Planning & Development Services

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Memorandum

From: Ryan Walters, JD, AICP, Ryan Walters Law PLLC
Date: May 22, 2024
Re: Proposed updates to Skagit County Code Chapter 14.06 Permit Procedures

Skagit County contracted with Ryan Walters Law PLLC for advice and recommendations for reforms that would expedite the County's permit process. One of our principal recommendations is to update the county code on permit procedures, which was initially adopted in its current form almost 25 years ago. This memo describes that code update proposal.[1]

Objectives

Broadly, the objectives of the proposed code update are to:

- **improve permit processes** to expedite permits, including:
  - eliminate intensive manual or non-electronic processes;
  - consolidate review processes;
  - facilitate digital workflows in the County's new permit software;
- **improve readability and usability**, including:
  - align terminology with RCW Chapter 36.70B;
  - use plain-language drafting techniques;
  - use tables and lists that make it easier to see how processes compare to each other;
  - delete duplicative code language that could result in inconsistencies in interpretation or administration, and to improve maintainability of the code.
- **comply with 2SSB 5290**, adopted in 2023 by the State Legislature, which imposes specific new requirements on County permit processes (principally through amendments to RCW Chapter 36.70B, Local Project Review).

Overview

This code update proposal:

- evolves "application levels" into "types of review" as described below, with some changes in process and appeal rights, and represent the types of review and the review process components in a comprehensive table for easy comparison and amendment;
- provides for an optional site plan review process that would roll-up multiple other pre-application review processes and provide time-limited protection against needing to re-review those site planning requirements; and
- creates other tables to describe permit timelines and expirations to implement the requirements of 2SSB 5290 and make other changes for consistency across Title 14.

[1] For additional background, see presentations to the Skagit County Planning Commission on May 14, 2024; March 26, 2024; March 20, 2018; and October 3, 2017; Department memo for March 20 Planning Commission workshop (March 14, 2018).

Summary of Proposed Amendments

Because the code proposal will be a complete rewrite of the chapter, changes cannot be tracked in strike-through and underline. Instead, as we have done in other code updates for other jurisdictions, changes from existing sections will be marked with shaded Change Explainer paragraphs throughout the text that will provide narrative documentation of the provenance and evolution of each section.

Plain Language Drafting

The code update proposal rewrites procedures to follow plain language drafting techniques following the federal guidelines available at plainlanguage.gov. In general, that includes:

- avoidance of repetition and use of parallel construction;
- conversion of lengthy paragraphs or parallel provisions to lists and tables;
- organization of information logically (generally, sequentially);
- modularization of processes, e.g., legal notices, public comment periods;
- extraction of substantive rules from definitions or procedural provisions;
- elimination of archaic and obsolete language;
- deletion of duplicative language;
- self-documenting code, e.g., that includes references to the statutes that mandate each provision.

Terminology

A key approach to plain language legal writing is to define a set of terms applicable to the subject matter and to use those terms and only those terms in applicable rules. The code proposal makes the following notable changes:

- "Administrative Official" is deprecated. All references to the "Administrative Official" are replaced with a reference to the "Director," the definition of which includes the director's designee. Eventually, the term "Administrative Official" should be removed from other chapters of Title 14. Typically, in legislative drafting, a person is assigned a task rather than a department, so code references to "the Department" taking some action have been rewritten as "the Director must" take the action.
- "Development permit" is deprecated in favor of "project permit," which is the term used in RCW Chapter 36.70B. The definitions is clarified and explicitly includes permits issued pursuant to Title 15, i.e., building permits.[2] In all cases we seek to distinguish between a permit and an application for a permit.

[2] See also the discussion of the definition of "project permit" in Appendix 2 of this memo.

- "Notice of Development Application" is deprecated in favor of the standard "Notice of Application" from RCW 36.70B.
- "Shall" is deprecated in favor of the plain language verbs "must" or "may." Use of shall is archaic and the benefits of its eradication have been established at length.[3]

Evolution of "Application Levels" to "Types of Review"

Current code generally divides permit applications into four "application levels" as described below:

- **Level I** applications are decided by the Director of Planning and Development Services. There is no public hearing, but there may or may not be a comment period depending on whether public notices are required by SCC 14.06.150(2). Appeals are heard by the Hearing Examiner, then by the Board of County Commissioners.

  Examples: building permits, boundary line adjustments, administrative special use permits, and short subdivisions.

- **Level II** applications require an open-record pre-decision hearing before the Hearing Examiner. The Hearing Examiner makes the decision, which is final unless that decision is appealed to the Board in a closed record appeal.

  Examples: Hearing Examiner special use permits and variances.

- **Level III** applications require an open-record pre-decision hearing before the Hearing Examiner. The Hearing Examiner makes a recommendation to the Board, who makes the final decision in a closed-record hearing. No local appeal is available.

  Examples: BOCC variances; subdivisions of more than 50 lots; development agreements, and regional essential public facilities.

- **Level IV** applications do not require a public hearing. The Board of County Commissioners makes the final decision. No local appeal is available.

  The only application type that is Level IV is final plat approval.

The code proposal reconstitutes these "application levels" into "types of review," which are renamed and renumbered with Arabic numerals instead of Roman numerals to avoid confusion with the prior organizational scheme. The numbering of these types of review generally correspond to the numbering in WAC 365-196-845(2)(b). The proposed types of review are as follows:

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[3] See "Words of Authority" in Bryan A. Garner, *A Dictionary of Modern Legal Usage* (2001);
Rule 24.3(b) in Bryan A. Garner, *The Redbook: A Manual of Legal Style* (2006);
Richard Wydick, *Plain Language for Lawyers* (2002) at 66;
Joseph Kimble, *Lifting the Fog of Legalese* (2007) at 159;
Jyoti Sagar, "'Shall' Shocked: The use of shall in legal documents," *Bar and Bench* (June 18, 2021), available at https://www.barandbench.com/columns/shall-shocked-the-use-of-shall-in-legal-documents;
Federal Plain Language Guidelines at www.plainlanguage.gov/guidelines/conversational/use-must-to-indicate-requirements/;
additional resources at https://governor.wa.gov/issues/efficient-government/plain-talk/resources.

- **Type 1** review: administrative approval without notice or comment. Appeal to Hearing Examiner with no further local appeal.

  Examples: boundary line adjustments, building permits, certain Forest Practice Act waivers; when SEPA-exempt. An application that would otherwise be a Type 1 review but is not SEPA-exempt automatically becomes a Type 2 review.

- **Type 2** review: administrative approval with notice and written comment. Appeal to Hearing Examiner with no further local appeal.

  Examples: administrative special use permits and short subdivisions.

- **Type 3** review: Hearing Examiner approval with public hearing. Appeal to BOCC.

  Examples: Hearing Examiner special use permits and variances.

- **Type 4** review: BOCC approval with public hearing before, and recommendation from, the Hearing Examiner.

  Examples: BOCC variances; subdivisions of more than 50 lots; development agreements, and regional essential public facilities.

The proposed changes have the effect of dividing the old "Level I" applications into two types (those with and without public comment requirements) and eliminating the existing "Level IV" application. The existing "Level IV" application, which included only non-discretionary ministerial approval of final subdivisions, will be included as a Type 1 review as authorized by SB 5674 (2017). This typology correlates with the types described in Section 7 of 2SSB 5290 (2023).

Each of the types of review, and the process for evaluating them is represented in the table in proposed SCC 14.06.150, which is the *only* place in the code where this information is shown. Other references to levels of review and process steps in other chapters of the code are proposed for deletion to avoid conflicts. The table below compares the existing "application levels" and the proposed "types of review."

Application Level (existing)	I (no notice)	I (with notice)	II	III	IV
Type of Review (proposed)	1	2	3	4	n/a
Example Permits in this Category	Building permit BLA Flood Permit Lot cert Final plat[4]	Admin SUP Admin Variance Prelim short subdivision SEPA threshold	HE SUP HE Variance Prelim long subdivision	BOCC variances Regional EPF Rezones	Final plat[4]
Comment Period	No	Yes	Yes	Yes	Yes
Public Hearing	No	No	Yes (HE)	Yes (HE)	No
Recommendation By	n/a	n/a	Staff	HE	Staff
Decision By	Director	Director	HE	BOCC	BOCC
Local Appeal (existing)	HE, then BOCC	HE, then BOCC	BOCC	None	None
Local Appeal (proposed)	HE	HE	BOCC	None	

[4] Final plat approval, defined by statute as a non-discretionary decision, would be moved from Application Level IV to Type of Review 1.

Note that while two levels of appeal exist for low-level applications under current code, the proposal would eliminate one level of appeal to expedite local review and comply with the requirement under RCW 36.70B.060 to have no more than one closed-record appeal.

Site Plan Review

As part of the code update, we propose creation of a new Site Plan Review process step that would roll up other application procedures (e.g., critical areas, stormwater site planning, and flood permits) and provide time-limited assurance that Site Plan Review would not need to be conducted again for a subsequent application on the same parcel for the classes of uses described in the site plan application. The objectives of a consolidated Site Plan Review process are to promote integrated project review of the many application sections of the development code and streamline building permit application review by performing site plan review once, rather than for each subsequent building permit application.

Site Plan Review would be required for all development applications (other than land divisions, repair, maintenance, and interior remodeling) but could be consolidated and applied for at the same time as a related building permit application. In the preferred alternative, where Site Plan Review is applied for and approved in advance, the subsequent building permit application would be reviewed on an expedited track.

An application for Site Plan Review would identify constraints such as:

- lot of record certification;
- required setbacks;
- ag siting criteria;
- critical area/shoreline boundaries on the parcel;
- septic drain fields;
- well setbacks, sanitary easement, rainwater catchment area;
- whether and what portions of the parcel are subject to flood regulations;
- airport environs overlay restrictions;
- access generally, and fire access;
- wildland-urban interface;
- required title notices.

Importantly, the results of all of the above review items would be reduced to a single site plan approval document. A subsequent building permit application for the same site could then be reviewed by a project planner/technician without the need to engage a subject-matter expert in each of the applicable review criteria.

The benefit of this approach is potentially substantial to an applicant. Take, for example, a landowner who desires to build a garage, ADU, and primary dwelling. Typically, many of the site plan review steps must be performed for each building permit application. In the proposal, the

landowner could perform Site Plan Review—potentially, even prior to land purchase—to identify the area allowed for development within the various dimensional and siting criteria. The landowner could then apply for a building permit for the ADU on an expedited track, obtain it quickly, and then follow up with applications for the garage and primary dwelling at later dates, without again performing all the individual reviews that are rolled up as site plan review.

Addressing 2SSB 5290

In the 2023 session, the State Legislature adopted a large number of bills concerning housing and permit processes, notably Second Substitute Senate Bill 5290, which requires the County to amend its development code to streamline development permit processes. Section 7 of the bill requires the County to adopt development regulations by January 1, 2025, that:

- establish and implement permit processing time limits for each type of project permit application, generally as follows:

Permits that do not require public notice	65 days
Permits that require public notice	100 days
Permits that require public notice and public hearing	170 days

  (The County may 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.)

- clearly indicate the information required for application review; and
- exclude interior alterations from site plan review (in most circumstances).

The proposed code update adopts the default timelines in the bill.

Section 7 of 2SSB 5290 requires the County to provide fee refunds when permit processing timelines are not met. These mandatory fee refund provisions can be avoided if the County incorporates at least three of the non-mandatory process improvements in Section 8 of the bill. One of those optional improvements is to make all types of housing a permitted (i.e., not conditional) use in all zones where it is allowed. Skagit County already does this with the exception of "temporary manufactured homes," which are special uses with specific performance criteria. The proposed code update changes those uses to permitted uses in all zones where they are allowed. The required performance criteria are maintained.

Note that an ordinance to implement subsection 7 of 2SSB 5290 is not subject to appeal before the Growth Management Hearings Board so long as it does not amend the time limits to longer than 170 days for any project permit.

Consistency

SCC 14.08.080(7) requires any recommendation from the Planning Commission "on a proposed plan, regulation or amendment thereto [to] include a discussion of whether the proposal is

- supported by capital facility and functional plans (not relevant to this proposal);
- whether the proposal is consistent with the requirements of the Growth Management Act, (Chapter 36.70A RCW), the Countywide Planning Policies and other applicable provisions of the Comprehensive Plan; and
- whether the proposal bears a substantial relationship to the public general health, safety, morals or welfare (as a matter involving permit procedures, rather than substantive rules, is not relevant to this proposal).

Growth Management Act

RCW 36.70A.020 contains 15 unprioritized planning goals. The code proposal is consistent with:

> Planning Goal (7) that "Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability."

Although county code only instructs an evaluation of consistency with RCW 36.70A, RCW 36.70B is also considered part of GMA. See Appendix C for a detailed evaluation of consistency with RCW 36.70B.

Comprehensive Plan

The 2016 Comprehensive Plan provides instruction to improve the permit process, which is the goal of this code update.

> Policy 7A-1.6: Maintain an ongoing monitoring and evaluation program to improve the process of permit review and approval, save time, and decrease costs.
>
> Goal 11G-3: Implement permitting procedures that are understandable, predictable and can be accomplished within time periods that meet or exceed statutory requirements…

Countywide Planning Policies

The Countywide Planning Policies are adopted by the Board of County Commissioners with the consensus of other local governments, and form the basis for each jurisdiction's own comprehensive plan.

> 7.2 Upon receipt of a complete application, land use proposals and permits shall be expeditiously reviewed and decisions made in a timely manner.
>
> 7.4 New implementing codes and amendments shall provide clear regulations to reduce the possibility of multiple interpretations by staff and applicants.

Appendix 1. Proposed Disposition of Existing Sections in SCC Chapter 14.06

This appendix summarizes the notes throughout the code draft to identify how each section of existing SCC Chapter 14.06 is moved, reorganized, rewritten, or deleted.

Section	Existing Title	Disposition in Proposed Update
14.06.010	Intent	Consolidated into 14.06.110.
14.06.020	Purpose	Addressed in 14.06.110 and .120.
14.06.030	Foundation of project review	Consolidated into 14.06.300.
14.06.040	Administration and interpretation	(1) Administration is addressed in 14.02.030. (2) Counter information is addressed in 14.06.140. (3) AOIs are retitled Director Interpretation and addressed in 14.06.140. (4) Administrative decisions defined in14.04.020 (5) Lot certification is consolidated into 14.06.140
14.06.045	Lot certification	Moved to 14.06.140
14.06.050	Application level	Addressed by the Types of Review table in 14.06.150.
14.06.060	Consolidation of ...permit applications	Moved to 14.06.160.
14.06.070	Integration of SEPA review ...	Consolidated into 14.06.160.
14.06.080	Pre-development and pre-application review	Consolidated into a single pre-application conference, described at 14.06.210.
14.06.090	Contents of application	Addressed in 14.06.240.
14.06.100	Determination of completeness	Addressed in 14.06.310.
14.06.105	Requests for additional information/expiration ...	Addressed in 14.06.310.
14.06.110	Level I review procedures	Individual, repetitive process sections are consolidated into the Types of Review table in proposed 14.06.150 and then in sections for each step in the review process throughout Part II.
14.06.120	Level II review procedures	
14.06.130	Level III review procedures	
14.06.140	Level IV review procedures	
14.06.150	Public notice requirements	(1) Addressed in 14.06.320. (2) Addressed in 14.06.330.
14.06.160	Open record public hearings	Consolidated in 14.06.370.
14.06.170	Closed record hearings/appeal	Addressed in 14.06.375 and 14.06.420.
14.06.180	Reconsideration	Addressed in 14.06.440.
14.06.190	Joint hearings	Addressed in 14.06.370(4).
14.06.200	Notice of decisions	Addressed in 14.06.390.
14.06.210	Timing of decisions	Addressed in 14.06.170.
14.06.220	Judicial appeals.	Addressed in 14.06.450 (exhaustion of admin remedies)
14.06.230	Stay of proceedings	Addressed in 14.06.410(6).

Appendix 2. Comparison to 2SSB 5290

Note that as of this writing, RCW 36.70B includes codification of 2SSB 5290 (2023). This appendix is provided as a shorter summary than that in Appendix 3, which covers the entirety of RCW Chapter 36.70B.

Section1—Required and Allowed Exclusions from Review Processes

This section amends RCW 36.70B.140 to:

- allow local government to exclude permit types that need special review processes or special time periods from the requirements for permit review processes in RCW 36.70B;
- require exclusion of applications for most interior alterations from site plan review.

The proposed code update does not directly exclude any particular permits types from the review process in proposed SCC Chapter 14.06, but proposed 14.06.120, Applicability, only applies the chapter to "development permits issued per SCC Title 14, applications for such permits, and appeals of such applications and permits."

Proposed SCC 14.06.180, Site Plan Review, excludes interior alterations.

Section 2—Grants for Acceleration of Residential Building Permits

This section is a directive to the Department of Commerce and need not be addressed by the County.

Section 3—Grants for Digital Permitting Systems

This section is a directive to the Department of Commerce and need not be addressed by the County.

Section 4—Digital Permitting Workgroup

This section is a directive to the Department of Commerce and need not be addressed by the County.

Section 5—Definition of "Project Permit"

This bill modifies RCW 36.70B.020 to delete "building permits" from the definition of "project permit." Building permits were previously explicitly included in the definition. After extensive research into this facet of the bill, consulting with the Department of Commerce, members of the Collaborative Roadmap project task force, and state legislative staff, I believe this change should have no effect on how RCW 36.70B is applied to building permits.

According to Clay White, a former Snohomish County planning director who served on the Roadmap task force, the original inclusion of "building permits" in the definition of "project permit" was a legislative drafting error. That conclusion is highly dubious, since the definition was adopted in ESHB 1724 in 1995. If it were accurate, we might reasonably have expected the Legislature to amend the definition at some point in the last three decades.

Additionally, we learned that the Association of Washington Cities advocated exclusion of building permits from the definition of project permit because they did not want building permits to be subject to the permit refund requirements in Section 7 of 2SSB 5290. If that was in fact the intended effect of deletion of this language, it failed. RCW 36.70B continues to refer to "construction permits," "construction activities," "construction plan review," and "project permits for interior alterations" in the context of "project permits." Clearly the Legislature intends for building permits—the only type of permits that approve construction on private property—to be included within the scope of "project permits."

Most persuasively, while the Legislature deleted "building permits" from the types of permits explicitly included in "project permit," it declined to adopt language requiring the *exclusion* of "building permits" from the definition of project permit. Such language was proposed in the text of HB 1519 but that bill did not move forward.

The existing Skagit County Unified Development Code uses the term "development permit" instead of "project permit," and the proposed code update would continue that practice. "Development permit" is currently defined by replicating much of the definition of "project permit" from RCW 36.70B.020; the proposed code update would modify the definition of "development permit" to incorporate by reference the definition of "project permit" and add additional text to cover all types of permits issued by the County Planning Department. It would also distinguish the terms "development permit" and "development permit application."

Section 6—Determination of Completeness

This section amends RCW 36.70B.070 to:

- clarify the process for determining an application is complete within 28 calendar days;
- clarify that a determination of completeness must be based solely on the procedural requirements identified on the project permit application;
- require a notice of application within 14 days of determining the application complete.

Proposed SCC 14.06.310, Review for Application Completeness, fully implements the procedural requirements in this section of the bill. Proposed SCC 14.06.240 describes the required contents of an application.

Section 7(1)(a)-(k)—New Permit Time Periods

This portion of Section 7 amends RCW 36.70B.080(1) to **revise the existing 120-day time period**, from the date an application is determined complete, for processing an application to:

- 65 days if no notice is required for the permit type;
- 100 days if public notice is required for the permit type;
- 170 days if public notice and hearing are required for the permit type.

This section also:

- allows local governments to modify the default time periods above;

- exempts the local government's ordinance to adopt time periods from GMHB appeal IF it does not create a review period of more than 170 days for any project permit.
- makes the default time periods above apply automatically if the local government does not adopt an ordinance setting or changing the time periods.

Proposed SCC 14.06.170, Timing of Review, implements the procedural requirements of this section. The time periods themselves are included in the table in proposed SCC 14.06.150, Types of Review, and are proposed exactly as prescribed in the bill.

Section 7(1)(l)—Application Fee Refunds

Starting January 1, 2025, this section amends RCW 36.70B.080(1) to require local jurisdictions to refund 10-20% of permit fees if the new time periods described in section 7 are not met, unless they have adopted at least 3 measures per section 8. It also allows a local government to only collect 80% of a permit fee upon application, and the remainder only if time periods are met.

The proposed code update includes language in proposed SCC 14.06.170(3) to require application fee refunds consistent with this section. Note, however, if the County adopts 3 of the permit expediting measures in Section 8 of the bill, the application refund provisions are not required.

Section 7(2)—Performance Report

Skagit County is not subject to the performance report requirement in this section, which is only applicable to counties subject to the existing buildable lands requirement in RCW 36.70A.215 and cities/towns over 20,000 within those counties.

Section 8(1)—Measures to Expedite Permit Review

This portion of section 8 amends RCW 36.70B.160(1) to encourage local governments to take some of 10 listed measures to expedite permit review, including measures to:

- ensure permit fees are reasonable;
- limit need for public hearings to only those permit types required by statute;
- make preapplication meetings optional;
- make housing an outright permitted use;
- budgeting for on-call permitting assistance; and
- provide for hiring outside professionals to certify components of applications consistent with their licenses.

We recommend that Skagit County implement at least three of the listed measures, however most of these measures require administrative action to implement and need not be addressed in code. One measure—making pre-application meetings optional—could be easily implemented by changing the "Pre-Application Conference" row in the table in proposed SCC 14.06.150 from "Yes but can be waived" to "Recommended" with a corresponding update to proposed SCC 14.06.220(2).

Section 8(2)—Requirement to Adopt Measures

This portion of section 8 amends RCW 36.70B.160(2) to require local governments to adopt additional measures to expedite permit review at their next comprehensive plan update after 1/1/26 if:

- the local government had adopted at least 3 project review and code measures more than five years earlier; and
- the local government is not meeting the permit deadlines at least 50% of the time since its most recent comprehensive plan update.

A local government that is required to, but fails to adopt new measures becomes such to the application refund requirements in section 7.

This section need not be addressed in the County's code update at this time.

Section 9—Fee Guidance

This section is a directive to the Department of Commerce and need not be addressed by the County.

Section 10—Miscellaneous

This section makes several minor changes to RCW 36.70B.110 that need not be addressed in the code update.

An amendment to paragraph (6)(d) clarifies that an appeal hearing on *any* SEPA threshold determination must be consolidated with any open record hearing on the underlying project permit, not just a SEPA threshold determination finding non-significant impacts.

Section 11—Performance Report Template

This section is a directive to the Department of Commerce and need not be addressed by the County.

Section 12—Temporary Permit Staff

This section is a directive to the Department of Commerce and need not be addressed by the County.

Section 13—Effective Date

This section makes section 7 effective 1/1/2025.

Appendix 3. Comparison to RCW 36.70B

This appendix replicates verbatim the text of Chapter 36.70B, Local Project Review, and provides description of how each section is addressed in blue boxes.

RCW 36.70B.010 Findings and declaration.

ℹ This section demonstrates legislative intent but need not be addressed in local code.

The legislature finds and declares the following:

(1) As the number of environmental laws and development regulations has increased for land uses and development, so has the number of required local land use permits, each with its own separate approval process.

(2) The increasing number of local and state land use permits and separate environmental review processes required by agencies has generated continuing potential for conflict, overlap, and duplication between the various permit and review processes.

(3) This regulatory burden has significantly added to the cost and time needed to obtain local and state land use permits and has made it difficult for the public to know how and when to provide timely comments on land use proposals that require multiple permits and have separate environmental review processes.

[1995 c 347 § 401.]

RCW 36.70B.020 Definitions.

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

ℹ Definitions are addressed in SCC 14.04.020.

(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.

↳ This definition is updated in proposed SCC 14.04.020 to more closely match the statutory definition.

(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.

↳ This definition is added in proposed SCC 14.04.020 to closely match the statutory definition.

(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 subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area 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 this subsection.

↳ Skagit County's existing code uses the term "development permit;" the proposed code update would deprecate that term in favor of "project permit," defined by reference to the statutory definition and explicitly including building permits issued per SCC Title 15.

(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.

↳ This definition is not addressed in SCC 14.04.020.

[2023 c 338 § 5; 1995 c 347 § 402.]

RCW 36.70B.030 Project review—Required elements—Limitations.

(1) Fundamental land use planning choices made in adopted comprehensive plans and development regulations shall serve as the foundation for project review. The review of a proposed project's consistency with applicable development regulations, or in the absence of applicable regulations the adopted comprehensive plan, under RCW 36.70B.040 shall incorporate the determinations under this section.

↳ This paragraph addressed in proposed SCC 14.06.300.

(2) During project review, a local government or any subsequent reviewing body shall determine whether the items listed in this subsection are defined in the development regulations applicable

to the proposed project or, in the absence of applicable regulations the adopted comprehensive plan. At a minimum, such applicable regulations or plans shall be determinative of the:

(a) Type of land use permitted at the site, including uses that may be allowed under certain circumstances, such as planned unit developments and conditional and special uses, if the criteria for their approval have been satisfied;

(b) Density of residential development in urban growth areas; and

(c) Availability and adequacy of public facilities identified in the comprehensive plan, if the plan or development regulations provide for funding of these facilities as required by chapter 36.70A RCW.

(3) During project review, the local government or any subsequent reviewing body shall not reexamine alternatives to or hear appeals on the items identified in subsection (2) of this section, except for issues of code interpretation. As part of its project review process, a local government shall provide a procedure for obtaining a code interpretation as provided in RCW 36.70B.110.

↳ This paragraph addressed in proposed SCC 14.06.110(3).

(4) Pursuant to RCW 43.21C.240, a local government may determine that the requirements for environmental analysis and mitigation measures in development regulations and other applicable laws provide adequate mitigation for some or all of the project's specific adverse environmental impacts to which the requirements apply.

(5) Nothing in this section limits the authority of a permitting agency to approve, condition, or deny a project as provided in its development regulations adopted under chapter 36.70A RCW and in its policies adopted under RCW 43.21C.060. Project review shall be used to identify specific project design and conditions relating to the character of development, such as the details of site plans, curb cuts, drainage swales, transportation demand management, the payment of impact fees, or other measures to mitigate a proposal's probable adverse environmental impacts, if applicable.

(6) Subsections (1) through (4) of this section apply only to local governments planning under RCW 36.70A.040.

[1995 c 347 § 404.]

NOTES:

Intent—Findings—1995 c 347 §§ 404 and 405: "In enacting RCW 36.70B.030 and 36.70B.040, the legislature intends to establish a mechanism for implementing the provisions of chapter 36.70A RCW regarding compliance, conformity, and consistency of proposed projects with adopted comprehensive plans and development regulations. In order to achieve this purpose the legislature finds that:

(1) Given the extensive investment that public agencies and a broad spectrum of the public are making and will continue to make in comprehensive plans and development regulations for their communities, it is essential that project review start from the fundamental land use planning choices made in these plans and regulations. If the applicable regulations or plans identify the type of land use, specify residential density in urban growth areas, and identify and provide for funding

of public facilities needed to serve the proposed development and site, these decisions at a minimum provide the foundation for further project review unless there is a question of code interpretation. The project review process, including the environmental review process under chapter 43.21C RCW and the consideration of consistency, should start from this point and should not reanalyze these land use planning decisions in making a permit decision.

(2) Comprehensive plans and development regulations adopted by local governments under chapter 36.70A RCW and environmental laws and rules adopted by the state and federal government have addressed a wide range of environmental subjects and impacts. These provisions typically require environmental studies and contain specific standards to address various impacts associated with a proposed development, such as building size and location, drainage, transportation requirements, and protection of critical areas. When a permitting agency applies these existing requirements to a proposed project, some or all of a project's potential environmental impacts will be avoided or otherwise mitigated. Through the integrated project review process described in subsection (1) of this section, the local government will determine whether existing requirements, including the applicable regulations or plans, adequately analyze and address a project's environmental impacts. RCW 43.21C.240 provides that project review should not require additional studies or mitigation under chapter 43.21C RCW where existing regulations have adequately addressed a proposed project's probable specific adverse environmental impacts.

(3) Given the hundreds of jurisdictions and agencies in the state and the numerous communities and applicants affected by development regulations and comprehensive plans adopted under chapter 36.70A RCW, it is essential to establish a uniform framework for considering the consistency of a proposed project with the applicable regulations or plan. Consistency should be determined in the project review process by considering four factors found in applicable regulations or plans: The type of land use allowed; the level of development allowed, such as units per acre or other measures of density; infrastructure, such as the adequacy of public facilities and services to serve the proposed project; and the character of the proposed development, such as compliance with specific development standards. This uniform approach corresponds to existing project review practices and will not place a burden on applicants or local government. The legislature intends that this approach should be largely a matter of checking compliance with existing requirements for most projects, which are simple or routine, while more complex projects may require more analysis. RCW 43.21C.240 and 36.70B.030 establish this uniform framework and also direct state agencies to consult with local government and the public to develop a better format than the current environmental checklist to meet this objective.

(4) When an applicant applies for a project permit, consistency between the proposed project and applicable regulations or plan should be determined through a project review process that integrates land use and environmental impact analysis, so that governmental and public review of the proposed project as required by this chapter, by development regulations under chapter 36.70A RCW, and by the environmental process under chapter 43.21C RCW run concurrently and not separately.

(5) RCW 36.70B.030 and 36.70B.040 address three related needs with respect to how the project review process should address consistency between a proposed project and the applicable regulations or plan:

(a) A uniform framework for the meaning of consistency;

(b) An emphasis on relying on existing requirements and adopted standards, with the use of supplemental authority as specified by chapter 43.21C RCW to the extent that existing requirements do not adequately address a project's specific probable adverse environmental impacts; and

(c) The identification of three basic land use planning choices made in applicable regulations or plans that, at a minimum, serve as a foundation for project review and that should not be reanalyzed during project permitting." [1995 c 347 § 403.]

RCW 36.70B.040 Determination of consistency.

ℹ Addressed in proposed SCC 14.06.110(2).

(1) A proposed project's consistency with a local government's development regulations adopted under chapter 36.70A RCW, or, in the absence of applicable development regulations, the appropriate elements of the comprehensive plan adopted under chapter 36.70A RCW shall be decided by the local government during project review by consideration of:

(a) The type of land use;

(b) The level of development, such as units per acre or other measures of density;

(c) Infrastructure, including public facilities and services needed to serve the development; and

(d) The characteristics of the development, such as development standards.

(2) In deciding whether a project is consistent, the determinations made pursuant to RCW 36.70B.030(2) shall be controlling.

(3) For purposes of this section, the term "consistency" shall include all terms used in this chapter and chapter 36.70A RCW to refer to performance in accordance with this chapter and chapter 36.70A RCW, including but not limited to compliance, conformity, and consistency.

(4) Nothing in this section requires documentation, dictates an agency's procedures for considering consistency, or limits a city or county from asking more specific or related questions with respect to any of the four main categories listed in subsection (1)(a) through (d) of this section.

(5) The department of commerce is authorized to develop and adopt by rule criteria to assist local governments planning under RCW 36.70A.040 to analyze the consistency of project actions. These criteria shall be jointly developed with the department of ecology.

[2023 c 470 § 2020; 1997 c 429 § 46; 1995 c 347 § 405.]

NOTES:

Explanatory statement—2023 c 470: See note following RCW 10.99.030.

Severability—1997 c 429: See note following RCW 36.70A.3201.

Intent—Findings—1995 c 347 §§ 404 and 405: See note following RCW 36.70B.030.

RCW 36.70B.050 Local government review of project permit applications required—Objectives.

Not later than March 31, 1996, each local government shall provide by ordinance or resolution for review of project permit applications to achieve the following objectives:

(1) Combine the environmental review process, both procedural and substantive, with the procedure for review of project permits; and

↳ The requirement to integrate SEPA review has been addressed in existing code.

(2) Except for the appeal of a determination of significance as provided in RCW 43.21C.075, provide for no more than one open record hearing and one closed record appeal.

↳ Although this limitation is murky due to its imprecise wording, it is generally accepted to mean only one level of administrative appeal is allowed. The proposed code updates the permit process to allow only one appeal through the permit process in the table in proposed SCC 14.06.150.

[1995 c 347 § 406.]

RCW 36.70B.060 Local governments planning under the growth management act to establish integrated and consolidated project permit process—Required elements.

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. 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;

↳ Processes for determination of completeness is in proposed SCC 14.06.310.

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

↳ The contents of notices of application is in proposed SCC 14.06.330. Distribution is described in SCC 14.06.320.

(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;

↳ Consolidation of review is addressed in proposed SCC 14.06.160.

(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;

↳ Joint hearings are addressed in proposed SCC 14.06.370(4).

(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;

↳ Addressed in proposed SCC 14.06.350.

(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;

↳ Addressed through process revisions described in proposed SCC 14.06.150.

(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;

↳ Addressed in proposed SCC 14.06.390.

(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; and

↳ Time periods for review are addressed in proposed SCC 14.06.170 and listed in the table in proposed SCC 14.06.150.

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

[1995 c 347 § 407.]

NOTES:

*Reviser's note: RCW 36.70B.090 expired June 30, 2000, pursuant to 1998 c 286 § 8.

RCW 36.70B.070 Project permit applications—Determination of completeness—Notice to applicant.

This section is addressed in proposed SCC 14.06.310.

(1)(a) Within 28 days after receiving a project permit application, a local government planning pursuant to RCW 36.70A.040 shall provide a written determination to the applicant.

(b) The written determination must state either:

(i) That the application is complete; or

(ii) That the application is incomplete and that the procedural submission requirements of the local government have not been met. The determination shall outline what is necessary to make the application procedurally complete.

(c) The number of days shall be calculated by counting every calendar day.

(d) 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, as outlined on the project permit application. Additional information or studies may be required or project modifications may be undertaken 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 may not preclude a completeness determination.

(3) The determination of completeness may include or be combined with the following:

(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;

(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 receiving 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)(ii) of this section. When the local government does not provide a written determination, they may still seek additional information or studies as provided for in subsection (2) of this section.

(b) Within 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 shall be provided within 14 days after the determination of completeness pursuant to RCW 36.70B.110.

[2023 c 338 § 6; 1995 c 347 § 408; 1994 c 257 § 4. Formerly RCW 36.70A.440.]

NOTES:

Severability—1994 c 257: See note following RCW 36.70A.270.

RCW 36.70B.080 Development regulations—Requirements—Report on implementation costs. (Effective until January 1, 2025.)

ℹ This section expires January 1, 2025; the code proposal is intended to comply with the following code section, which becomes effective that same date.

(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 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.

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.

ℹ Subsection (2) does not apply to Skagit County.

(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 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.

[2004 c 191 § 2; 2001 c 322 § 1; 1995 c 347 § 410; (1995 c 347 § 409 expired July 1, 2000); 1994 c 257 § 3. Formerly RCW 36.70A.065.]

NOTES:

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Findings—Intent—2004 c 191: "The legislature finds that the timely issuance of project permit decisions by local governments serves the public interest. When these decisions, that are often responses to land use and building permit applications, are issued according to specific and locally established time periods and without unnecessary or inappropriate delays, the public enjoys greater efficiency, consistency, and predictability in the permitting process.

The legislature also finds that full access to relevant performance data produced annually by local governments for each type of permit application affords elected officials, project proponents, and the general public the opportunity to review and compare the permit application and processing performance of jurisdictions. Furthermore, the legislature finds that the review and comparison of this data, and the requirement to provide convenient and direct internet access to germane and consistent reports, will likely foster improved methods for processing applications, and issuing project permit decisions in a timely manner.

The legislature, therefore, intends to continue and clarify the requirements for certain jurisdictions to produce and provide access to annual permitting performance reports." [2004 c 191 § 1.]

Effective date—1995 c 347 § 410: "Section 410, chapter 347, Laws of 1995 shall take effect July 1, 2000." [1998 c 286 § 10; 1995 c 347 § 412.]

Expiration date—1995 c 347 § 409: "The amendments to RCW 36.70B.080 contained in section 409, chapter 347, Laws of 1995 shall expire July 1, 2000." [1998 c 286 § 9; 1995 c 347 § 411.]

Severability—1994 c 257: See note following RCW 36.70A.270.

Development regulations must provide sufficient land capacity for development: RCW 36.70A.115.

RCW 36.70B.080 Development regulations—Requirements—Report on implementation costs. (Effective January 1, 2025.)

ℹ Note that this section becomes effective January 1, 2025.
ℹ Time periods for application review are established in proposed SCC 14.06.150, and procedures are discussed in SCC 14.06.170.

(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 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.

ℹ The following time periods are included, unmodified, in the table in proposed SCC 14.06.150. Note that some of these time periods are longer than the suggested 120-day period in expiring RCW 36.70B.080, which had no explicit penalty for failing to meet the time period.

(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.

↳ The code proposal uses the default time periods.

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.

↳ This rule is addressed by the construction of the consolidation of review in proposed SCC 14.06.160.

(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.

↳ The code proposal uses the default time periods.

(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.

↳ This method of calculation is addressed in proposed SCC 14.06.170(1).

The number of days shall be calculated by counting every calendar day and excluding the following time periods:

↳ This method of calculation is addressed in proposed SCC 14.06.170(2).

(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;

↳ Addressed in SCC 14.06.170(3)(a).

(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

↳ Addressed in SCC 14.06.170(3)(b), with a 12-mo condition.

(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.

↳ Addressed in SCC 14.06.170(3)(c).

(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.

↳ Addressed in SCC 14.06.170(4).

(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.

↳ Addressed in proposed SCC 14.06.170(5).

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

↳ Annual amendments are not “project permits” or “development permits” and therefore not subject to any of the requirements of proposed SCC 14.06.170.

(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.

↳ Per subsection (l)(ii), this subsection (l)(i) regarding permit fee refunds is suspended once the County adopts at least three measures in RCW 36.70B.160(1) until at least 2035.

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 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.

ℹ The remainder of this section does not apply to Skagit County.

(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) 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) 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)] 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)] of this section for each project permit application of a type listed in *subsection (2)(a)(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 period of time mutually agreed upon by the applicant and the local government.

↳ Addressed in proposed SCC 14.06.170(3)(b).

[2023 c 338 § 7; 2004 c 191 § 2; 2001 c 322 § 1; 1995 c 347 § 410; (1995 c 347 § 409 expired July 1, 2000); 1994 c 257 § 3. Formerly RCW 36.70A.065.]

NOTES:

*Reviser's note: The reference to RCW 36.70B.080(2)(a)(ii) appears to be erroneous. RCW 36.70B.080(2)(b)(ii) was apparently intended.

Effective date—2023 c 338 § 7: "Section 7 of this act takes effect January 1, 2025." [2023 c 338 § 13.]

Findings—Intent—2004 c 191: "The legislature finds that the timely issuance of project permit decisions by local governments serves the public interest. When these decisions, that are often responses to land use and building permit applications, are issued according to specific and locally established time periods and without unnecessary or inappropriate delays, the public enjoys greater efficiency, consistency, and predictability in the permitting process.

The legislature also finds that full access to relevant performance data produced annually by local governments for each type of permit application affords elected officials, project proponents, and the general public the opportunity to review and compare the permit application and processing performance of jurisdictions. Furthermore, the legislature finds that the review and comparison of this data, and the requirement to provide convenient and direct internet access to germane and consistent reports, will likely foster improved methods for processing applications, and issuing project permit decisions in a timely manner.

The legislature, therefore, intends to continue and clarify the requirements for certain jurisdictions to produce and provide access to annual permitting performance reports." [2004 c 191 § 1.]

Effective date—1995 c 347 § 410: "Section 410, chapter 347, Laws of 1995 shall take effect July 1, 2000." [1998 c 286 § 10; 1995 c 347 § 412.]

Expiration date—1995 c 347 § 409: "The amendments to RCW 36.70B.080 contained in section 409, chapter 347, Laws of 1995 shall expire July 1, 2000." [1998 c 286 § 9; 1995 c 347 § 411.]

Severability—1994 c 257: See note following RCW 36.70A.270.

Development regulations must provide sufficient land capacity for development: RCW 36.70A.115.

RCW 36.70B.100 Designation of person or entity to receive determinations and notices.
A local government may require the applicant for a project permit to designate a single person or entity to receive determinations and notices required by this chapter.

[1995 c 347 § 414.]

RCW 36.70B.110 Notice of application—Required elements—Integration with other review procedures—Administrative appeals.

ℹ Notice of application is required by the table in proposed SCC 14.06.150 and procedures addressed in proposed SCC 14.06.330.

(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.

ℹ Contents of the notice of application is described in proposed SCC 14.06.330(2).

(2) The notice of application shall be provided within 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;

(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.

ℹ See proposed SCC 14.06.320 for general public notice provisions.

(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;

↳ Required by proposed SCC 14.06.320(3).

(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;

↳ Required by proposed SCC 14.06.320(2).

(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;

↳ Publication in the County's official newspaper is required by proposed SCC 14.06.320(2).

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

↳ Publication in the County's official newspaper is required by proposed SCC 14.06.320(2).

(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.

↳ Required by proposed SCC 14.06.320(2)(e).

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

↳ Permits that are subject to Type 1 review, which by definition are categorically exempt from SEPA, do not require notice.

(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, the local government shall issue its threshold determination at least fifteen days prior to the open record predecision hearing.

↳ Addressed in proposed SCC 14.06.160(3)(c).

(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 fourteen 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) 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, if:

↳ Addressed in proposed SCC 14.06.370, Pre-Decision Open-Record Public Hearing.

(a) The hearing is held within the geographic boundary of the local government; 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 and of any environmental determination issued at the same time as the project decision, shall be filed within fourteen 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.

↳ Applicant is always a party.

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

↳ Addressed in proposed SCC 14.06.130.

[2023 c 338 § 10. Prior: 1997 c 429 § 48; 1997 c 396 § 1; 1995 c 347 § 415.]

NOTES:

Severability—1997 c 429: See note following RCW 36.70A.3201.

RCW 36.70B.120 Permit review process.

ℹ Consolidation is addressed in proposed SCC 14.06.160. Designation of a permit coordinator is something we recommend implementing as an administrative protocol.

(1) Each local government planning under RCW 36.70A.040 shall establish a permit review process that provides for the integrated and consolidated review and decision on two or more project permits relating to a proposed project action, including a single application review and approval process covering all project permits requested by an applicant for all or part of a project action and a designated permit coordinator. If an applicant elects the consolidated permit review process, the determination of completeness, notice of application, and notice of final decision must include all project permits being reviewed through the consolidated permit review process.

(2) Consolidated permit review may provide different procedures for different categories of project permits, but if a project action requires project permits from more than one category, the local government shall provide for consolidated permit review with a single open record hearing and no

more than one closed record appeal as provided in RCW 36.70B.060. Each local government shall determine which project permits are subject to an open record hearing and a closed record appeal. Examples of categories of project permits include but are not limited to:

(a) Proposals that are categorically exempt from chapter 43.21C RCW, such as construction permits, that do not require environmental review or public notice;

(b) Permits that require environmental review, but no open record predecision hearing; and

(c) Permits that require a threshold determination and an open record predecision hearing and may provide for a closed record appeal to a hearing body or officer or to the local government legislative body.

(3) A local government may provide by ordinance or resolution for the same or a different decision maker or hearing body or officer for different categories of project permits. In the case of consolidated project permit review, the local government shall specify which decision makers shall make the decision or recommendation, conduct the hearing, or decide the appeal to ensure that consolidated permit review occurs as provided in this section. The consolidated permit review may combine an open record predecision hearing on one or more permits with an open record appeal hearing on other permits. In such cases, the local government by ordinance or resolution shall specify which project permits, if any, shall be subject to a closed record appeal.

[1995 c 347 § 416.]

RCW 36.70B.130 Notice of decision—Distribution.

A local government planning under RCW 36.70A.040 shall provide a notice of decision that also includes a statement of any threshold determination made under chapter 43.21C RCW and the procedures for administrative appeal, if any.

↳ The contents of notices of decision are described in proposed SCC 14.06.390.

The notice of decision may be a copy of the report or decision on the project permit application.

The notice shall be provided to the applicant and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted substantive comments on the application.

↳ Distribution of the notice of decision is described in proposed SCC 14.06.320(2).

The local government shall provide for notice of its decision as provided in RCW 36.70B.110(4), which shall also state that affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.

↳ Addressed in proposed SCC 14.06.390(2)(j).

The local government shall provide notice of decision to the county assessor's office of the county or counties in which the property is situated.

↳ County assessor is called out in the distribution list in proposed SCC 14.06.320(2)(d).

[1996 c 254 § 1; 1995 c 347 § 417.]

RCW 36.70B.140 Project permits that may be excluded from review.

ℹ These permits are not addressed in the proposed code chapter.

(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 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 periods for approval which are different from that provided in RCW 36.70B.060 through * 36.70B.090 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.

ℹ The remainder of this section, which creates a new exemption from site plan review for interior alterations, was added by 2SSB 5290. It is addressed in proposed SCC 14.06.180(2)(b).

(3) A local government must exclude project permits for interior alterations from site plan review, provided that the interior alterations do not result in the following:

(a) Additional sleeping quarters or bedrooms;

(b) Nonconformity with federal emergency management agency substantial improvement thresholds; or

(c) Increase the total square footage or valuation of the structure thereby requiring upgraded fire access or fire suppression systems.

(4) Nothing in this section exempts interior alterations from otherwise applicable building, plumbing, mechanical, or electrical codes.

(5) For purposes of this section, "interior alterations" include construction activities that do not modify the existing site layout or its current use and involve no exterior work adding to the building footprint.

[2023 c 338 § 1; 1995 c 347 § 418.]

NOTES:

*Reviser's note: RCW 36.70B.090 expired June 30, 2000, pursuant to 1998 c 286 § 8.

RCW 36.70B.150 Local governments not planning under the growth management act may use provisions.

ℹ This section is not applicable to Skagit County, which is considered to be a "fully planning" jurisdiction under the Growth Management Act.

A local government not planning under RCW 36.70A.040 may incorporate some or all of the provisions of RCW 36.70B.060 through * 36.70B.090 and 36.70B.110 through 36.70B.130 into its procedures for review of project permits or other project actions.

[1995 c 347 § 419.]

NOTES:

*Reviser's note: RCW 36.70B.090 expired June 30, 2000, pursuant to 1998 c 286 § 8.

RCW 36.70B.160 Additional project review encouraged—Construction (as amended by 2023 c 333).

ℹ This section was amended in the 2023 legislative session by two conflicting bills. The following is the text as amended by ESHB 1293 regarding design review.

(1) Each local government is encouraged to adopt further project review provisions to provide prompt, coordinated, and objective review and ensure accountability to applicants and the public, including expedited review for project permit applications for projects that are consistent with adopted development regulations or that include dwelling units that are affordable to low-income or moderate-income households and within the capacity of systemwide infrastructure improvements.

(2) 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, where otherwise required by applicable state law.

↳ The newly added phrase "where otherwise required by applicable state law" is imprecise and potentially in conflict with 2SSB 5290 expressly authorizing required pre-application meetings in revised RCW 36.70B.160(3).

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

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

ℹ The remainder of this section is definitions for terms used in subsection (1).

(5) 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 household 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.

[2023 c 333 § 2; 1995 c 347 § 420.]

RCW 36.70B.160 Additional project review encouraged—Additional measures for certain jurisdictions—Construction (as amended by 2023 c 338).

ℹ This section was amended in the 2023 legislative session by two conflicting bills. The following is the text as amended by 2SSB 1590 regarding permit procedures.

(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 by:

ℹ Skagit County should adopt at least 3 of the following 10 provisions to avoid the permit refund penalties of new RCW 36.70B.080, most of which can be done administratively.

(a) Expediting review for project permit applications for projects that are consistent with adopted development regulations;

(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 to impose 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;

↳ The budgeting component of this measure can be easily implemented, but *maintaining* on-call permit assistance may prove difficult unless the state develops a pool of consultants that can provide such on-call assistance.

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

↳ Hiring new positions may not be tenable in response to what may be a temporary increase in permit revenue.

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

↳ This measure is more appropriate for cities with more predictable proposed uses.

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

↳ The County should consider this measure, which pushes risk onto the applicant, if it can provide an interactive electronic tool to identify pre-application requirements.

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

↳ This is a key measure that the County has almost already implemented; the remaining use, “temporary manufactured home” is addressed in the code proposal through amendments to SCC Chapter 14.16.

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

↳ This measure may be problematic in its implementation.

(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.

↳ This is a key measure that the County should implement and is addressed in proposed SCC 14.06.310.

(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:

↳ The County's next comprehensive plan update after its 2025 update will be in 2035, and this subsection (2) will not be effective until then.

(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(1)(l), notwithstanding RCW 36.70B.080(1)(l)(ii).

(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.

↳ Pre-application meetings are required as shown in the table in proposed SCC 14.06.150.

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

↳ This subsection is important but need not be in code.

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

[2023 c 338 § 8; 1995 c 347 § 420.]

NOTES:

Reviser's note: RCW 36.70B.160 was amended twice during the 2023 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

RCW 36.70B.170 Development agreements—Authorized.

ℹ Development agreements are addressed in SCC Chapter 14.14 and are beyond the scope of this code update.

(1) A local government may enter into a development agreement with a person having ownership or control of real property within its jurisdiction. A city may enter into a development agreement for real property outside its boundaries as part of a proposed annexation or a service agreement. A development agreement must set forth the development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement. A development agreement shall be consistent with applicable development regulations adopted by a local government planning under chapter 36.70A RCW.

(2) RCW 36.70B.170 through 36.70B.190 and section 501, chapter 347, Laws of 1995 do not affect the validity of a contract rezone, concomitant agreement, annexation agreement, or other agreement in existence on July 23, 1995, or adopted under separate authority, that includes some or all of the development standards provided in subsection (3) of this section.

(3) For the purposes of this section, "development standards" includes, but is not limited to:

(a) Project elements such as permitted uses, residential densities, and nonresidential densities and intensities or building sizes;

(b) The amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of state law, any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications;

(c) Mitigation measures, development conditions, and other requirements under chapter 43.21C RCW;

(d) Design standards such as maximum heights, setbacks, drainage and water quality requirements, landscaping, and other development features;

(e) Affordable housing;

(f) Parks and open space preservation;

(g) Phasing;

(h) Review procedures and standards for implementing decisions;

(i) A build-out or vesting period for applicable standards; and

(j) Any other appropriate development requirement or procedure.

(4) The execution of a development agreement is a proper exercise of county and city police power and contract authority. A development agreement may obligate a party to fund or provide services, infrastructure, or other facilities. A development agreement shall reserve authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

[1995 c 347 § 502.]

NOTES:

Findings—Intent—1995 c 347 §§ 502-506: "The legislature finds that the lack of certainty in the approval of development projects can result in a waste of public and private resources, escalate housing costs for consumers and discourage the commitment to comprehensive planning which would make maximum efficient use of resources at the least economic cost to the public. Assurance to a development project applicant that upon government approval the project may proceed in accordance with existing policies and regulations, and subject to conditions of approval, all as set forth in a development agreement, will strengthen the public planning process, encourage private participation and comprehensive planning, and reduce the economic costs of development. Further, the lack of public facilities and services is a serious impediment to development of new housing and commercial uses. Project applicants and local governments may include provisions and agreements whereby applicants are reimbursed over time for financing public facilities. It is the intent of the legislature by RCW 36.70B.170 through 36.70B.210 to allow local governments and owners and developers of real property to enter into development agreements." [1995 c 347 § 501.]

RCW 36.70B.180 Development agreements—Effect.

See note above for 36.70B.170.

Unless amended or terminated, a development agreement is enforceable during its term by a party to the agreement. A development agreement and the development standards in the agreement govern during the term of the agreement, or for all or that part of the build-out period specified in the agreement, and may not be subject to an amendment to a zoning ordinance or development standard or regulation or a new zoning ordinance or development standard or regulation adopted after the effective date of the agreement. A permit or approval issued by the county or city after the execution of the development agreement must be consistent with the development agreement.

[1995 c 347 § 503.]

NOTES:

Findings—Intent—1995 c 347 §§ 502-506: See note following RCW 36.70B.170.

RCW 36.70B.190 Development agreements—Recording—Parties and successors bound.

See note above for 36.70B.170.

A development agreement shall be recorded with the real property records of the county in which the property is located. During the term of the development agreement, the agreement is binding on the parties and their successors, including a city that assumes jurisdiction through incorporation or annexation of the area covering the property covered by the development agreement.

[1995 c 347 § 504.]

NOTES:

Findings—Intent—1995 c 347 §§ 502-506: See note following RCW 36.70B.170.

RCW 36.70B.200 Development agreements—Public hearing.

ℹ See note above for 36.70B.170.

A county or city shall only approve a development agreement by ordinance or resolution after a public hearing. The county or city legislative body or a planning commission, hearing examiner, or other body designated by the legislative body to conduct the public hearing may conduct the hearing. If the development agreement relates to a project permit application, the provisions of chapter 36.70C RCW shall apply to the appeal of the decision on the development agreement.

[1995 c 347 § 505.]

NOTES:

Findings—Intent—1995 c 347 §§ 502-506: See note following RCW 36.70B.170.

RCW 36.70B.210 Development agreements—Authority to impose fees not extended.

ℹ See note above for 36.70B.170.

Nothing in RCW 36.70B.170 through 36.70B.200 and section 501, chapter 347, Laws of 1995 is intended to authorize local governments to impose impact fees, inspection fees, or dedications or to require any other financial contributions or mitigation measures except as expressly authorized by other applicable provisions of state law.

[1995 c 347 § 506.]

NOTES:

Findings—Intent—1995 c 347 §§ 502-506: See note following RCW 36.70B.170.

RCW 36.70B.220 Permit assistance staff.

ℹ This section, which is essentially unchanged since its adoption in 1996, need not be addressed in code.

(1) Each county and city having populations of ten thousand or more that plan under RCW 36.70A.040 shall designate permit assistance staff whose function it is to assist permit applicants. An existing employee may be designated as the permit assistance staff.

(2) Permit assistance staff designated under this section shall:

(a) Make available to permit applicants all current local government regulations and adopted policies that apply to the subject application. The local government shall provide counter copies thereof and, upon request, provide copies according to chapter 42.56 RCW. The staff shall also publish and keep current one or more handouts containing lists and explanations of all local government regulations and adopted policies;

(b) Establish and make known to the public the means of obtaining the handouts and related information; and

(c) Provide assistance regarding the application of the local government's regulations in particular cases.

(3) Permit assistance staff designated under this section may obtain technical assistance and support in the compilation and production of the handouts under subsection (2) of this section from the department of commerce.

[2010 c 271 § 707; 2005 c 274 § 272; 1996 c 206 § 9.]

NOTES:

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

Findings—1996 c 206: See note following RCW 43.05.030.

RCW 36.70B.230 Planning regulations—Copies provided to county assessor.

By July 31, 1997, a local government planning under RCW 36.70A.040 shall provide to the county assessor a copy of the local government's comprehensive plan and development regulations in effect on July 1st of that year and shall thereafter provide any amendments to the plan and regulations that were adopted before July 31st of each following year.

- ↳ The proposed adopting ordinance for the code update would direct transmission of the ordinance to the County Assessor.
- ↳ The County could also amend SCC 14.08, Legislative Actions, to require a copy of all regulation and plan changes be sent to the Assessor.

[1996 c 254 § 6.]

RCW 36.70B.240 Consolidated permit review grant program.

ℹ This section creates a grant program to be administered by the Department of Commerce. It does not directly apply to the County.

(1) Subject to the availability of funds appropriated for this specific purpose, the department of commerce must establish a consolidated permit review grant program. The department may award grants to any local government that provides, by ordinance, resolution, or other action, a commitment to the following building permit review consolidation requirements:

(a) Issuing final decisions on residential permit applications within 45 business days or 90 calendar days.

(i) To achieve permit review within the stated time periods, a local government must provide consolidated review for building permit applications. This may include an initial technical peer review of the application for conformity with the requirements of RCW 36.70B.070 by all departments, divisions, and sections of the local government with jurisdiction over the project.

(ii) A local government may contract with a third-party business to conduct the consolidated permit review or as additional inspection staff. Any funds expended for such a contract may be eligible for reimbursement under chapter 338, Laws of 2023.

(iii) Local governments are authorized to use grant funds to contract outside assistance to audit their development regulations to identify and correct barriers to housing development.

(b) Establishing an application fee structure that would allow the jurisdiction to continue providing consolidated permit review within 45 business days or 90 calendar days.

(i) A local government may consult with local building associations to develop a reasonable fee system.

(ii) A local government must determine, no later than July 1, 2024, the specific fee structure needed to provide permit review within the time periods specified in this subsection (1)(b).

(2) A jurisdiction that is awarded a grant under this section must provide a quarterly report to the department of commerce. The report must include the average and maximum time for permit review during the jurisdiction's participation in the grant program.

(3) If a jurisdiction is unable to successfully meet the terms and conditions of the grant, the jurisdiction must enter a 90-day probationary period. If the jurisdiction is not able to meet the requirements of this section by the end of the probationary period, the jurisdiction is no longer eligible to receive grants under this section.

(4) For the purposes of this section, "residential permit" means a permit issued by a city or county that satisfies the conditions of RCW 19.27.015(5) and is within the scope of the international residential code, as adopted in accordance with chapter 19.27 RCW.

[2023 c 338 § 2.]

RCW 36.70B.241 Permit review process update grant program.

ℹ This section creates a grant program to be administered by the Department of Commerce. It does not directly apply to the County.

(1) Subject to the availability of funds appropriated for this specific purpose, the department of commerce must establish a grant program for local governments to update their permit review process from paper filing systems to software systems capable of processing digital permit applications, virtual inspections, electronic review, and with capacity for video storage.

(2) The department of commerce may only provide a grant under this section to a city if the city allows for the development of at least two units per lot on all lots zoned predominantly for residential use within its jurisdiction.

[2023 c 338 § 3.]

RCW 36.70B.245 Technical assistance to local governments.

ℹ This section is a directive to the Department of Commerce. It does not directly apply to the County.

(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).

[2023 c 338 § 9.]

RCW 36.70B.250 Data reporting template.

ℹ This section is a directive to the Department of Commerce. It does not directly apply to the County.

The department of commerce shall develop a template for counties and cities subject to the requirements in RCW 36.70B.080, which will be utilized for reporting data.

[2023 c 338 § 11.]

RCW 36.70B.260 Electricity projects—Prohibition on demonstration of need.

ℹ This section is beyond the scope of this code update project.

During project review of a project to construct or improve facilities for the generation, transmission, or distribution of electricity, a local government may not require a project applicant to demonstrate the necessity or utility of the project other than to require, as part of a completed application under RCW 36.70B.070(2), submission of any publicly available documentation required by the federal energy regulatory commission or its delegees or the utilities and transportation commission or its delegees, or from any other federal agency with regulatory authority over the assessment of electric power transmission and distribution needs as applicable.

[2023 c 230 § 304.]
NOTES:
Findings—Intent—2023 c 230: See note following RCW 43.394.010.

RCW 36.70B.900 Finding—Severability—Part headings and table of contents not law—1995 c 347.

ℹ This section need not be addressed in local regulations.

See notes following RCW 36.70A.470.