

Planning Commission

Public Hearing



Community Development • 125 NW Chehalis Avenue, Chehalis, WA 98532 • Phone: (360) 740-1146

STAFF REPORT

DRAFT AMENDMENTS TO LCC 17.05 & 17.10.040

Date: October 23, 2024

Staff: Mindy Brooks, Director

Attachments: A – Proposed Amendments to LCC 17.05
B – Proposed Amendments to LCC 17.10.040
C – Proposed Amendments to LCC 17.130.010

SUMMARY

In 2023, the Washington State Legislature approved Senate Bill 5290, which amended RCW 36.70B Local Project Review Process. SB5290 requires that if a review authority, in this case Lewis County Department of Community Development, does not make a decision on project permit applications within the defined timeframes then the review authority must issue a partial fee refund. Please see Attachment C for the underline/strike through bill as adopted.

All review authorities are required to implement the provisions of SB5290 by January 1, 2025. To do so, Community Development must amend LCC 17.05, General Provisions, to clarify timeframes for decision and fee refunds, and LCC 17.10.040, "D" Definitions, to add a definition of decision. Attachment A and B are the proposed code amendments.

ISSUES AND RECOMMENDATIONS

There are not many amendments to LCC 17.05 necessary to comply with SB5290. The proposed amendments are summarized below:

1. Timeframes

Except for divisions of land, all other permit process types currently have a 120-day timeframe to make a decision. SB5290 split the timeframes for decision by permit process type and LCC Table 17.05-2 is amended to implement those timeframes:

- Type 1 process – 65 days
- Type 2 process – 100 days
- Type 3 process – 170 days

SB5290 allows for very complicated projects to take longer than 170 days to render a decision; therefore a few types of permits (e.g., master planned resort, master planned industrial, shoreline conditional use) have a 210-day timeframe for decision. In addition, the Hearings Examiner may continue a hearing beyond the specified timeframe, with agreement by all parties.

Land division preliminary plat timeframes are changing based on permit process type, while final plat timeframes remain as they are today:

- Subdivision
 - Preliminary plat – 170 days
 - Final plat – 90 days
- Short Subdivision
 - Preliminary plat – 65 days
 - Final plat – 60 days
- Large Lot Subdivision
 - Preliminary plat – 65 days
 - Final plat – 30 days
- Simple Segregation
 - Preliminary plat – 65 days
 - Final plat – 30 days

2. Applicability

SB5290 applies to planning permits, as specified in LCC Table 17.05-2. It does not apply to standalone permit application under LCC Title 8, Health and Safety, Title 12, Public Roads and Places, Title 13, Public Utilities, or Title 15, Building and Construction. Please see Attachment C, SB5290, bill as adopted which explicitly struck building permits from the definition of project permit. When a health, road and utility permit applications is consolidated with a planning permit, the timeframe for decision for the planning permit must be met for all consolidated permits.

3. Procedurally Complete

LCC 17.05.070 already requires the review authority to determine if the application is complete within 28-days of submission. The clarification added states that if the review authority does not either provide a letter that the application is complete or a letter that it is incomplete, plus what is necessary to be determined complete, within 28 days then the application is automatically deemed complete and the timeframe for decision will begin.

4. Pausing the Timeframe

Pursuant to RCW 36.70B, the review authority may request additional information necessary to determine if the project will meet the applicable rules and requirements. When this occurs, the timeframe for decision will be paused until the applicant provides the requested information, then the timeframe resumes. When additional information is requested, the applicant shall have 90 days to provide the information or they may request an extension. The requested extension can be for any agreed-to amount of time that is necessary for the applicant to provide additional information.

5. Denials

Currently, the review authority may deny an application if the project does not meet the applicable rules and requirements. LCC 17.05.125(2) is amended to clarify that, within the 90 days or agreed-to extension, if the applicant does not provide the additional information requested to demonstrate that the project will meet the applicable rules and requirements, then the application will be denied.

6. Refunds

SB5290 specifies the refund schedule, which is implemented by LCC Table 17.05-3:

Timeframe	10% Refund	20% Refund
30 Calendar Days	<36 Calendar Days	> 37 Calendar Days
65 Calendar Days	<78 Calendar Days	> 79 Calendar Days
90 Calendar Days	<108 Calendar Days	> 109 Calendar Days
100 Calendar Days	<120 Calendar Days	> 121 Calendar Days
170 Calendar Days	<204 Calendar Days	>205 Calendar Days

RCW 36.70B.160(1) allows the review authority to implement three of ten options and then not be required to issue refunds. Currently Lewis County implements none of the ten options. However, Community Development is working on two options: full fee cost-recovery and on-call services. If those are achieved and a third option is implemented, then no fee refunds for missing timeframes will be required.

7. Appeals

There are no changes to the code related to appeals. This is included to make sure that the Planning Commission is aware that decisions on Type 1 and 2 permit processes can be appealed to the Hearings Examiner pursuant to LCC 2.25.130; decisions on Type 3, 4 and 5 permit processes can be appealed to the appropriate court or hearings board pursuant to LCC 2.25.140.

NEXT STEPS

Planning Commission will hold a public hearing on November 12 to receive testimony on the proposed code amendments. After close of the public hearing, the Planning Commission shall deliberate and vote to transmit the proposed amendments to the Board of County Commission. The Planning Commission may use one of the following suggested motions or may use their own motion:

Approve: I move to submit a letter of transmittal to the Board of County Commissioners to recommend approval of amendments to LCC 17.05 and 17.10, as presented in this staff report.

Approve with changes: I move to submit a letter of transmittal to the Board of County Commissioners to recommend approval of amendments to LCC 17.05 and 17.10, as presented in this staff report, with the following changes [**ADD YOUR CHANGES**]

Do not approve: I move to submit a letter of transmittal to the Board of County Commissioners to recommend denial of amendments to LCC 17.05 and 17.10. *(Note – Please do not include your rationale as part of the motion; instead provide your rationale as discussion once the motion has been seconded.)*