purpose and intent
21 of the changes proposed by the department, the department may resubmit
22 the proposal for public and agency review pursuant to this section or
23 reject the proposal.

24 ~~(3) ((The department shall approve the segment of a master program~~
25 ~~relating to shorelines unless it determines that the submitted segments~~
26 ~~are not consistent with the policy of RCW 90.58.020 and the applicable~~
27 ~~guidelines.~~

28 ~~(4))~~ The department shall approve those segments of the master
29 program relating to shorelines of state-wide significance only after
30 determining the program provides the optimum implementation of the
31 policy of this chapter to satisfy the state-wide interest. If the
32 department does not approve a segment of a local government master
33 program relating to a shoreline of state-wide significance, the
34 department may develop and by rule adopt an alternative to the local
35 government s proposal.

36 ~~((5))~~ (4) In the event a local government has not complied with
37 the requirements of RCW 90.58.070 it may thereafter upon written notice
38 to the department elect to adopt a master program for the shorelines of
39 the state within its jurisdiction, in which event it shall comply with

1 the provisions established by this chapter for the adoption of a master
2 program for such shorelines.

3 Upon approval of ~~((such))~~ the provisions in the master program
4 pertaining to shorelines of state-wide significance by the department,
5 and the date upon which the provisions in the master program pertaining
6 to shorelines become effective, it shall supersede such master program
7 as may have been adopted by the department for such shorelines.

8 ~~((+6))~~ (5) A master program or amendment to a master program
9 relating to shorelines of state-wide significance takes effect when and
10 in such form as approved or adopted by the department. Shoreline
11 master programs that were adopted by the department prior to July 22,
12 1995, in accordance with the provisions of this section then in effect,
13 shall be deemed approved by the department in accordance with the
14 provisions of this section that became effective on that date. The
15 department shall maintain a record of each master program, the action
16 taken on any proposal for adoption or amendment of the master program,
17 and any appeal of the ~~((department's action))~~ proposed master program
18 or amendment to the master program under RCW 90.58.190. The
19 department's approved document of record constitutes the official
20 master program.

21 **Sec. 7.** RCW 90.58.100 and 1997 c 369 s 7 are each amended to read
22 as follows:

23 (1) The master programs provided for in this chapter ~~((, when~~
24 ~~adopted or approved by the department))~~ shall constitute use
25 regulations for the various shorelines of the state when they become
26 effective. In preparing the master programs, and any amendments
27 thereto, the department and local governments shall to the extent
28 feasible:

29 (a) Utilize a systematic interdisciplinary approach which will
30 insure the integrated use of the natural and social sciences and the
31 environmental design arts;

32 (b) Consult with and obtain the comments of any federal, state,
33 regional, or local agency having any special expertise with respect to
34 any environmental impact;

35 (c) Consider all plans, studies, surveys, inventories, and systems
36 of classification made or being made by federal, state, regional, or
37 local agencies, by private individuals, or by organizations dealing
38 with pertinent shorelines of the state;

1 (d) Conduct or support such further research, studies, surveys, and
2 interviews as are deemed necessary;

3 (e) Utilize all available information regarding hydrology,
4 geography, topography, ecology, economics, and other pertinent data;

5 (f) Employ, when feasible, all appropriate, modern scientific data
6 processing and computer techniques to store, index, analyze, and manage
7 the information gathered.

8 (2) The master programs shall include, when appropriate, the
9 following:

10 (a) An economic development element for the location and design of
11 industries, industrial projects of state-wide significance,
12 transportation facilities, port facilities, tourist facilities,
13 commerce and other developments that are particularly dependent on
14 their location on or use of the shorelines of the state;

15 (b) A public access element making provision for public access to
16 publicly owned areas;

17 (c) A recreational element for the preservation and enlargement of
18 recreational opportunities, including but not limited to parks,
19 tidelands, beaches, and recreational areas;

20 (d) A circulation element consisting of the general location and
21 extent of existing and proposed major thoroughfares, transportation
22 routes, terminals, and other public utilities and facilities, all
23 correlated with the shoreline use element;

24 (e) A use element which considers the proposed general distribution
25 and general location and extent of the use on shorelines and adjacent
26 land areas for housing, business, industry, transportation,
27 agriculture, natural resources, recreation, education, public buildings
28 and grounds, and other categories of public and private uses of the
29 land;

30 (f) A conservation element for the preservation of natural
31 resources, including but not limited to scenic vistas, aesthetics, and
32 vital estuarine areas for fisheries and wildlife protection;

33 (g) An historic, cultural, scientific, and educational element for
34 the protection and restoration of buildings, sites, and areas having
35 historic, cultural, scientific, or educational values;

36 (h) An element that gives consideration to the state-wide interest
37 in the prevention and minimization of flood damages; and

38 (i) Any other element deemed appropriate or necessary to effectuate
39 the policy of this chapter.

1 (3) The master programs shall include such map or maps, descriptive
2 text, diagrams and charts, or other descriptive material as are
3 necessary to provide for ease of understanding.

4 (4) Master programs will reflect that state-owned shorelines of the
5 state are particularly adapted to providing wilderness beaches,
6 ecological study areas, and other recreational activities for the
7 public and will give appropriate special consideration to same.

8 (5) Each master program shall contain provisions to allow for the
9 varying of the application of use regulations of the program, including
10 provisions for permits for conditional uses and variances, to insure
11 that strict implementation of a program will not create unnecessary
12 hardships or thwart the policy enumerated in RCW 90.58.020. Any such
13 varying shall be allowed only if extraordinary circumstances are shown
14 and the public interest suffers no substantial detrimental effect. The
15 concept of this subsection shall be incorporated in the rules adopted
16 by the department relating to the establishment of a permit system as
17 provided in RCW 90.58.140(3).

18 (6) Each master program shall contain standards governing the
19 protection of single family residences and appurtenant structures
20 against damage or loss due to shoreline erosion. The standards shall
21 govern the issuance of substantial development permits for shoreline
22 protection, including structural methods such as construction of
23 bulkheads, and nonstructural methods of protection. The standards
24 shall provide for methods which achieve effective and timely protection
25 against loss or damage to single family residences and appurtenant
26 structures due to shoreline erosion. The standards shall provide a
27 preference for permit issuance for measures to protect single family
28 residences occupied prior to January 1, 1992, where the proposed
29 measure is designed to minimize harm to the shoreline natural
30 environment.

31 **Sec. 8.** RCW 90.58.190 and 1995 c 347 s 311 are each amended to
32 read as follows:

33 (1) The appeal of the department's decision to adopt a master
34 program or amendment pursuant to RCW 90.58.070(2) or 90.58.090(~~(+4)~~)
35 (3) is governed by RCW 34.05.510 through 34.05.598.

36 (2)(a) The department's decision to approve, reject, or modify a
37 proposed master program or amendment pertaining to shorelines of state-
38 wide significance adopted by a local government planning under RCW

1 36.70A.040; or the adoption of a critical areas ordinance pertaining to
2 shorelines by a local government planning under RCW 36.70A.040; shall
3 be appealed to the growth management hearings board with jurisdiction
4 over the local government. The appeal shall be initiated by filing a
5 petition as provided in RCW 36.70A.250 through 36.70A.320.

6 (b) If the appeal to the growth management hearings board concerns
7 shorelines, the growth management hearings board shall review the
8 proposed master program or amendment for compliance with the
9 requirements of this chapter and chapter 36.70A RCW, the policy of RCW
10 90.58.020 and the applicable guidelines, and chapter 43.21C RCW as it
11 relates to the adoption of master programs and amendments under chapter
12 90.58 RCW.

13 (c) If the appeal to the growth management hearings board concerns
14 a shoreline of state-wide significance, the board shall uphold the
15 decision by the department unless the board, by clear and convincing
16 evidence, determines that the decision of the department is
17 inconsistent with the requirements of this chapter or chapter 36.70A
18 RCW, the policy of RCW 90.58.020 and the applicable guidelines, or
19 chapter 43.21C RCW as it relates to the adoption of master programs and
20 amendments under this chapter.

21 (d) The appellant has the burden of proof in all appeals to the
22 growth management hearings board under this subsection.

23 (e) Any party aggrieved by a final decision of a growth management
24 hearings board under this subsection may appeal the decision to
25 superior court as provided in RCW 36.70A.300.

26 (3)(a) The department's decision to approve, reject, or modify a
27 proposed master program or master program amendment pertaining to
28 shorelines of state-wide significance by a local government not
29 planning under RCW 36.70A.040 shall be appealed to the shorelines
30 hearings board by filing a petition within thirty days of the date of
31 the department's written notice to the local government of the
32 department's decision to approve, reject, or modify a proposed master
33 program or master program amendment as provided in RCW 90.58.090(2).

34 (b) The adoption of a critical areas ordinance pertaining to
35 shorelines by a local government not planning under RCW 36.70A.040
36 shall be appealed to the shorelines hearings board by filing a petition
37 within sixty days after its publication by the legislative bodies of
38 the county, city, or town as provided in RCW 36.70A.290(2).

1 (c) In an appeal relating to shorelines, the shorelines hearings
2 board shall review the proposed master program or master program
3 amendment (~~and, after full consideration of the presentations of the~~
4 ~~local government and the department, shall determine the validity of~~
5 ~~the local government's master program or amendment in light of~~) for
6 compliance with the requirements of this chapter, the policy of RCW
7 90.58.020 and the applicable guidelines, and chapter 43.21C RCW as it
8 relates to the adoption of master programs and amendments under this
9 chapter.

10 ~~((e))~~ (d) In an appeal relating to shorelines of state-wide
11 significance, the shorelines hearings board shall uphold the decision
12 by the department unless the board determines, by clear and convincing
13 evidence that the decision of the department is inconsistent with the
14 requirements of this chapter, the policy of RCW 90.58.020 and the
15 applicable guidelines, or chapter 43.21C RCW as it relates to the
16 adoption of master programs and amendments under this chapter.

17 ~~((d))~~ (e) Review by the shorelines hearings board shall be
18 considered an adjudicative proceeding under chapter 34.05 RCW, the
19 Administrative Procedure Act. The ~~((aggrieved local government))~~
20 appellant shall have the burden of proof in all such reviews. The
21 board shall fully consider the presentations of the local government
22 and the department in making its determinations.

23 ~~((e))~~ (f) Whenever possible, the review by the shorelines
24 hearings board shall be heard within the county where the land subject
25 to the proposed master program or master program amendment is primarily
26 located. ~~((The department and any local government))~~ Any party
27 aggrieved by a final decision of the hearings board may appeal the
28 decision to superior court as provided in chapter 34.05 RCW.

29 (4) A master program amendment pertaining to shorelines of state-
30 wide significance shall become effective after the approval of the
31 department or after the decision of the shorelines hearings board to
32 uphold the master program or master program amendment, provided that
33 the board may remand the master program or master program adjustment to
34 the local government or the department for modification prior to the
35 final adoption of the master program or master program amendment.

36 **Sec. 9.** RCW 36.70A.030 and 1997 c 429 s 3 are each amended to read
37 as follows:

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

3 (1) "Adopt a comprehensive land use plan" means to enact a new
4 comprehensive land use plan or to update an existing comprehensive land
5 use plan.

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

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

14 (4) "Comprehensive land use plan," "comprehensive plan," or "plan"
15 means a generalized coordinated land use policy statement of the
16 governing body of a county or city that is adopted pursuant to this
17 chapter.

18 (5) "Critical areas" include the following areas and ecosystems:
19 (a) Wetlands; (b) areas with a critical recharging effect on aquifers
20 used for potable water; (c) fish and wildlife habitat conservation
21 areas; (d) frequently flooded areas; (~~and~~) (e) geologically hazardous
22 areas; and (f) shorelines of the state as defined in RCW 90.58.030.

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

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

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

19 (11) "Minerals" include gravel, sand, and valuable metallic
20 substances.

21 (12) "Natural resource lands" means agricultural land, forest land,
22 and mineral resource land.

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

27 (~~(13)~~) (14) "Public services" include fire protection and
28 suppression, law enforcement, public health, education, recreation,
29 environmental protection, and other governmental services.

30 (~~(14)~~) (15) "Rural character" refers to the patterns of land use
31 and development established by a county in the rural element of its
32 comprehensive plan:

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

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

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

19 (~~(16)~~) (17) "Rural governmental services" or "rural services"
20 include those public services and public facilities historically and
21 typically delivered at an intensity usually found in rural areas, and
22 may include domestic water systems, fire and police protection
23 services, transportation and public transit services, and other public
24 utilities associated with rural development and normally not associated
25 with urban areas. Rural services do not include storm or sanitary
26 sewers, except as otherwise authorized by RCW 36.70A.110(4).

27 (~~(17)~~) (18) "Urban growth" refers to growth that makes intensive
28 use of land for the location of buildings, structures, and impermeable
29 surfaces to such a degree as to be incompatible with the primary use of
30 land for the production of food, other agricultural products, or fiber,
31 or the extraction of mineral resources, rural uses, rural development,
32 and natural resource lands designated pursuant to RCW 36.70A.170. A
33 pattern of more intensive rural development, as provided in RCW
34 36.70A.070(5)(d), is not urban growth. When allowed to spread over
35 wide areas, urban growth typically requires urban governmental
36 services. "Characterized by urban growth" refers to land having urban
37 growth located on it, or to land located in relationship to an area
38 with urban growth on it as to be appropriate for urban growth.

1 (~~(18)~~) (19) "Urban growth areas" means those areas designated by
2 a county pursuant to RCW 36.70A.110.

3 (~~(19)~~) (20) "Urban governmental services" or "urban services"
4 include those public services and public facilities at an intensity
5 historically and typically provided in cities, specifically including
6 storm and sanitary sewer systems, domestic water systems, street
7 cleaning services, fire and police protection services, public transit
8 services, and other public utilities associated with urban areas and
9 normally not associated with rural areas.

10 (~~(20)~~) (21) "Wetland" or "wetlands" means areas that are
11 inundated or saturated by surface water or ground water at a frequency
12 and duration sufficient to support, and that under normal circumstances
13 do support, a prevalence of vegetation typically adapted for life in
14 saturated soil conditions. Wetlands generally include swamps, marshes,
15 bogs, and similar areas. Wetlands do not include those artificial
16 wetlands intentionally created from nonwetland sites, including, but
17 not limited to, irrigation and drainage ditches, grass-lined swales,
18 canals, detention facilities, wastewater treatment facilities, farm
19 ponds, and landscape amenities, or those wetlands created after July 1,
20 1990, that were unintentionally created as a result of the construction
21 of a road, street, or highway. Wetlands may include those artificial
22 wetlands intentionally created from nonwetland areas created to
23 mitigate conversion of wetlands.

24 **Sec. 10.** RCW 36.70A.060 and 1998 c 286 s 5 are each amended to
25 read as follows:

26 (1) Each county (~~(that is required or chooses to plan)~~) planning
27 under RCW 36.70A.040, and each city within such county, shall adopt
28 development regulations on or before September 1, 1991, to assure the
29 conservation of agricultural, forest, and mineral resource lands
30 designated under RCW 36.70A.170. Regulations adopted under this
31 subsection may not prohibit uses legally existing on any parcel prior
32 to their adoption and shall remain in effect until the county or city
33 adopts development regulations pursuant to RCW 36.70A.040. Such
34 regulations shall assure that the use of lands adjacent to
35 agricultural, forest, or mineral resource lands shall not interfere
36 with the continued use, in the accustomed manner and in accordance with
37 best management practices, of these designated lands for the production
38 of food, agricultural products, or timber, or for the extraction of

1 minerals. Counties and cities shall require that all plats, short
2 plats, development permits, and building permits issued for development
3 activities on, or within five hundred feet of, lands designated as
4 agricultural lands, forest lands, or mineral resource lands, contain a
5 notice that the subject property is within or near designated
6 agricultural lands, forest lands, or mineral resource lands on which a
7 variety of commercial activities may occur that are not compatible with
8 residential development for certain periods of limited duration. The
9 notice for mineral resource lands shall also inform that an application
10 might be made for mining-related activities, including mining,
11 extraction, washing, crushing, stockpiling, blasting, transporting, and
12 recycling of minerals.

13 (2) Each county and city shall adopt development regulations that
14 protect critical areas that are required to be designated under RCW
15 36.70A.170, including shorelines of the state as defined in RCW
16 90.58.030. Development regulations for shorelines of state-wide
17 significance and shorelines shall continue to recognize and allow the
18 preferred uses and current exemptions of chapter 90.58 RCW, including
19 those exemptions and exceptions from the definitions contained in RCW
20 90.58.030. For counties and cities that are required or choose to plan
21 under RCW 36.70A.040, such development regulations shall be adopted on
22 or before September 1, 1991. For the remainder of the counties and
23 cities, such development regulations shall be adopted on or before
24 March 1, 1992. Counties and cities that contain shorelines of the
25 state within their jurisdictions that were not previously designated as
26 critical areas must adopt interim development regulations for the
27 protection of these shorelines within one year after the effective date
28 of this act, following an opportunity for public review and comment.
29 The interim development regulations, and any existing critical areas
30 ordinances pertaining to shorelines of the state, must include
31 penalties for any violations which may occur. In developing these
32 interim development regulations, counties and cities must also consider
33 strategies to protect any commercial shellfish beds located near the
34 shoreline. Interim development regulations adopted under this section
35 to protect shorelines may remain in effect until a formal review is
36 conducted under RCW 36.70A.130.

37 (3) (~~Such counties and cities~~) Each county and city planning
38 under RCW 36.70A.040 shall review these designations and development
39 regulations when adopting (~~their~~) its comprehensive (~~plans~~) plan

1 under RCW 36.70A.040 and implementing development regulations under RCW
2 36.70A.120, or reviewing its comprehensive plan and development
3 regulations under RCW 36.70A.130, and may alter ((such)) these
4 designations and development regulations to insure consistency.

5 ((~~(4) Forest land and agricultural land located within urban growth~~
6 ~~areas shall not be designated by a county or city as forest land or~~
7 ~~agricultural land of long term commercial significance under RCW~~
8 ~~36.70A.170 unless the city or county has enacted a program authorizing~~
9 ~~transfer or purchase of development rights.~~))

10 **Sec. 11.** RCW 36.70A.106 and 1991 sp.s. c 32 s 8 are each amended
11 to read as follows:

12 (1) Each county and city proposing adoption of a comprehensive plan
13 or development regulations under this chapter shall notify the
14 department of its intent to adopt such plan or regulations at least
15 sixty days prior to final adoption. Each county and city proposing the
16 adoption of critical areas ordinances for the protection of shorelines
17 must notify the department of ecology of its intent to adopt the
18 ordinances, and submit a copy of the proposed ordinances to the
19 department of ecology for the department's review and comment at least
20 sixty days prior to the final adoption of the ordinances. State
21 agencies including the department may provide comments to the county or
22 city on the proposed comprehensive plan, or proposed development
23 regulations, during the public review process prior to adoption.

24 (2) Each county and city planning under this chapter shall transmit
25 a complete and accurate copy of its comprehensive plan or development
26 regulations to the department within ten days after final adoption.

27 (3) Any amendments for permanent changes to a comprehensive plan or
28 development regulation that are proposed by a county or city to its
29 adopted plan or regulations shall be submitted to the department in the
30 same manner as initial plans and development regulations under this
31 section. Any amendments to a comprehensive plan or development
32 regulations that are adopted by a county or city shall be transmitted
33 to the department in the same manner as the initial plans and
34 regulations under this section.

35 **Sec. 12.** RCW 36.70A.130 and 1997 c 429 s 10 are each amended to
36 read as follows:

1 (1) Each comprehensive land use plan and development regulations
2 shall be subject to continuing review and evaluation by the county or
3 city that adopted them. (~~Not later than September 1, 2002, and at~~
4 ~~least every five years thereafter, a county or city shall take action~~
5 ~~to~~))

6 The department shall establish a schedule for each county, and each
7 city located within that county, to complete periodic formal reviews
8 and, if needed, (~~revise~~) revisions of its comprehensive land use plan
9 and development regulations to ensure that those provisions in the plan
10 and regulations are complying with (~~the~~) all applicable requirements
11 of this chapter. The schedule shall require a periodic formal review
12 approximately once every five years for provisions pertaining to
13 critical areas and natural resource lands, and a periodic formal review
14 approximately once every ten years for the remainder of the
15 comprehensive land use plan and development regulations. For
16 provisions pertaining to critical areas and natural resource lands, the
17 initial periodic review is required approximately five years after the
18 county initially adopted its comprehensive plan, or adopted amendments
19 to its initial comprehensive plan in response to an order of
20 noncompliance by a growth management hearings board that the board
21 finds to be in compliance with the requirements of this chapter. For
22 the remainder of the comprehensive plan and development regulations,
23 the initial periodic review is required approximately ten years after
24 the county initially adopted its comprehensive plan, or adopted
25 amendments to its initial comprehensive plan in response to an order of
26 noncompliance by a growth management hearings board that the board
27 finds to be in compliance with the requirements of this chapter. A
28 review and evaluation required by this subsection may be combined with
29 the review required by subsection (3) of this section.

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

33 (2)(a) Each county and city shall establish and broadly disseminate
34 to the public a public participation program identifying procedures
35 whereby proposed amendments or revisions of the comprehensive plan are
36 considered by the governing body of the county or city no more
37 frequently than once every year except that amendments may be
38 considered more frequently under the following circumstances:

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

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

3 (iii) The amendment of the capital facilities element of a
4 comprehensive plan that occurs concurrently with the adoption or
5 amendment of a county or city budget.

6 (b) Except as otherwise provided in (a) of this subsection, all
7 proposals shall be considered by the governing body concurrently so the
8 cumulative effect of the various proposals can be ascertained.
9 However, after appropriate public participation a county or city may
10 adopt amendments or revisions to its comprehensive plan that conform
11 with this chapter whenever an emergency exists or to resolve an appeal
12 of a comprehensive plan filed with a growth management hearings board
13 or with the court.

14 (3) The department shall establish a schedule for each county that
15 designates urban growth areas under RCW 36.70A.110 ((shall review, at
16 least every ten years)), and the cities within those counties, to
17 complete a formal review of its designated urban growth area or areas,
18 and the densities permitted within both the incorporated and
19 unincorporated portions of each urban growth area. The schedule shall
20 require this review approximately once every ten years after the county
21 initially established its final urban growth areas or last formally
22 reviewed its urban growth areas under this subsection. In conjunction
23 with this review by the county, each city located within an urban
24 growth area shall review the densities permitted within its boundaries,
25 and the extent to which the urban growth occurring within the county
26 has located within each city and the unincorporated portions of the
27 urban growth areas. The county comprehensive plan designating urban
28 growth areas, and the densities permitted in the urban growth areas by
29 the comprehensive plans of the county and each city located within the
30 urban growth areas, shall be revised to accommodate the urban growth
31 projected to occur in the county for the succeeding twenty-year period.
32 The review required by this subsection may be combined with the review
33 and evaluation required by RCW 36.70A.215.

34 (4) In developing a schedule for formal review under subsections
35 (1) and (3) of this section, the department shall consider the
36 population size of each county, the date when the comprehensive plans
37 and development regulations were adopted or last revised by each county
38 and the cities within such county, the growth rate of each county, and

1 the resources available to each county and the cities within such
2 county to conduct a formal review pursuant to this section.

3 **Sec. 13.** RCW 36.70A.170 and 1990 1st ex.s. c 17 s 17 are each
4 amended to read as follows:

5 (1) On or before September 1, 1991, each county, and each city,
6 shall designate where appropriate:

7 (a) Agricultural lands that are not already characterized by urban
8 growth and that have long-term significance for the commercial
9 production of food or other agricultural products, but agricultural
10 land located within an urban growth area shall not be designated as
11 agricultural land of long-term commercial significance unless the
12 county or city has enacted a program authorizing transfer or purchase
13 of development rights from such lands;

14 (b) Forest lands that are not already characterized by urban growth
15 and that have long-term significance for the commercial production of
16 timber, but forest land located within an urban growth area shall not
17 be designated as forest land of long-term commercial significance by a
18 county or city unless the county or city has enacted a program
19 authorizing transfer or purchase of development rights from such lands;

20 (c) Mineral resource lands that are not already characterized by
21 urban growth and that have long-term significance for the extraction of
22 minerals; and

23 (d) Critical areas.

24 (2) In making the designations required by this section, counties
25 and cities shall consider the guidelines established pursuant to RCW
26 36.70A.050.

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

29 In addition to the process provided in RCW 36.70A.215 for amending
30 county-wide planning policies, a county may revise its county-wide
31 planning policies according to the procedures provided in RCW
32 36.70A.210 for the initial establishment of county-wide planning
33 policies. The county-wide planning policies may be amended following
34 a review conducted under RCW 36.70A.130, and may also include policies
35 implementing watershed planning under chapter 90.82 RCW, and policies
36 developed in response to listings of species under the federal
37 endangered species act (16 U.S.C. Sec. 1531 et seq.). The purpose of

1 this section is to encourage further integration of different local
2 planning efforts, and nothing in this section creates a cause of action
3 against a county or a city for amending or failing to amend any
4 development regulations or portion of the comprehensive plan following
5 an amendment of the county-wide planning policies under this section.

6 **Sec. 15.** RCW 36.70A.290 and 1997 c 429 s 12 are each amended to
7 read as follows:

8 (1) All requests for review to a growth management hearings board
9 shall be initiated by filing a petition that includes a detailed
10 statement of issues presented for resolution by the board. The board
11 shall render written decisions articulating the basis for its holdings.
12 The board shall not issue advisory opinions on issues not presented to
13 the board in the statement of issues, as modified by any prehearing
14 order.

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

20 (a) Except as provided in (c) of this subsection, the date of
21 publication for a city shall be the date the city publishes the
22 ordinance, or summary of the ordinance, adopting the comprehensive plan
23 or development regulations, or amendment thereto, as is required to be
24 published.

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

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

32 (c) For local governments planning under RCW 36.70A.040, promptly
33 after approval or disapproval of a local government s shoreline master
34 program or amendment thereto by the department of ecology as provided
35 in RCW 90.58.090 with regard to a shoreline of state-wide significance,
36 the local government shall publish a notice that the shoreline master
37 program or amendment thereto has been approved or disapproved by the
38 department of ecology. For purposes of this section, the date of

1 publication for the adoption or amendment of a shoreline master program
2 is the date the local government publishes notice that the shoreline
3 master program or amendment thereto has been approved or disapproved by
4 the department of ecology.

5 (3) Unless the board dismisses the petition as frivolous or finds
6 that the person filing the petition lacks standing, or the parties have
7 filed an agreement to have the case heard in superior court as provided
8 in RCW 36.70A.295, the board shall, within ten days of receipt of the
9 petition, set a time for hearing the matter.

10 (4) The board shall base its decision on the record developed by
11 the city, county, or the state and supplemented with additional
12 evidence if the board determines that such additional evidence would be
13 necessary or of substantial assistance to the board in reaching its
14 decision.

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

18 **Sec. 16.** RCW 36.70A.480 and 1995 c 347 s 104 are each amended to
19 read as follows:

20 (1) For shorelines of the state, the goals and policies of the
21 shoreline management act as set forth in RCW 90.58.020 are added as one
22 of the goals of this chapter as set forth in RCW 36.70A.020. The goals
23 and policies of a shoreline master program for a county or city
24 approved under chapter 90.58 RCW shall be considered an element of the
25 county or city's comprehensive plan. All other portions of the
26 shoreline master program for a county or city adopted under chapter
27 90.58 RCW, including use regulations, shall be considered a part of the
28 county or city's development regulations. Shorelines of the state must
29 be designated and protected as critical areas as provided in this
30 chapter.

31 (2) The shoreline master program shall be adopted pursuant to the
32 procedures of chapter 90.58 RCW rather than the procedures set forth in
33 this chapter for the adoption of a comprehensive plan or development
34 regulations, except that critical areas ordinances for shorelines, as
35 defined in RCW 90.58.030, shall be adopted in accordance with the
36 provisions of this chapter.

1 NEW SECTION. **Sec. 17.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

--- END ---