ENGROSSED SUBSTITUTE SENATE BILL 5611

State of Washington 69th Legislature 2025 Regular Session

By Senate Local Government (originally sponsored by Senators Salomon, Trudeau, Frame, and Nobles)

READ FIRST TIME 02/21/25.

AN ACT Relating to streamlining and clarifying local governments' land use permitting workloads; amending RCW 58.17.035, 58.17.040, 64.90.025, and 36.70B.080; reenacting and amending RCW 58.17.040; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 58.17.035 and 1987 c 354 s 2 are each amended to read as follows:

A city, town, or county may adopt by ordinance procedures for the divisions of land by use of a binding site plan as an alternative to the procedures required by this chapter. The ordinance shall be limited and only apply to one or more of the following: (1) The use of a binding site plan to <u>create or modify</u> divisions for sale or lease of commercially or industrially zoned property as provided in RCW 58.17.040(4); (2) divisions of property for lease as provided for in RCW 58.17.040(5); and (3) divisions of property as provided for in RCW 58.17.040(7). Such ordinance may apply the same or different requirements and procedures to each of the three types of divisions and shall provide for the alteration or vacation of the binding site plan, and may provide for the administrative approval of the binding site plan. <u>For the purposes of this section, commercially zoned</u>

property includes property that is zoned to permit or conditionally permit any multifamily residential uses.

The ordinance shall provide that after approval of the general binding site plan for industrial or commercial divisions subject to a binding site plan, the approval for improvements and finalization of specific individual commercial or industrial lots shall be done by administrative approval.

The binding site plan, after approval, and/or when specific lots are administratively approved, shall be filed with the county auditor with a record of survey. Lots, parcels, or tracts created through the binding site plan procedure shall be legal lots of record. The number of lots, tracts, parcels, sites, or divisions shall not exceed the number of lots allowed by the local zoning ordinances.

All provisions, conditions, and requirements of the binding site plan shall be legally enforceable on the purchaser or any other person acquiring a lease or other ownership interest of any lot, parcel, or tract created pursuant to the binding site plan.

Any sale, transfer, or lease of any lot, tract, or parcel created pursuant to the binding site plan, that does not conform to the requirements of the binding site plan or without binding site plan approval, shall be considered a violation of chapter 58.17 RCW and shall be restrained by injunctive action and be illegal as provided in chapter 58.17 RCW.

Sec. 2. RCW 58.17.040 and 2024 c 190 s 2 are each amended to read as follows:

The provisions of this chapter shall not apply to:

(1) Cemeteries and other burial plots while used for that purpose;

(2) Divisions of land into lots or tracts each of which is one-one hundred twenty-eighth of a section of land or larger, or five acres or larger if the land is not capable of description as a fraction of a section of land, unless the governing authority of the city, town, or county in which the land is situated shall have adopted a subdivision ordinance requiring plat approval of such divisions: PROVIDED, That for purposes of computing the size of any lot under this item which borders on a street or road, the lot size shall be expanded to include that area ((~~which~~)) that would be bounded by the center line of the road or street and the side lot lines of the lot running perpendicular to such center line;

(3) Divisions made by testamentary provisions, or the laws of descent;

(4) Divisions of land into lots or tracts classified for industrial or commercial use when the city, town, or county has approved a binding site plan for the use of the land in accordance with local regulations. For the purposes of this section, commercially zoned property includes property that is zoned to permit or conditionally permit any multifamily residential uses;

(5) A division for the purpose of lease when no residential structure other than mobile homes, tiny houses or tiny houses with wheels as defined in RCW 35.21.686, or travel trailers are permitted to be placed upon the land when the city, town, or county has approved a binding site plan for the use of the land in accordance with local regulations;

(6) A division made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site;

(7) Divisions of land into lots or tracts if: (a) Such division is the result of subjecting a portion of a parcel or tract of land to either chapter 64.32 or 64.34 RCW subsequent to the recording of a binding site plan for all such land; (b) the improvements constructed or to be constructed thereon are required by the provisions of the binding site plan to be included in one or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest; (c) a city, town, or county has approved the binding site plan for all such land; (d) such approved binding site plan is recorded in the county or counties in which such land is located; and (e) the binding site plan contains thereon the following statement: "All development and use of the land described herein shall be in accordance with this binding site plan, as it may be amended with the approval of the city, town, or county having jurisdiction over the development of such land, and in accordance with such other governmental permits, approvals, regulations, requirements, and restrictions that may be imposed upon such land and the development and use thereof. Upon completion, the improvements on the land shall be included in one or more condominiums or owned by an

association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest. This binding site plan shall be binding upon all now or hereafter having any interest in the land described herein." The binding site plan may, but need not, depict or describe the boundaries of the lots or tracts resulting from subjecting a portion of the land to either chapter 64.32 or 64.34 RCW. A site plan shall be deemed to have been approved if the site plan was approved by a city, town, or county: (i) In connection with the final approval of a subdivision plat or planned unit development with respect to all of such land; or (ii) in connection with the issuance of building permits or final certificates of occupancy with respect to all of such land; or (iii) if not approved pursuant to (i) and (ii) of this subsection (7)(e), then pursuant to such other procedures as such city, town, or county may have established for the approval of a binding site plan;

(8) A division for the purpose of leasing land for facilities providing personal wireless services while used for that purpose. "Personal wireless services" means any federally licensed personal wireless service. "Facilities" means unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters, and support structures;

(9) A division of land into lots or tracts of less than three acres that is recorded in accordance with chapter 58.09 RCW and is used or to be used for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities. For purposes of this subsection, "electric utility facilities" means unstaffed facilities, except for the presence of security personnel, that are used for or in connection with or to facilitate the transmission, distribution, sale, or furnishing of electricity including, but not limited to, electric power substations. This subsection does not exempt a division of land from the zoning and permitting laws and regulations of cities, towns, counties, and municipal corporations. Furthermore, this subsection only applies to electric utility facilities that will be placed into service to meet the electrical needs of a utility's existing and new customers. New customers are defined as electric service locations not already in existence as of the date that

electric utility facilities subject to the provisions of this subsection are planned and constructed; and

(10) A division of land into lots or tracts of less than two acres that is recorded in accordance with chapter 58.09 RCW and is used or to be used for the purpose of establishing a site for construction and operation of a rural fire district station, provided the proposed lots or tracts contain sufficient area and dimensions to meet minimum building site width and area requirements, and appropriate provisions are made for potable water supplies and sanitary wastes.

Sec. 3. RCW 58.17.040 and 2024 c 321 s 407 and 2024 c 190 s 2 are each reenacted and amended to read as follows:

The provisions of this chapter shall not apply to:

(1) Cemeteries and other burial plots while used for that purpose;

(2) Divisions of land into lots or tracts each of which is one-one hundred twenty-eighth of a section of land or larger, or five acres or larger if the land is not capable of description as a fraction of a section of land, unless the governing authority of the city, town, or county in which the land is situated shall have adopted a subdivision ordinance requiring plat approval of such divisions: PROVIDED, That for purposes of computing the size of any lot under this item which borders on a street or road, the lot size shall be expanded to include that area ((~~which~~)) that would be bounded by the center line of the road or street and the side lot lines of the lot running perpendicular to such center line;

(3) Divisions made by testamentary provisions, or the laws of descent;

(4) Divisions of land into lots or tracts classified for industrial or commercial use when the city, town, or county has approved a binding site plan for the use of the land in accordance with local regulations. For the purposes of this section, commercially zoned property includes property that is zoned to permit or conditionally permit any multifamily residential uses;

(5) A division for the purpose of lease when no residential structure other than mobile homes, tiny houses or tiny houses with wheels as defined in RCW 35.21.686, or travel trailers are permitted to be placed upon the land when the city, town, or county has

approved a binding site plan for the use of the land in accordance with local regulations;

(6) A division made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site;

(7) Divisions of land into lots or tracts if: (a) Such division is the result of subjecting a portion of a parcel or tract of land to chapter 64.90 RCW subsequent to the recording of a binding site plan for all such land; (b) the improvements constructed or to be constructed thereon are required by the provisions of the binding site plan to be included in one or more condominiums, cooperatives, or owned by an association or other legal entity in which the owners of units therein or their owners associations have a membership or other legal or beneficial interest; (c) a city, town, or county has approved the binding site plan for all such land; (d) such approved binding site plan is recorded in the county or counties in which such land is located; and (e) the binding site plan contains thereon the following statement: "All development and use of the land described herein shall be in accordance with this binding site plan, as it may be amended with the approval of the city, town, or county having jurisdiction over the development of such land, and in accordance with such other governmental permits, approvals, regulations, requirements, and restrictions that may be imposed upon such land and the development and use thereof. Upon completion, the improvements on the land shall be included in one or more condominiums, cooperatives, or owned by an association or other legal entity in which the owners of units therein or their owners associations have a membership or other legal or beneficial interest. This binding site plan shall be binding upon all now or hereafter having any interest in the land described herein." The binding site plan may, but need not, depict or describe the boundaries of the lots or tracts resulting from subjecting a portion of the land to chapter 64.90 RCW. A site plan shall be deemed to have been approved if the site plan was approved by a city, town, or county: (i) In connection with the final approval of a subdivision plat or planned unit development with respect to all of such land; or (ii) in connection with the issuance of building permits or final certificates of occupancy with respect to all of

such land; or (iii) if not approved pursuant to (i) and (ii) of this subsection (7)(e), then pursuant to such other procedures as such city, town, or county may have established for the approval of a binding site plan;

(8) A division for the purpose of leasing land for facilities providing personal wireless services while used for that purpose. "Personal wireless services" means any federally licensed personal wireless service. "Facilities" means unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters, and support structures;

(9) A division of land into lots or tracts of less than three acres that is recorded in accordance with chapter 58.09 RCW and is used or to be used for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities. For purposes of this subsection, "electric utility facilities" means unstaffed facilities, except for the presence of security personnel, that are used for or in connection with or to facilitate the transmission, distribution, sale, or furnishing of electricity including, but not limited to, electric power substations. This subsection does not exempt a division of land from the zoning and permitting laws and regulations of cities, towns, counties, and municipal corporations. Furthermore, this subsection only applies to electric utility facilities that will be placed into service to meet the electrical needs of a utility's existing and new customers. New customers are defined as electric service locations not already in existence as of the date that electric utility facilities subject to the provisions of this subsection are planned and constructed; and

(10) A division of land into lots or tracts of less than two acres that is recorded in accordance with chapter 58.09 RCW and is used or to be used for the purpose of establishing a site for construction and operation of a rural fire district station, provided the proposed lots or tracts contain sufficient area and dimensions to meet minimum building site width and area requirements, and appropriate provisions are made for potable water supplies and sanitary wastes.

Sec. 4. RCW 64.90.025 and 2019 c 238 s 202 are each amended to read as follows:

(1) A building, fire, health, or safety statute, ordinance, or regulation may not impose any requirement upon any structure in a common interest community that it would not impose upon a physically identical development under a different form of ownership.

(2) A zoning, subdivision, or other land use statute, ordinance, or regulation may not prohibit the condominium or cooperative form of ownership or impose any requirement upon a condominium or cooperative or miscellaneous community that it would not impose upon a physically identical development under a different form of ownership. Such requirements include, without limitation, any permitting process such as a binding site plan under RCW 58.17.035 or hearing examiner proceeding under RCW 35A.63.170.

(3) Chapter 58.17 RCW does not apply to the creation of a condominium or a cooperative. This chapter must not be construed to permit the creation of a condominium or cooperative or miscellaneous community on a lot, tract, or parcel of land that could not be sold or transferred without violating chapter 58.17 RCW.

(4) Except as provided in subsections (1), (2), and (3) of this section, this chapter does not invalidate or modify any provision of any building, zoning, subdivision, or other statute, ordinance, rule, or regulation governing the use of real estate.

(5) This section does not prohibit a county legislative authority from requiring the review and approval of declarations and amendments to declarations and of termination agreements executed pursuant to RCW 64.90.290(2) by the county assessor solely for the purpose of allocating the assessed value and property taxes. The review by the assessor must be done in a reasonable and timely manner.

Sec. 5. RCW 36.70B.080 and 2023 c 338 s 7 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~~)) Except for modifications by a jurisdiction provided for in (e) of this subsection, the time periods for local government actions for each type of complete project permit

application or project type ((~~should~~)) may not exceed those specified in this section.

(b) For project permits submitted after January 1, 2025, 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.

(c) A jurisdiction may exclude certain permit types and timelines for processing project permit applications as provided for in RCW 36.70B.140.

(d) The time periods for local government action to issue a final decision for each type of complete project permit application or project type subject to this chapter should not exceed the following time periods 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 65 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 100 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 170 days of the determination of completeness under RCW 36.70B.070.

(e) A jurisdiction may modify the provisions in (d) of this subsection to add permit types not identified, change the permit names or types in each category, address how consolidated review time periods may be different than permits submitted individually, and provide for how projects of a certain size or type may be differentiated, including by differentiating between ((~~residential and nonresidential~~)) permits that include a residential land use as a principal use of the land and permits that do not. Unless otherwise provided for the consolidated review of more than one permit, the time period for a final decision shall be the longest of the permit time periods 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 time periods in (d) of this subsection apply.

(g) The number of days an application is in review with the county or city shall be calculated from the day completeness is determined under RCW 36.70B.070 to the date a final decision is issued on the project permit application. The number of days shall be calculated by counting every calendar day and excluding the following time periods:

(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 applicant 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) The time periods for a local government to process a permit shall start over if an applicant proposes a change in use that adds or removes commercial or residential elements from the original application that would make the application fail to meet the determination of procedural completeness for the new use, as required by the local government under RCW 36.70B.070.

(i) If, at any time, an applicant informs the local government, in writing, that the applicant would like to temporarily suspend the review of the project for more than 60 days, or if an applicant is not responsive for more than 60 consecutive days after the county or city has notified the applicant, in writing, that additional information is required to further process the application, an additional 30 days may be added to the time periods for local government action to issue a final decision for each type of project permit that is subject to this chapter. Any written notice from the local government to the applicant that additional information is required to further process the application must include a notice that nonresponsiveness for 60 consecutive days may result in 30 days being added to the time for review. For the purposes of this subsection, "nonresponsiveness" means that an applicant is not making demonstrable progress on providing additional requested information

to the local government, or that there is no ongoing communication from the applicant to the local government on the applicant's ability or willingness to provide the additional information.

(j) Annual amendments to the comprehensive plan are not subject to the requirements of this section.

(k) A county's or city's adoption of a resolution or ordinance to implement this subsection shall not be 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 170 days for any project permit.

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

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

(B) 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 period.

(ii) Except as provided in RCW 36.70B.160, the provisions in ((~~subsection (l)~~))(i) of this ((~~section~~)) 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 (j) at the time an application is deemed procedurally complete.

(2)(a) Counties subject to the requirements of RCW 36.70A.215 and the cities within those counties that have populations of at least 20,000 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 an annual performance report that includes information outlining time periods for certain permit types associated with housing. The report must provide:

(i) Permit time periods for certain permit processes in the county or city in relation to those established under this section, including whether the county or city has established shorter time periods than those provided in this section;

(ii) The total number of decisions issued during the year for the following permit types: Preliminary subdivisions, final subdivisions, binding site plans, permit processes associated with the approval of multifamily housing, and construction plan review for each of these permit types when submitted separately;

(iii) The total number of decisions for each permit type which included consolidated project permit review, such as concurrent review of a rezone or construction plans;

(iv) The average number of days from a submittal to a decision being issued for the project permit types listed in subsection ((~~(2)(a)(ii)~~)) (2)(b)(ii) of this section. This shall be calculated from the day completeness is determined under RCW 36.70B.070 to the date a decision is issued on the application. The number of days shall be calculated by counting every calendar day;

(v) The total number of days each project permit application of a type listed in subsection ((~~(2)(a)(ii)~~)) (2)(b)(ii) of this section was in review with the county or city. This shall be calculated from the day completeness is determined under RCW 36.70B.070 to the date a final decision is issued on the application. The number of days shall be calculated by counting every calendar day. The days the application is in review with the county or city does not include the time periods in subsection ((~~(1)(g)(i)-(iii) [(1)(g)(i) through (iii)]~~)) (1)(g)(i) through (iii) of this section;

(vi) The total number of days that were excluded from the time period calculation under subsection ((~~(1)(g)(i)-(iii) [(1)(g)(i) through (iii)]~~)) (1)(g)(i) through (iii) of this section for each project permit application of a type listed in subsection ((~~(2)(a)(ii)~~)) (2)(b)(ii) of this section.

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

(i) Post the annual performance report through the county's or city's website; and

(ii) Submit the annual performance report to the department of commerce by March 1st each year.

(d) No later than July 1st each year, the department of commerce shall publish a report which includes the annual performance report data for each county and city subject to the requirements of this subsection and a list of those counties and cities whose time periods are shorter than those provided for in this section.

The annual report must also include key metrics and findings from the information collected.

(e) The initial annual report required under this subsection must be submitted to the department of commerce by March 1, 2025, and must include information from permitting in 2024.

(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 and certain period of time specified and mutually agreed upon in writing by the applicant and the local government. No local government may require or request an extension of an applicable deadline for issuance of a decision for a specific project permit application as a condition or an option at initial submission of a project permit application.

NEW SECTION. **Sec. 6.** Section 2 of this act expires January 1, 2028.

NEW SECTION. **Sec. 7.** Section 3 of this act takes effect January 1, 2028.

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