

- 2) Specifies that a post-entitlement phase permit shall include but not be limited to: building permits, permits for minor or standard off-site improvements, permits for demolition, and permits for minor or standard excavation and grading. It does not include a permit required and issued by the California Coastal Commission, a special district, or a utility that is not owned by a local agency.
- 3) Requires a local agency, defined to include a city or county, to compile one or more lists of information that will be required from any applicant for a post-entitlement phase permit. The local agency may revise the lists but any revised list cannot apply to any permit pending review.
- 4) Requires a local agency to post an example of a complete, approved application and an example of a complete set of post-entitlement phase permits for at least five types of housing development projects in the jurisdiction, including, but not limited to, accessory dwelling units, duplexed, multifamily developments, mixed-use developments, and townhomes.
- 5) Requires the lists and example permits in (3) and (4) to be posted on the city or county's website by January 1, 2024.
- 6) Requires large jurisdictions (counties with populations of 250,000 or greater as of January 1, 2019, and all cities within those counties) to authorize for online permitting applications to occur online by January 1, 2024. The website must list the current processing status of the applicant's permit, including whether it is being reviewed by the agency or if action is required from the applicant.
- 7) Requires large jurisdictions to accept applications by email until they meet the requirement for an online permitting system and requires the local agency to respond to inquiries on the status of a permit by email.
- 8) Requires a local agency to determine whether an application for a post-entitlement phase permit is complete and provide written notice of this determination to the applicant within 15 business days after the local agency received the application.
- 9) Provides that if the local agency determines an application is incomplete, the local agency must provide the applicant with a list of incomplete items and a description of how the application can be made complete. The local agency cannot request new information that was not on the original list of required information.

- 10) Provides that, after receiving a notice that the application was incomplete, an applicant may cure and address the items that are deemed to be incomplete by the local agency. Upon receipt of a corrected application, the local agency must notify the applicant whether the additional application has remedied all incomplete items within 15 business days.
- 11) Provides that if a local agency does not meet the timelines required for determining an application complete, and the application or resubmitted application states that it is for a post-entitlement phase permit, the application is deemed complete.
- 12) Requires local agencies to complete review and electronically notify the applicant of its determination within:
 - a) 30 business days of the application being complete for housing development projects with 25 units or fewer; or
 - b) 60 business days of the application being complete for housing development projects with 26 units or more.
- 13) Provides that the time limits in (12) do not apply if the local agency makes written findings within the applicable time limit that the proposed post-entitlement phase permit might have a specific, adverse impact, as defined, on public health or safety and that additional time is necessary to process the application.
- 14) Provides that if a local agency finds that a complete application is defective or deficient, it shall provide the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant within the applicable time limit, but must provide the list and description when it transmits its determination to the applicant. If a local agency denies a post-entitlement phase permit application based on a defect or deficiency, the applicant may attempt to remedy the defect or deficiency, and that additional application is subject to the timelines of a new application.
- 15) Requires a local agency to also provide an applicant whose permit is determined to be incomplete or denied an appeals process to the governing body of the agency or planning commission, or both. If an applicant appeals, the local agency must make a final determination within:
 - a) 60 business days of the appeal for a project of 25 units or fewer; or
 - b) 90 business days of the appeal for a project of 26 units or more.

- 16) Provides that failure to meet the time limits in the bill constitute a violation of the HAA, but allows extension of any of its time limits upon mutual agreement by the local government and the applicant. However, a local agency cannot require as a condition of submitting the application that the applicant waive the time limits in the bill, with an exception for environmental review associated with the project.

COMMENTS:

- 1) *Author's statement.* According to the author, "Local governments approve new housing developments with the expectation that they will soon see the creation of much-needed housing. There is no standardized process or timeline to approve the array of post-entitlement "building" permits (for excavation, demolition, and the like). Many projects spend months or even years waiting for building permit approvals – despite the fact that the housing development has already been reviewed and approved. Developers do not always provide all the required information to the city when applying for the permits, and cities do not always provide timely, necessary feedback to applicants. These delays of months or years increase the costs of the projects and slow overall housing production, which exacerbates California's housing crisis. The Permit Streamlining Act does not resolve this issue because it does not apply to building permits. AB 2234 will modernize the building permit process in several key ways, including:
- Setting firm timetables for local governments to approve, deny, or request changes to building permit applications.
 - Requiring local governments to post ideal application checklists and sample applications online, to ensure developers are submitting complete applications in a form that the local government can process.
 - Requiring larger local governments to accept building permit applications online."
- 2) *Zoning and land use approvals, generally.* Cities and counties enact zoning ordinances to implement their general plans. Zoning determines the type of housing that can be built. In addition, before building new housing, housing developers must obtain one or more permits from local planning departments and must also obtain approval from local planning commissions, city councils, or county board of supervisors. A zoning ordinance may be subject to the California Environmental Quality Act (CEQA) if it will have a significant impact upon the environment. The adoption of ADU ordinances, however, are explicitly exempt from CEQA. There are also several statutory exemptions that provide limited environmental review for projects that are consistent with a previously adopted general plan, community plan, specific plan, or zoning

ordinance. Some housing projects can be permitted by city or county planning staff ministerially or without further approval from elected officials. Projects reviewed ministerially, or by-right, require only an administrative review designed to ensure they are consistent with existing general plan and zoning rules, as well as meet standards for building quality, health, and safety. Most large housing projects are not allowed ministerial review. Instead, these projects are vetted through both public hearings and administrative review. Most housing projects that require discretionary review and approval are subject to review under the CEQA, while projects permitted ministerially generally are not.

The scale of the proposed development, as well as the existing environmental setting determine the degree of local review that occurs. For larger developments, the local entitlement process commonly requires multiple discretionary decisions regarding the subdivision of land, environmental review per CEQA, design review, and project review by the local agency's legislative body (city council or county board of supervisors) or by a planning commission, the legislative body has delegated to.

- 3) *The Permit Streamlining Act.* The 1977 Permit Streamlining Act (PSA) requires public agencies to act fairly and promptly on applications for development proposals, including housing developments. Public agencies must develop lists of the information that applicants must provide in order for a development application, including an application for housing, to be complete and explain the criteria they will use to review permit applications. Public agencies have 30 days to determine whether applications for development projects are complete and request additional information; failure to act results in an application being "deemed complete." If an application is incomplete, the PSA requires local agencies to exhaustively list all information needed to make a development application complete and prohibits local agencies from asking for additional information that wasn't initially required.

Once a complete application for a development has been submitted, the PSA requires local officials to act within a specific time period after completing any environmental review documents required under CEQA, ranging between 60 and 180 days. If the local government fails to approve or disapprove the application in the applicable time period, the application is deemed approved.

- 4) *Nondiscretionary Postentitlement Permits.* The PSA establishes timelines for agencies to determine whether a permit for an entitlement is complete and timelines for approving or denying a development proposal that is deemed complete. Once a development proposal is approved by the local agency, the developer is still required to submit a range of nondiscretionary permits to the

local agency for approval in order to actually complete the work to construct the building. These permits can include building permits and other permits for: demolition; grading; excavation; electrical, plumbing, or mechanical work; encroachment in the public right-of-way; roofing; water and sewer connections or septic systems; fire sprinklers; and home occupations.

The PSA applies to the discretionary approval phase of a development review process, this is the phase where the local agency, in its discretion, decides whether or not it approves of the concept outlined in the development proposal. Because the local agency is exercising discretion, these approval decisions are subject to CEQA. Once the development proposal is approved by the local agency, the next phase of review involves the ministerial review of objective permits associated with the development proposal that ensure the proposal is compliant with state and local building codes and other measures that protect public health, safety and the environment. The timelines established in the PSA do not apply to these nondiscretionary permits. This bill requires local agencies to act within certain periods on these post-entitlement projects.

- 5) *Greater clarity and expediency in post-entitlement permitting.* This bill requires a local agency to compile one or more lists of information that will be required from any applicant for a post-entitlement phase permit. The lists must be posted on the agency's website by January 1, 2024. The bill also requires large jurisdictions to offer post-entitlement phase permits to be applied for, completed, and retrieved by an applicant on its website by January 1, 2024. These application processes must be completed within a specified time-period depending on the size of the development.
- 6) *G&F Committee Amendments.* The author author agreed to accept the following amendments in the prior committee, which include the following amendments: grant a delay of 5 years, extendable by an additional 5 years if the city or county makes a finding as to the necessity of the delay, on the requirement to have an online permitting system for post-entitlement permits for cities under 75,000 and in counties of less than 1.1 million population. Retains complete exemption for the smallest of the small as currently in the bill. The author will also accept one clarifying change in the analysis (clarifying penalties).
- 7) *Opposition.* Local governments writing in opposition are concerned about the timeframes in the bill, which may fail to take into account various circumstances for an individual project. Additionally, they are concerned about additional costs and staff time that will be required to implement the provisions of the bill.

8) *Incoming!* This bill was heard in the Senate Governance and Finance Committee on June 15th and received a vote of 5-0.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, June 15, 2022.)

SUPPORT:

Housing Action Coalition (Co-Sponsor)
Silicon Valley Leadership Group (Co-Sponsor)
American Planning Association, California Chapter
California Housing Consortium
California Housing Partnership Corporation
California YIMBY
EAH Housing
Non-profit Housing Association of Northern California (NPH)

OPPOSITION:

City of Pleasanton
City of San Marcos

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