H-0788.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 1611**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 68th Legislature 2023 Regular Session**

**By** Representatives Reed, Hutchins, Fosse, and Macri

AN ACT Relating to local government permitting; amending RCW 36.70B.060, 36.70B.070, and 36.70B.080; adding a new section to chapter 36.70B RCW; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds that delays in the permitting process can impose significant costs and time on the creation of new affordable housing. The legislature also finds that adopting deadlines for local governments to review and process permits will increase certainty and financing options for new projects and reduce the amount of time it takes for new housing units to be completed. Therefore, it is the intent of the legislature to reduce overall project cost, and to increase financing options, housing supply, and affordability by improving the certainty and speed of permitting review involving the development of housing.

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

Not later than March 31, 1996, each local government planning under RCW 36.70A.040 shall establish by ordinance or resolution an integrated and consolidated project permit process that may be included in its development regulations. No later than March 31, 2024, each local government planning under RCW 36.70A.040 with a population of 20,000 or more shall adopt or amend ordinances or resolutions to comply with the requirements of section 5 of this act. No later than March 31, 2025, each local government planning under RCW 36.70A.040 with a population of fewer than 20,000 shall adopt or amend ordinances or resolutions to comply with the requirements of section 5 of this act. In addition to the elements required by RCW 36.70B.050, the process shall include the following elements:

(1) A determination of completeness to the applicant as required by RCW 36.70B.070 or section 5 of this act;

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

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

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

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

(6) Except for the appeal of a determination of significance as provided in RCW 43.21C.075, if a local government elects to provide an appeal of its threshold determinations or project permit decisions, the local government shall provide for no more than one consolidated open record hearing on such appeal. The local government need not provide for any further appeal and may provide an appeal for some but not all project permit decisions. If an appeal is provided after the open record hearing, it shall be a closed record appeal before a single decision-making body or officer;

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

(8) Completion of project review by the local government, including environmental review and public review and any appeals to the local government, within any applicable time periods under ((~~RCW 36.70B.090~~)) section 5 of this act; and

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

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

(1) ((~~Within twenty-eight days after receiving a project permit application~~)) Except as otherwise provided for in section 5 of this act, a local government planning pursuant to RCW 36.70A.040 shall mail or provide in person a written determination to the applicant((~~,~~)) within 28 days after receiving a project permit application stating either:

(a) That the application is complete; or

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

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

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

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

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

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

(c) Other information the local government chooses to include.

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

(b) Within fourteen days after an applicant has submitted to a local government additional information identified by the local government as being necessary for a complete application, the local government shall notify the applicant whether the application is complete or what additional information is necessary.

**Sec.**  RCW 36.70B.080 and 2004 c 191 s 2 are each amended to read as follows:

(1) Development regulations adopted pursuant to RCW 36.70A.040 must establish and implement time periods for local government actions for each type of project permit application, except those for which time periods are specified in section 5 of this act, and provide timely and predictable procedures to determine whether a completed project permit application meets the requirements of those development regulations. ((~~The~~)) Except as provided for in section 5 of this act, the time periods for local government actions for each type of complete project permit application or project type should not exceed ((~~one hundred twenty~~)) 120 days, unless the local government makes written findings that a specified amount of additional time is needed to process specific complete project permit applications or project types.

The development regulations must, for each type of permit application, specify the contents of a completed project permit application necessary for the complete compliance with the time periods and procedures.

(2)(a) Counties subject to the requirements of RCW 36.70A.215 and the cities within those counties that have populations of at least twenty thousand must, for each type of permit application, identify the total number of project permit applications for which decisions are issued according to the provisions of this chapter. For each type of project permit application identified, these counties and cities must establish and implement a deadline for issuing a notice of final decision as required by subsection (1) of this section and minimum requirements for applications to be deemed complete under RCW 36.70B.070 as required by subsection (1) of this section.

(b) Counties and cities subject to the requirements of this subsection also must prepare annual performance reports that include, at a minimum, the following information for each type of project permit application identified in accordance with the requirements of (a) of this subsection:

(i) Total number of complete applications received during the year;

(ii) Number of complete applications received during the year for which a notice of final decision was issued before the deadline established under this subsection;

(iii) Number of applications received during the year for which a notice of final decision was issued after the deadline established under this subsection;

(iv) Number of applications received during the year for which an extension of time was mutually agreed upon by the applicant and the county or city;

(v) Variance of actual performance, excluding applications for which mutually agreed time extensions have occurred, to the deadline established under this subsection during the year; and

(vi) The mean processing time and the number standard deviation from the mean.

(c) Counties and cities subject to the requirements of this subsection must:

(i) Provide notice of and access to the annual performance reports through the county's or city's website; and

(ii) Post electronic facsimiles of the annual performance reports through the county's or city's website. Postings on a county's or city's website indicating that the reports are available by contacting the appropriate county or city department or official do not comply with the requirements of this subsection.

If a county or city subject to the requirements of this subsection does not maintain a website, notice of the reports must be given by reasonable methods, including but not limited to those methods specified in RCW 36.70B.110(4).

(3) Nothing in this section prohibits a county or city from extending a deadline for issuing a decision for a specific project permit application for any reasonable period of time mutually agreed upon by the applicant and the local government.

(4) The department of ((~~community, trade, and economic development~~)) commerce shall work with the counties and cities to review the potential implementation costs of the requirements of subsection (2) of this section. The department, in cooperation with the local governments, shall prepare a report summarizing the projected costs, together with recommendations for state funding assistance for implementation costs, and provide the report to the governor and appropriate committees of the senate and house of representatives by January 1, 2005.

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

(1)(a) Within 14 days of receiving a residential use permit application or a mixed use that involves a residential use permit application, a local government planning pursuant to RCW 36.70A.040 must mail or provide in person a written determination to the applicant, stating either:

(i) That the application is complete; or

(ii) That the application is incomplete and what is necessary to make the application complete.

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

(c)(i) A project permit application is complete for purposes of this section when it meets the procedural submission requirements of the local government, it is sufficient for continued processing, and no further information or project modifications are required. After an application has been deemed complete, no additional informational requirements may be imposed by the local government on the completed application.

(ii) A notice of completeness provided under this section may include the optional information provided for in RCW 36.70B.070(3).

(d) After March 31, 2025, an application shall be deemed complete under this section if the local government does not provide a written determination to the applicant that the application is incomplete as provided in (a) of this subsection.

(e) Within seven days after an applicant has submitted to a local government additional information identified by the local government as being necessary for a complete application, the local government must notify the applicant whether the application is complete or what additional information is necessary.

(2)(a) The following time frames apply to local government processing of residential permits or of mixed-use permits that involve residential use:

(i) Review of project permits comprised of five or fewer dwelling units must be completed within 120 days of notifying the applicant that the application is complete;

(ii) Review of project permits comprised of between more than five but fewer than 101 dwelling units must be completed within 180 days of notifying the applicant that the application is complete;

(iii) Review of project permits comprised of 101 or more units must be completed within 270 days of notifying the applicant that the application is complete.

(b) Project permits submitted after March 31, 2025, that are not approved, approved with conditions, or denied with cause within the time frames in (a) of this subsection shall be deemed approved if:

(i) The project permit involves more than five dwelling units and at least 20 percent of the dwelling units involved, rounded to the nearest whole number, are affordable to low-income households; or

(ii) The project permit involved more than five dwelling units and all of the dwelling units involved are affordable to moderate-income households.

(c) In determining the number of days that have elapsed after notifying the applicant that the application is complete, the following periods are excluded:

(i) Any period during which the applicant has been requested by the local government to correct plans or to otherwise take a required action. Such a period must be calculated from the date the local government notifies the applicant of the need for the action until the earlier of the date the local government determines whether the action satisfies the local government or 14 days after the information demonstrating that the action has been taken has been provided to the local government. If the local government determines that the action taken by the applicant is insufficient, it must notify the applicant of the deficiencies and the procedures under this subsection apply as if a new request had been made;

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

(iii) Any period for administrative appeals of project permits, if an open record appeal hearing or a closed record appeal, or both, are allowed. The local government by ordinance or resolution must establish a time period to consider and decide such appeals. The time period may not exceed: (A) 90 days for an open record appeal hearing; or (B) 60 days for a closed record appeal. The parties to an appeal may agree to extend these time periods; and

(iv) Any extension of time mutually agreed upon by the applicant and the local government.

(d) If an application is substantially revised by an applicant after it has been deemed complete, the applicable time limits under (a) of this subsection run from the date that the revised project application is determined to be complete.

(e) The time limits under (a) of this subsection do not apply to new fully contained communities as provided for in RCW 36.70A.350.

(3) After March 31, 2025, a county or city may not collect an excise tax imposed under RCW 82.46.010, 82.46.035, 82.46.070, or 82.46.075 on the first sale of any residential or mixed use involving residential use real property for which a permit was sought after March 31, 2025, and to which this section is applicable, unless the permit was issued within the time frames provided for in subsection (2)(a) of this section.

(4) For the purposes of this section:

(a) A dwelling unit is affordable if it requires payment of monthly housing costs, including utilities other than telephone, of no more than 30 percent of the family's income.

(b) "Dwelling unit" means a residential living unit that provides complete independent living facilities for one or more persons and that includes permanent provisions for living, sleeping, eating, cooking, and sanitation, and that is sold or rented separately from other dwelling units.

(c) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is less than 80 percent of the median family income, adjusted for household size, for the county where the project is located, as reported by the United States department of housing and urban development, or less than 80 percent of the city's median income if the project is located in the city, the city has median income of more than 20 percent above the county median income, and the city has adopted an alternative local median income.

(d) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 120 percent of the median household income, adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development, or less than 120 percent of the city's median income if the project is located in the city, the city has median income of more than 20 percent above the county median income, and the city has adopted an alternative local median income.

**--- END ---**