
SENATE BILL 5462

State of Washington

55th Legislature

1997 Regular Session

By Senators Hale, Anderson, Haugen, Patterson, Goings, McCaslin and Winsley

Read first time 01/27/97. Referred to Committee on Government Operations.

1 AN ACT Relating to local government permit timelines; and amending
2 RCW 36.70B.110 and 36.70C.040.

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

4 **Sec. 1.** RCW 36.70B.110 and 1995 c 347 s 415 are each amended to
5 read as follows:

6 (1) Not later than April 1, 1996, a local government planning under
7 RCW 36.70A.040 shall provide a notice of application to the public and
8 the departments and agencies with jurisdiction as provided in this
9 section. If a local government has made a threshold determination (~~(of~~
10 ~~significance)~~) under chapter 43.21C RCW concurrently with the notice of
11 application, the notice of application shall be combined with the
12 threshold determination (~~(of significance)~~) and the scoping notice for
13 a determination of significance. Nothing in this section prevents a
14 determination of significance and scoping notice from being issued
15 prior to the notice of application.

16 (2) The notice of application shall be provided within fourteen
17 days after the determination of completeness as provided in RCW
18 36.70B.070 and include the following in whatever sequence or format the
19 local government deems appropriate:

1 (a) The date of application, the date of the notice of completion
2 for the application, and the date of the notice of application;

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

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

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

13 (e) A statement of the public comment period, which shall be not
14 less than fourteen nor more than thirty days following the date of
15 notice of application, and statements of the right of any person to
16 comment on the application, receive notice of and participate in any
17 hearings, request a copy of the decision once made, and any appeal
18 rights. A local government may accept public comments at any time
19 prior to the closing of the record of an open record predecision
20 hearing, if any, or, if no open record predecision hearing is provided,
21 prior to the decision on the project permit;

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

24 (g) A statement of the preliminary determination, if one has been
25 made at the time of notice, of those development regulations that will
26 be used for project mitigation and of consistency as provided in RCW
27 36.70B.040; and

28 (h) Any other information determined appropriate by the local
29 government.

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

33 (4) A local government shall use reasonable methods to give the
34 notice of application to the public and agencies with jurisdiction and
35 may use its existing notice procedures. A local government may use
36 different types of notice for different categories of project permits
37 or types of project actions. If a local government by resolution or
38 ordinance does not specify its method of public notice, the local

1 government shall use the methods provided for in (a) and (b) of this
2 subsection. Examples of reasonable methods to inform the public are:

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

4 (b) Publishing notice, including at least the project location,
5 description, type of permit(s) required, comment period dates, and
6 location where the complete application may be reviewed, in the
7 newspaper of general circulation in the general area where the proposal
8 is located or in a local land use newsletter published by the local
9 government;

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

12 (d) Notifying the news media;

13 (e) Placing notices in appropriate regional or neighborhood
14 newspapers or trade journals;

15 (f) Publishing notice in agency newsletters or sending notice to
16 agency mailing lists, either general lists or lists for specific
17 proposals or subject areas; and

18 (g) Mailing to neighboring property owners.

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

23 (6) A local government shall integrate the permit procedures in
24 this section with environmental review under chapter 43.21C RCW as
25 follows:

26 (a) Except for a threshold determination (~~((of significance))~~), the
27 local government may not issue (~~((its threshold determination, or~~
28 ~~issue))~~) a decision or a recommendation on a project permit until the
29 expiration of the public comment period on the notice of application.

30 (b) If an open record predecision hearing is required and the local
31 government's threshold determination requires public notice under
32 chapter 43.21C RCW, the local government shall issue its threshold
33 determination at least fifteen days prior to the open record
34 predecision hearing.

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

36 (7) A local government may combine any hearing on a project permit
37 with any hearing that may be held by another local, state, regional,
38 federal, or other agency provided that the hearing is held within the
39 geographic boundary of the local government. Hearings shall be

1 combined if requested by an applicant, as long as the joint hearing can
2 be held within the time periods specified in RCW 36.70B.090 or the
3 applicant agrees to the schedule in the event that additional time is
4 needed in order to combine the hearings. All agencies of the state of
5 Washington, including municipal corporations and counties participating
6 in a combined hearing, are hereby authorized to issue joint hearing
7 notices and develop a joint format, select a mutually acceptable
8 hearing body or officer, and take such other actions as may be
9 necessary to hold joint hearings consistent with each of their
10 respective statutory obligations.

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

14 (a) The agency is not expressly prohibited by statute from doing
15 so;

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

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

22 (9) A local government is not required to provide for
23 administrative appeals. If provided, an administrative appeal of the
24 project decision, combined with any environmental determinations, shall
25 be filed within fourteen days after the notice of the decision or after
26 other notice that the decision has been made and is appealable. The
27 local government shall extend the appeal period for an additional seven
28 days, if state or local rules adopted pursuant to chapter 43.21C RCW
29 allow public comment on a determination of nonsignificance issued as
30 part of the appealable project permit decision.

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

34 (11) Each local government planning under RCW 36.70A.040 shall
35 adopt procedures for administrative interpretation of its development
36 regulations.

37 **Sec. 2.** RCW 36.70C.040 and 1995 c 347 s 705 are each amended to
38 read as follows:

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

3 (2) A land use petition is barred, and the court may not grant
4 review, unless the petition is timely filed with the court and timely
5 served on the following persons who shall be parties to the review of
6 the land use petition:

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

10 (b) Each of the following persons if the person is not the
11 petitioner:

12 (i) Each person identified by name and address in the local
13 jurisdiction's written decision as an applicant for the permit or
14 approval at issue; and

15 (ii) Each person identified by name and address in the local
16 jurisdiction's written decision as an owner of the property at issue;

17 (c) If no person is identified in a written decision as provided in
18 (b) of this subsection, each person identified by name and address as
19 a taxpayer for the property at issue in the records of the county
20 assessor, based upon the description of the property in the
21 application; and

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

28 (3) The petition is timely if it is filed and served on all parties
29 listed in subsection (2) of this section within (~~twenty-one~~) fourteen
30 days of the issuance of the land use decision.

31 (4) For the purposes of this section, the date on which a land use
32 decision is issued is:

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

37 (b) If the land use decision is made by ordinance or resolution by
38 a legislative body sitting in a quasi-judicial capacity, the date the
39 body passes the ordinance or resolution; or

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

3 (5) Service on the local jurisdiction must be by delivery of a copy
4 of the petition to the persons identified by or pursuant to RCW
5 4.28.080 to receive service of process. Service on other parties must
6 be in accordance with the superior court civil rules or by first class
7 mail to:

8 (a) The address stated in the written decision of the local
9 jurisdiction for each person made a party under subsection (2)(b) of
10 this section;

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

13 (c) The address stated in the appeal to the quasi-judicial decision
14 maker for each person made a party under subsection (2)(d) of this
15 section.

16 (6) Service by mail is effective on the date of mailing and proof
17 of service shall be by affidavit or declaration under penalty of
18 perjury.

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