

CITY COUNCIL AGENDA TOPIC

Streamlining the permitting process and implementing provisions of the Local Project Review Act, RCW 36.70B, as amended by Senate Bill 5290.

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Development Services Department

EXECUTIVE SUMMARY**DIRECTION**

Staff seeks Council direction on initiating work to implement changes from the Local Project Review Act, RCW 36.70B, resulting from the adoption of Senate Bill 5290 by the Washington State Legislature including the necessary Land Use Code Amendments (LUCA), modifications to permit timelines, and the implementation of three streamlining measures.

RECOMMENDATION

Direct staff to initiate work to implement changes resulting from the adoption of Senate Bill 5290, including initiating Land Use Code Amendments, modifications to permit timelines, and the implementation of three streamlining measures.

BACKGROUND/ANALYSIS**Local Project Review Act Legislative History**

The Washington State Growth Management Act (GMA) directs jurisdictions like the City of Bellevue to adopt internally consistent comprehensive land use plans and to implement those plans through locally adopted development regulations. The GMA further outlines goals to guide the development of regulations in jurisdictions fully planning under the GMA. One of the key goals established in RCW 36.70A.020 establishes that permit applications should be processed in a timely and fair manner to ensure predictability. To help local government agencies meet this goal, in 1995 the Washington State Legislature enacted Chapter 36.70B RCW, known as the Local Project Review Act. This legislation included requirements for reviewing project permits, providing public notice, determining application completeness, and other provisions related to issuing decisions on project permits. In 2001 the Local Project Review Act was amended to include a requirement for local jurisdictions to generally begin acting on permit applications within 120 days unless additional time was needed. In addition, the bill required certain local government agencies to begin producing annual permit timeline performance reports to provide greater transparency and predictability in the permitting process.

During the 2023 legislative session, the Washington State Legislature passed, and the Governor signed Senate Bill 5290, updating portions of the Local Project Review Act, Chapter 36.70B RCW. The intent of the updates was to further consolidate, streamline, and improve project review and permitting, with an emphasis on housing development, and to reduce the amount of time it takes for projects complying with local development regulations to receive approval. To accomplish this goal SB 5290 contained

thirteen separate sections including a variety of mandatory and voluntary measures for local government agencies to consider when implementing permit streamlining. The legislation also established a key role for the Washington Department of Commerce. The full provisions of the legislation have been included in Attachment A of tonight's agenda.

Key Components of Senate Bill 5290

The SB 5290 updates contain a new series of requirements for local governments. Key components of the legislation are included below, and a comprehensive summary including the effective date of each change has been outlined by a fact sheet developed by the Washington State Department of Commerce and included in Attachment B.

- *Project Permits* – The legislation defines project permits as, any land use or environmental permit or license required from a local government for a project action, including but not limited to subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals by critical areas ordinances, site-specific rezones which do not require a comprehensive plan amendment, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations except as otherwise specifically included in RCW 36.70B.
- *Permit Timelines* – The legislation established new permit review time periods for project permits. The updated timelines were established in three separate tiers, based on public involvement, and may be modified by local ordinance. The new default time periods are:
 1. 65 days for permits that do not require public notice.
 2. 100 days for permits that require public notice, but not a public hearing.
 3. 170 days for permits that require public notice and a public hearing.

The time periods include the number of calendar days it takes a local government to reach a final decision and excludes the application completeness check process and time periods when the local government is waiting on an applicant response. As outlined in RCW 36.70B.080, these new permit timelines will take effect on January 1, 2025, unless a local government agency elects to modify the review timelines based on special circumstances.

- *Permit Fee Refunds* – As a potential consequence the legislation includes a measure that, in some circumstances, may require jurisdictions to refund a portion of the permit fees when the timelines are not met. The portion of the refund may range from 10-20% based on criteria established in RCW 36.70B.080.
- *Streamlining Measures* – As an incentive the legislation provides an option for jurisdictions to adopt a minimum of three out of ten streamlining measures as listed in RCW 36.70B.160 to avoid refunding permit fees. Jurisdictions that implement three streamlining measures will need to meet adopted permit timelines fifty percent of the time by the next comprehensive plan update after January 1, 2026, or be required to adopt additional streamlining measures.
- *Performance Reports* – RCW 36.70B.080 also establishes a new set of criteria for annual performance reports and requires certain jurisdictions, including Bellevue, to publish the reports

online and provide copies to the Department of Commerce.

- Procedural Changes – The legislation also included several procedural updates including but not limited to changes in definitions, requirements for determination of permit application completeness, excluding site plan review for most interior alterations, clarifying permit application submittal requirements, and minor amendments to citations.

The legislation also outlined a key role for the Washington State Department of Commerce which includes direction to develop the following implementation guidance and reporting structure changes:

- Temporary Permit Staff – Commerce must develop a plan to provide local government agencies with temporary permit staff to process residential housing permit applications. A copy of this plan has been included in Attachment C.
- Permit Fee Guidance – Commerce must provide technical assistance and guidance to local governments regarding the structure of their application and permit fees.
- Reporting – Commerce must develop a template and guidance for those local governments required to submit annual permit timeline performance reports.
- Digital Permitting Workgroup – Commerce must convene a digital permitting workgroup to develop a report to the legislature and governor on the needs, barriers, costs, and benefits of a statewide digital permitting system.
- Grant Programs – Commerce must administer two grant programs focused on accelerating residential building permits and upgrading permitting systems from paper to digital formats.

Permit Timeline Analysis

To better understand the calibration of the new legislative timeline provisions with local project permit review in Bellevue, staff conducted a data assessment and root cause analysis using a subset of project permit decisions issued between January 2021 and January 2023. The analysis revealed several factors contributing to the length of time it takes to reach a decision on a project permit. While some of those factors identified opportunities for process improvements, there were others that revealed circumstances outside the control of city staff and special circumstances based on local development conditions in Bellevue. The table below are the findings from the data analysis, followed by the primary factors contributing to the time it takes to process a project permit decision.

SB 5290 Data Analysis (Data Set = Jan 2021 – Jan 2023)				
Project Permit Timeline Categories	Total Permits	% of Permits Meeting Default Shot Clocks	City % of Overall Timeline	Applicant % of Overall Timeline
65 Days – No Public Notice	217	79%	16%	84%
100 Days – Public Notice	139	29%	59%	41%
170 Days – Public Hearing	2	0%	64%	36%
All Project Permits	358	59%	44%	56%

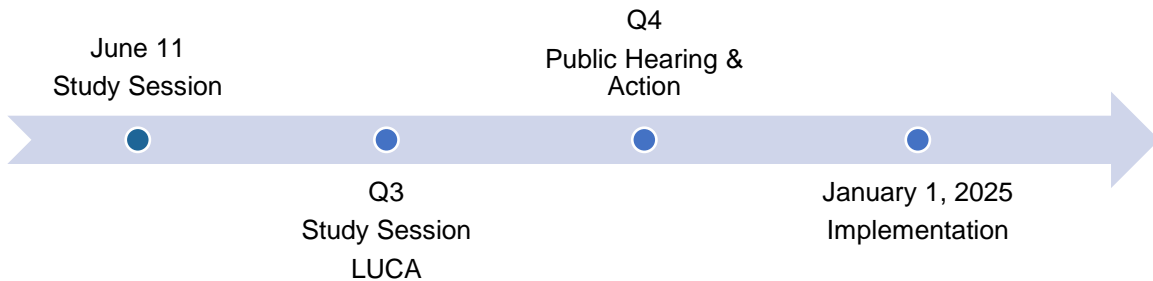
Contributing Factors to Permit Timelines

- Resource Availability – Having the necessary resources to review project permit applications in a timely manner is critical to ensuring a predictable process. As outlined in the Community Assistance Plan to Address Residential Permit Delays published by the Department of Commerce and included in Attachment C, jurisdictions across the State of Washington have faced staffing challenges amidst historical planning workload in recent years. The data compiled by the Department of Commerce reveals that 75% of jurisdictions across the state have encountered a lack of in-house staff for timely processing of permits. While Development Services operates under a more resilient financial model than many other cities, resource availability has been a challenge at times. With an increasingly competitive labor market and fewer professionals entering fields such as urban planning, cities like Bellevue need to turn to alternative resource strategies. This includes, as outlined in the guidance from Commerce, deepening the pool of consultant resources and adopting best practices to attract and retain the necessary talent to review and process permits.
- Complexity Factors – The complexity of a development proposal often has a bearing on the time it takes to process a project permit application. While the default timelines established in the new legislation recognize public participation as a factor that may impact the time to review a project permit, there are other factors that create conditions outside the control of the city and should be considered as special circumstances. For example, large mixed use and high-rise projects in dense urban environments present project and site-specific complexity factors requiring additional time to prepare designs and review permit applications that is not recognized in the SB 5290 framework. The location of a development project with respect to environmentally critical areas is another factor that generates additional review time as a result of detailed technical review of geotechnical conditions, wetland/fish/wildlife habitat review, and technical reports outlining requirements for mitigation practices. The amount of public opposition a development proposal may face is a factor that can impact the time staff need to spend responding to phone or email inquiries, coordinating with applicants to address public concerns, and preparing for additional public meetings and possible appeal of the City's decision where significant public opposition and concern exists. Finally, the overall application quality plays a major role in the number of permit review revision cycles that may take place. Submitting complete information, responding to all permit corrections requested by staff, and communicating clarifying information to show conformance with city codes all play a part in how quickly a development proposal can be processed.
- Process – Another critical component of the overall time it takes to reach a decision on a permit is the underlying permitting process itself. To better understand opportunities for improvements staff analyzed a combination of customer experience survey responses and operational data to reveal several key themes. These themes included increasing consistency and predictability in the review process, streamlining and simplifying submittal requirements, improving the application process including quality control, system improvements, and improving communication throughout the process. These themes were then reviewed with the Bellevue Development Committee in working meetings between September 2023 and April 2024, where more specific improvements were identified and incorporated into Development Services work

programs. Also, while most of the identified improvements were outside the scope of the SB 5290 framework, staff believe these improvements will serve as a fundamental step in shortening the time it takes to process a project permit decision.

Implementation Strategy and Timeline

Considering the key components of SB 5290 and the permit timeline analysis, staff have developed the following recommended implementation strategy and will be seeking direction from Council to initiate the associated work under each item.



1. Land Use Code Amendment (LUCA) – The City’s regulations regarding project permit decisions are contained in the Land Use Code (LUC). To maintain consistency with the provisions included in SB 5290 an associated LUCA will be needed to address:
 - a. Changes in definitions and citations to maintain alignment with Chapter 36.70B RCW.
 - b. Changes in the procedural requirements to determine permit application completeness.
 - c. Site plan review exclusion for most interior alterations.
 - d. Modifications to permit timelines based on special circumstances.

2. Modify Permit Timelines for Permit Types with Special Circumstances – As outlined in RCW 36.70B.080(1)(e) and 36.70B.140 jurisdictions may modify the timelines contained in the legislation to change the permit names or types in each timeline category or specify a different time period when special circumstances warrant such as change. As described in the timeline analysis included in tonight’s agenda memo staff are recommending moving the following permit types from the 100-day category into the 170-day category as they warrant special complexity circumstances that were not considered in the legislative framework.
 - a. Design Review Permits
 - b. Master Development Plans
 - c. Critical Areas Land Use Permits
 - d. Shoreline Substantial Development Permits

3. Implement Three Streamlining Measures – The Development Services line of business operates under a full cost recovery model with most of the revenue coming from the fees charged to permit customers. To maintain alignment with the Council endorsed cost recovery objectives, streamline permitting, and to avoid the risk of refunding permit fees, staff are recommending

implementation of three streamlining measures by the end of 2024. These streamlining measures are focused on addressing resource availability factors, which as described in the timeline analysis section of tonight's agenda memo and the Department of Commerce guidance included in Attachment C represent a significant factor impacting permit timelines across the state.

- a. Maintaining and budgeting for on-call permitting assistance for when permit volumes or staffing levels change rapidly.
- b. Having new positions budgeted that are contingent on increased permit revenue.
- c. Imposing reasonable fees, consistent with RCW 82.02.020, on applications for permits to cover the cost to the city for processing applications, inspecting, or reviewing plans, or preparing detailed statements required by RCW 43.21C RCW.

Continuous Improvement

In addition to the specific actions to implement the legislative provisions of SB 5290 Development Services is committed to continuous process improvements. The department has for many years now been engaged in listening to feedback from stakeholders and implementing improvements in the permitting process and the systems that support that process. The department's recent work with the Bellevue Development Committee has resulted in several continuous improvement projects that are focused on streamlining and improving the permit process. While most of these improvements fall outside the legislative framework of SB 5290, staff are committed to working together with stakeholders in a continuous improvement model aimed at delivering a consistent and predictable process that facilitates appropriate and timely development.

POLICY & FISCAL IMPACTS

Policy Impact

RCW 36.70B.080

New permit timelines will take effect on January 1, 2025, unless a local government agency elects to modify the review timelines based on special circumstances. As a potential consequence for not meeting the timelines established in state law or by local ordinance, local permitting agencies may be subject to permit fee refunds that range from 10-20%.

RCW 36.70B.160

As an incentive the legislation provides an option for jurisdictions to adopt a minimum of three out of ten streamlining measures to avoid refunding permit fees.

Council Policy Direction

The City Council has set cost recovery objectives for development services. These cost recovery objectives are based on the type of service being delivered and provide a more understandable and consistent approach to setting fees, with common objectives across departments and functions. Refunding permit fees for fee supported work is a risk to meeting the following objectives:

Type of Service	Cost Recovery Target	Funding Source
Policy Development & Public Information	0%	100% General Fund/Utilities Fund supported
Land Use Discretionary Review	100%	100% fee supported
Engineering Review & Inspection	100%	100% fee supported
Technical/Administrative Support	100%	100% fee supported

Fiscal Impact

Development Services operates under a financial model with full cost recovery objectives established by City Council direction. The cost recovery objectives for most services rely on revenue generated from permit fees charged to customers seeking services. The permit fee refund requirements outlined in RCW 36.70B.080 set to take effect on January 1, 2025, present a risk to achieving the policy direction set by the City Council and having the necessary resources to process permits in a timely manner. Implementing three streamlining measures as outlined in RCW 36.70B.160 will reduce the financial risk of having to refund a portion of permit fees and have a positive effect on streamlining the permitting process.

OPTIONS

1. Direct staff to initiate work to implement changes resulting from the adoption of Senate Bill 5290, including initiating Land Use Code Amendments, modifications to permit timelines, and the implementation of three streamlining measures.
2. Provide alternative direction to staff.

ATTACHMENTS

- A. Senate Bill 5290 Session Law
- B. Local Project Review Act Commerce Fact Sheet
- C. Community Assistance Plan to Address Residential Permit Delays

AVAILABLE IN COUNCIL LIBRARY

N/A