ORDINANCE NO. 29011

AN ORDINANCE relating to land use permits and procedures: amending Chapter 13.05 of the Tacoma Municipal Code, relating to Land Use Permits and Procedures, by amending various sections, to revise levels of service timelines and public noticing procedures for land use permits; to implement Washington State Substitute Senate Bill 5290 and Substitute House Bill 1105, effective January 1, 2025.

WHEREAS this recommendation from the Planning and Development Services Department is based on the findings and recommendations from the Planning Commission dated June 26, 2024, and follows a City Council public hearing held on December 3, 2024, and

WHEREAS Washington State Substitute Senate Bill 5290 and Substitute House Bill 1105 changed how much time local jurisdictions have to process land use permits, how fees are charged for the permits, and how public notices are worded, and

WHERAS the City establishes these timelines, fees, and notices in Tacoma Municipal Code ("TMC") Chapter 13.05, entitled Land Use Permits and Procedures, and

WHEREAS the proposed amendments are intended to comply with the State mandates, effective January 1, 2025, and

WHEREAS the proposed amendments would alter the levels of service for land use permits, in general, reducing the time from complete application to a decision, to clarify what constitutes a complete or inactive application, and modify the contents of land use public notices to note a comment start date, and

WHEREAS in May 2024, the Planning Commission completed its review of the matter, and a public hearing was held on June 5, 2024, and

WHEREAS following a June 26, 2024, debrief, the Planning Commission prepared a letter of recommendation and proposed code amendments for City Council consideration, and

WHEREAS on December 3, 2024, the City Council held a public meeting to consider adoption of the proposed amendments; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That the City Council hereby adopts the Recitals of this Ordinance as its formal legislative findings.

Section 2. That Chapter 13.05 of the Tacoma Municipal Code is hereby amended, effective January 1, 2025, as set forth in the attached Exhibit "A."

Section 3. That the City Clerk, in consultation with the City Attorney's Office, is authorized to make necessary corrections to this ordinance, including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any references thereto.

Passed _____

_____
Mayor

Attest:

_____
City Clerk

Approved as to form:

_____
Deputy City Attorney

EXHIBIT "A"

CHAPTER 13.05
LAND USE PERMITS AND PROCEDURES

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13.05.020 Application requirements for land use permits

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C. Application Requirements.

1. Predevelopment Conference. A predevelopment conference may be scheduled at the request of the Department or the applicant. The predevelopment conference is intended to define the project scope and identify regulatory requirements of Title 13, prior to preparing a land use proposal. A predevelopment conference is required prior to submittal of an application for an Urban Design Project Review permit.

2. Pre-Application Meeting

The pre-application meeting is a meeting between Department staff and an ~~potential~~ applicant for a land use permit to ~~discuss~~ review the application submittal ~~requirements and pertinent fees~~ documents. A pre-application meeting is required prior to submittal of an application for rezoning, platting, height variances, conditional use permit, shoreline management substantial development (including conditional use, variance, and revision), wetland/stream/Fish and Wildlife Habitat Conservation Area (FWHCA) development permits, wetland/stream/FWHCA minor development permits, and wetland/stream/FWHCA verifications. This requirement may be waived by the Department. The pre-application meeting is optional for other permits.

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F. Inactive Applications.

1. If, upon request for payment, an applicant fails to pay within 30 calendar days, the application may be considered inactive and the file may be closed.

2. If an applicant fails to submit information identified in the notice of incomplete application or a request for additional information within 120 calendar days from the Department's notification~~mailing date~~, or does not communicate the need for additional time to submit information, the Department may consider the application inactive and, after notification to the applicant, may close out the file and refund a proportionate amount of the fees collected with the application.

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J. Time Periods for Decision on Application.

1. Upon issuance of Complete Application, a~~A~~ final decision, as defined in subsection 5, on applications considered by the Director shall be made within the time specified below. ~~120 days of complete application.~~

a. Final decision on permits that do not require a public notice shall be made within 65 calendar days.

b. Final decision on permits that do require a public notice shall be made within 100 calendar days.

c. Final decision that requires a public hearing shall be made within 170 calendar days.

d. Applications within the jurisdiction of the Hearing Examiner shall be processed within the time limits set forth in Chapter 1.23. ~~The notice of decision on a land use permit shall be issued (and postmarked) within the prescribed number of days after the Department notifies the applicant that the application is complete or is found complete as provided in Section 13.05.010.D.3.~~

e. The following time periods shall be exempt from the time period requirement:

(1)~~a.~~ Any period during which the applicant has been requested by the Department to correct plans, perform required studies, or provide additional required information due to the applicant's misrepresentation or inaccurate or insufficient information.

(2)~~b.~~ Any period during which an environmental impact statement is being prepared; however, in no case shall the time period exceed one year, unless otherwise agreed to by the applicant and the City's responsible official for SEPA compliance.

(3) 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;

(4) Any period between the Notice of Public Meeting and the public meeting, when request for public meeting is filed during the public comment period.

(5)~~c.~~ Any period for administrative appeals of land use permits.

(6) Any period after Hearing Examiner Recommendation and before Final Reading at Council, when said Recommendation must be approved by the City Council.

(7)~~d.~~ Any extension for any reasonable period of time mutually agreed upon in writing between the applicant and the Department.

2. 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 calendar 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.

3. 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.

~~2~~4. The ~~120-day~~ time period established in Section 13.05.020.J.1 for applications to the Director shall not apply in the following situations:

a. If the permit requires approval of a new fully contained community as provided in RCW 36.70A.350, master planned resort as provided in RCW 36.70A.360, or the siting of an essential public facility as provided in RCW 36.70A.200.

~~b.If, at the applicant's request, there are substantial revisions to the project proposal, in which case the time period shall start from the date on which the revised project application is determined to be complete, per Section 13.05.020.E.3.~~

b.~~c.~~ Urban Design Project Review permit applications shall be processed within the time limits set forth in Chapter 13.19.

~~3~~5. Decision when effective. A decision is considered final at the termination of an appeal period if no appeal is filed, or when a final decision on appeal has been made pursuant to either Chapter 1.23 or Chapter 1.70. In the case of a zoning reclassification, the City Council's decision on final reading of the reclassification ordinance shall be considered the final decision.

~~4~~6. If unable to issue a final decision ~~within the 120-day time period~~ within the specified timeframe, a written notice shall be made to the applicant, including findings for the reasons why the time limit has not been met and the specified amount of time needed for the issuance of the final decision.

~~5~~7. Time Computation. In computing any time period set forth in this chapter, days are counted as calendar days. Further, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday, nor a legal holiday. Legal holidays are described in RCW 1.16.050.

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13.05.070 Notice process.

A. Purpose.

The purpose of this section is to provide notice requirements for land use applications.

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F. Content of Public Notice and Notice of Application

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2. The notice of application shall contain the following information, where applicable, in whatever sequence is most appropriate for the proposal, per the requirements of RCW 36.70B.110. The notice shall be made available, at a minimum, in the project's online permit file, and by any other methods deemed appropriate:

* * *

i. Public comment period (not less than 14 nor more than 30 days), to include start date and end date of public comment period, statement of right to comment on the application, receive notice of and participate in hearings, request a copy of the decision when made, and any appeal rights;

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13.05.090 Decision of the Director.

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C. Timing of Decision.

~~After examining all pertinent information and making any inspections deemed necessary by the Director~~Upon issuance of a Complete Application, the Director shall issue a decision as set forth below, ~~within 120 days from the date of notice of a complete application,~~ unless additional time has been agreed to by the applicant, or for other reasons as stated in Section 13.05.020.

Permits that do not require public notice - final decision shall be issued within 65 calendar days

Permits that require a public notice - final decision shall be issued within 100 calendar days

In the event the Director cannot act upon a land use matter within the time limits set forth, the Director shall notify the applicant in writing, setting forth reasons the matter cannot be acted upon within the time limitations prescribed, and estimating additional time necessary for completing the recommendation or decision.

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