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**HOUSE BILL 1519**

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

**By** Representatives Barkis, Bateman, Fitzgibbon, Chapman, Gregerson, Graham, Macri, Reed, and Tharinger

AN ACT Relating to local project review; amending RCW 36.70B.020, 36.70B.070, 36.70B.080, 36.70B.140, and 36.70B.160; reenacting and amending RCW 36.70B.110; 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 processing of permits increases the cost of housing. The legislature also finds that Washington is in a housing crisis for all types of housing. Therefore, it is the intent of the legislature to ensure predictable and consistent permit processes by creating a system of accountability, metrics, and best practices for local governments to follow when reviewing a permit application. The legislature finds that Washington's cities and counties may need assistance and resources for adopting these best practices and ensuring predictable permit timelines, so it is the intent of the legislature to provide assistance and resources for local governments to be successful in processing permits. The legislature acknowledges that permitting is necessary for the health and safety of our communities now and into the future. Furthermore, it is the intent of the legislature to encourage new home construction of all types through permit process improvements, so Washington's builders can build Washington's future neighborhoods safely and more quickly.

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

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

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

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

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

(4) "Project permit" or "project permit application" means any land use or environmental permit or license required from a local government for a project action, including but not limited to ((~~building permits,~~)) subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area ordinances, or site-specific rezones ((~~authorized by a comprehensive plan or subarea plan, but excluding~~)) that do not require a comprehensive plan amendment. "Project permit" or "project permit application" does not include building permits or the adoption or amendment of a comprehensive plan, subarea plan, or development regulations except as otherwise specifically included in this subsection.

(5) "Public meeting" means an informal meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to the local government's decision. A public meeting may include, but is not limited to, a design review or architectural control board meeting, a special review district or community council meeting, or a scoping meeting on a draft environmental impact statement. A public meeting does not include an open record hearing. The proceedings at a public meeting may be recorded and a report or recommendation may be included in the local government's project permit application file.

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

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

((~~(a)~~)) (i) That the application is complete; or

((~~(b)~~)) (ii) That the application is incomplete ((~~and~~)). The determination must outline what is necessary to make the application procedurally complete.

(b) An application must be deemed complete if it meets the procedural submission requirements of the local government, and incomplete if the procedural submission requirements have not been met.

(c) The number of days shall be calculated by counting five days per week, excluding holidays. 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~~)), as outlined on the project permit application. Additional information or studies may be required or project modifications may be undertaken ((~~subsequently~~)) subsequent to the procedural review of the application by the local government. 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. However, if the procedural submission requirements, as outlined on the project permit application, have been provided, the need for additional information or studies does not preclude a completeness determination.

(3) The determination of completeness may include or be combined with 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; or

(d) The notice of application pursuant to the requirements in RCW 36.70B.110.

(4)(a) An application shall be deemed procedurally complete on the 29th day after a local government has received a project permit application under this section if the local government does not provide a written determination to the applicant that the application is procedurally incomplete as provided in subsection (1)((~~(b)~~)) (a)(ii) of this section. This section does not preclude a local government that has not provided a written determination from seeking additional information or studies under subsection (2) of this section.

(b) Within ((~~fourteen~~)) 14 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.

(c) The notice of application must be provided within 14 days after the determination of completeness pursuant to RCW 36.70B.110.

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

(1)(a) 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 and provide timely and predictable procedures to determine whether a completed project permit application meets the requirements of those development regulations. The time periods for local government actions for each type of complete project permit application or project type should not exceed ((~~one hundred twenty 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~~)) those specified in this section.

(b) 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)~~)) (c) As provided in RCW 36.70B.140, a jurisdiction may exclude certain project permits from the provisions of this section.

(d) For project permits submitted after January 1, 2025, the time periods for local government action to issue a final decision for each type of complete project permit application or project type that is subject to this chapter should not exceed the following time frames unless modified by the local government pursuant to this section or RCW 36.70B.140:

(i) For project permits which do not require public notice under RCW 36.70B.110, a local government must issue a final decision within 45 days of the determination of completeness under RCW 36.70B.070;

(ii) For project permits which require public notice under RCW 36.70B.110, a local government must issue a final decision within 70 days of the determination of completeness under RCW 36.70B.070; and

(iii) For project permits which require public notice under RCW 36.70B.110 and a public hearing, a local government must issue a final decision within 120 days of the determination of completeness under RCW 36.70B.070.

(e) A jurisdiction may modify the provisions in (d) of this subsection, including by adding permit types not identified, changing the permit time frames for any or each permit type, changing the permit names or types included in each category, addressing how consolidated review time frames may be different than permits submitted individually, and providing for how projects of a certain size or type may be differentiated. Unless otherwise provided for, the time frame for a final decision in the consolidated review of more than one permit shall be the longest of the permit timelines identified in (d) of this subsection or as amended by a local government.

(f) If a local government does not adopt an ordinance or resolution modifying the provisions in (d) of this subsection, the timelines in (d) of this subsection apply.

(g) The number of days shall be calculated by counting five days per week, excluding holidays. The following time periods are excluded from the calculation of the time that the application is being reviewed:

(i) Any period between the day that the county or city has notified the applicant, in writing, that additional information is required to further process the application and the day when responsive information is resubmitted by the applicant;

(ii) Any period after an applicant informs the local government, in writing, that they would like to temporarily suspend review of the project permit application until the time that the application notifies the local government, in writing, that they would like to resume the application. A local government may set conditions for the temporary suspension of a permit application; and

(iii) Any period after an administrative appeal is filed until the administrative appeal is resolved and any additional time period provided by the administrative appeal has expired.

(h) A county or city's adoption of a resolution or ordinance to implement the requirements of this section is not subject to appeal under chapter 36.70A RCW, unless the resolution or ordinance modifies the time periods provided in (d) of this subsection by providing for a review period of more than 120 days for any project permit.

(2)(a) When permit time frames provided for in subsection (1)(d) of this section, as may be amended by a local government, for issuing a final decision are not met, a portion of the permit fee must be refunded to the applicant as provided for in this subsection (2). A local government may provide for the collection of only 80 percent of the fee initially, and for the collection of the remaining balance if the permitting time frames are met. The portion of the fee refunded for missing time frames shall be:

(i) 10 percent if the final decision on the project permit application was made after the applicable deadline but the period from the passage of the deadline to the time of the issuance of the final decision did not exceed 20 percent of the original time frame.

(ii) 20 percent if the period from the passage of the deadline to the time of the issuance of the final decision exceeded 20 percent of the original time frame.

(b) Except as provided in RCW 36.70B.160, the provisions in (a) of this subsection are not applicable to cities and counties which have implemented at least three of the options in RCW 36.70B.160(1) (a) through (h) at the time an application is deemed procedurally complete.

(3)(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)~~)) (4) 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 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.~~))

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

(1) A local government by ordinance or resolution may exclude the following project permits from the provisions of RCW 36.70B.060 through ((~~36.70B.090~~)) 36.70B.080 and 36.70B.110 through 36.70B.130: Landmark designations, street vacations, or other approvals relating to the use of public areas or facilities, or other project permits, whether administrative or quasi-judicial, that the local government by ordinance or resolution has determined present special circumstances that warrant a review process or time frames for the issuance of a final decision which are different from that provided in RCW 36.70B.060 through ((~~36.70B.090~~)) 36.70B.080 and 36.70B.110 through 36.70B.130.

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

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

(1) Each local government is encouraged to adopt further project review and code provisions to provide prompt, coordinated review and ensure accountability to applicants and the public((~~, including expedited~~)) by:

(a) Expediting review for project permit applications for projects that are consistent with adopted development regulations ((~~and within the capacity of systemwide infrastructure improvements~~));

(b) Imposing reasonable fees, consistent with RCW 82.02.020, on applicants for permits or other governmental approvals to cover the cost to the city, town, county, or other municipal corporation of processing applications, inspecting and reviewing plans, or preparing detailed statements required by chapter 43.21C RCW. The fees imposed may not include a fee for the cost of processing administrative appeals. Nothing in this subsection limits the ability of a county or city from imposing a fee for the processing of administrative appeals as otherwise authorized by law;

(c) Entering into an interlocal agreement with another jurisdiction to share permitting staff and resources;

(d) Maintaining and budgeting for on-call permitting assistance for when permit volumes or staffing levels change rapidly;

(e) Having new positions budgeted that are contingent on increased permit revenue;

(f) Adopting development regulations which only require public hearings for permit applications that are required to have a public hearing by statute;

(g) Adopting development regulations which make preapplication meetings optional rather than a requirement of permit application submittal;

(h) Adopting development regulations which make housing types an outright permitted use in all zones where the housing type is permitted;

(i) Adopting a program to allow for outside professionals with appropriate professional licenses to certify components of applications consistent with their license; or

(j) Meeting with the applicant to attempt to resolve outstanding issues during the review process. The meeting must be scheduled within 14 days of a second request for corrections during permit review. If the meeting cannot resolve the issues and a local government proceeds with a third request for additional information or corrections, the local government must approve or deny the application upon receiving the additional information or corrections.

(2)(a) After January 1, 2026, a county or city must adopt additional measures under subsection (1) of this section at the time of its next comprehensive plan update under RCW 36.70A.130 if it meets the following conditions:

(i) The county or city has adopted at least three project review and code provisions under subsection (1) of this section more than five years prior; and

(ii) The county or city is not meeting the permitting deadlines established in RCW 36.70B.080 at least half of the time over the period since its most recent comprehensive plan update under RCW 36.70A.130.

(b) A city or county that is required to adopt new measures under (a) of this subsection but fails to do so becomes subject to the provisions of RCW 36.70B.080(2)(a) (i) and (ii), notwithstanding RCW 36.70B.080(2)(b).

((~~(2)~~)) (3) Nothing in this chapter is intended or shall be construed to prevent a local government from requiring a preapplication conference or a public meeting by rule, ordinance, or resolution.

((~~(3)~~)) (4) Each local government shall adopt procedures to monitor and enforce permit decisions and conditions.

((~~(4)~~)) (5) Nothing in this chapter modifies any independent statutory authority for a government agency to appeal a project permit issued by a local government.

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

(1) The department of commerce shall develop and provide technical assistance and guidance to counties and cities in setting fee structures under RCW 36.70B.160(1) to ensure that the fees are reasonable and sufficient to recover true costs. The guidance must include information on how to utilize growth factors or other measures to reflect cost increases over time.

(2) When providing technical assistance under subsection (1) of this section, the department of commerce must prioritize local governments that have implemented at least three of the options in RCW 36.70B.160(1).

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

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

(2) The notice of application shall be provided within ((~~fourteen~~)) 14 days after the determination of completeness as provided in RCW 36.70B.070 and, except as limited by the provisions of subsection (4)(b) of this section, must include the following in whatever sequence or format the local government deems appropriate:

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Notifying the news media;

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

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

(g) Mailing to neighboring property owners.

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

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

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

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

(c) Comments shall be as specific as possible.

(d) A local government is not required to provide for administrative appeals of its threshold determination. If provided, an administrative appeal must be filed within 14 days after notice that the determination has been made and is appealable. Except as otherwise expressly provided in this section, the appeal hearing on a threshold determination must be consolidated with any open record hearing on the project permit.

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

(a) The hearing is held within the geographic boundary of the local government((~~. Hearings shall be combined if requested by an applicant, as long as the joint hearing can be held within the time periods specified in RCW 36.70B.090 or the~~)); and

(b) The applicant agrees to the schedule in the event that additional time is needed in order to combine the hearings. All agencies of the state of Washington, including municipal corporations and counties participating in a combined hearing, are hereby authorized to issue joint hearing notices and develop a joint format, select a mutually acceptable hearing body or officer, and take such other actions as may be necessary to hold joint hearings consistent with each of their respective statutory obligations.

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

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

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

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

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

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

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

**--- END ---**