

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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HOUSE BILL 2313\*  
Senate Finance Committee Substitute Adopted 7/8/08

Short Title: Permitting and Building Code Changes. (Public)

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Sponsors:

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Referred to:

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May 21, 2008

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE AN EXPRESS PERMITTING REVIEW PROGRAM FOR  
2 CONNECTIONS TO THE STATE HIGHWAY SYSTEM, AS RECOMMENDED  
3 BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT  
4 COMMITTEE; TO EXEMPT CERTAIN GREENHOUSES LOCATED INSIDE  
5 THE BUILDING-RULES JURISDICTION OF ANY MUNICIPALITY FROM  
6 THE BUILDING CODE; AND TO LIMIT THE GROUNDS UPON WHICH A  
7 LOCAL GOVERNMENT MAY ENACT A TEMPORARY DEVELOPMENT  
8 MORATORIUM.  
9

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** Chapter 136 of the General Statutes is amended by adding a  
12 new section to read:

13 **"§ 136-93.1. Express permit review program.**

14 (a) Program Created. – The Department shall develop a fee-supported express  
15 permit review program in each highway division. The program is voluntary for permit  
16 applicants and applies to permits, approvals, or certifications that allow for a connection  
17 to the State highway system through the use of a driveway, street, signal, drainage, or  
18 any other encroachment.

19 (b) Implementation. – An individual highway division may opt out of the express  
20 permit review program created under this section if the highway division routinely  
21 reviews and issues special commercial permits within an average of 45 days. Any  
22 express permit review program created under this section shall be supported by the fees  
23 established pursuant to subsection (e) of this section.

24 (c) Procedure. – In reviewing a permit application under the express permit  
25 review program, the Department shall undergo the following steps:

- 26 (1) The Department shall, within three business days of receipt, determine  
27 whether an express permit review application is complete. If the  
28 Department determines the express permit review application is not  
29 complete, the Department shall return the express permit review

1           application and all fees to the permit applicant to allow for a complete  
2           express permit review application to be resubmitted to the Department.

3           (2)   If the Department determines the express permit review application is  
4           complete, the Department shall, within 45 days, issue or deny the  
5           permit based upon its review of the application. Failure of the  
6           Department to issue or deny the permit within 45 days is a denial of  
7           the express permit review application.

8           (d)   Staffing. – In order to implement the express permit review program, the  
9           Department may utilize either of the following or a combination thereof:

10           (1)   Existing Department staff and resources.

11           (2)   Contracted engineering firms supporting each highway division to  
12           provide express permit reviews, comments, and recommendations for  
13           issuing express permits. If the Department utilizes contracted  
14           engineering firms to provide work under this section, any fees received  
15           by the Department pursuant to subsection (e) of this section shall be  
16           credited towards the cost of the Department utilizing these contracted  
17           engineering firms. Any additional costs associated with engaging the  
18           contracted engineering firm shall be agreed to by the permit applicant  
19           prior to incurring the costs and shall be paid by the permit applicant.

20           (e)   Fees. – The Department may determine the fees for an express application  
21           review under the express review program conducted by highway division staff. Unless a  
22           contracted engineering firm is utilized, the maximum permit application fee to be  
23           charged under this section for an express review of a project application requiring all of  
24           the permits listed under subsection (a) of this section shall not exceed four thousand  
25           dollars (\$4,000). Notwithstanding Chapter 150B of the General Statutes, the  
26           Department shall establish the procedure by which the amount of the fees under this  
27           subsection are established and applied for an express review program permitted by this  
28           section. The fee schedule established by the Department shall be applicable to all  
29           divisions participating in an express permit review program.

30           (f)   Use of Fees. – All fees collected under this section shall be used to fund the  
31           cost of administering and implementing express permit review programs created under  
32           this section. These costs include the salaries of the program's staff and costs of  
33           contracted engineering firms.

34           (g)   Reports. – No later than March 1 of each year, the Department shall report to  
35           the Fiscal Research Division and the Joint Legislative Transportation Oversight  
36           Committee on the express permitting review program. The report shall include the cost  
37           of administering the program in each division, the number of express permits issued, the  
38           turnaround time for permits, the amount of fees collected per division, and the method  
39           that divisions use to implement the program."

40           **SECTION 2.** G.S. 143-138(b) reads as rewritten:

41           (b)   Contents of the Code. – The North Carolina State Building Code, as adopted  
42           by the Building Code Council, may include reasonable and suitable classifications of  
43           buildings and structures, both as to use and occupancy; general building restrictions as  
44           to location, height, and floor areas; rules for the lighting and ventilation of buildings and

1 structures; requirements concerning means of egress from buildings and structures;  
2 requirements concerning means of ingress in buildings and structures; rules governing  
3 construction and precautions to be taken during construction; rules as to permissible  
4 materials, loads, and stresses; rules governing chimneys, heating appliances, elevators,  
5 and other facilities connected with the buildings and structures; rules governing  
6 plumbing, heating, air conditioning for the purpose of comfort cooling by the lowering  
7 of temperature, and electrical systems; and such other reasonable rules pertaining to the  
8 construction of buildings and structures and the installation of particular facilities  
9 therein as may be found reasonably necessary for the protection of the occupants of the  
10 building or structure, its neighbors, and members of the public at large.

11 In addition, the Code may regulate activities and conditions in buildings, structures,  
12 and premises that pose dangers of fire, explosion, or related hazards. Such fire  
13 prevention code provisions shall be considered the minimum standards necessary to  
14 preserve and protect public health and safety, subject to approval by the Council of  
15 more stringent provisions proposed by a municipality or county as provided in  
16 G.S. 143-138(e). These provisions may include regulations requiring the installation of  
17 either battery-operated or electrical smoke detectors in every dwelling unit used as  
18 rental property, regardless of the date of construction of the rental property. For  
19 dwelling units used as rental property constructed prior to 1975, smoke detectors shall  
20 have an Underwriters' Laboratories, Inc., listing or other equivalent national testing  
21 laboratory approval, and shall be installed in accordance with either the standard of the  
22 National Fire Protection Association or the minimum protection designated in the  
23 manufacturer's instructions, which the property owner shall retain or provide as proof of  
24 compliance.

25 The Code may contain provisions regulating every type of building or structure,  
26 wherever it might be situated in the State.

27 Provided further, that ~~nothing in this Article shall be construed to make any building~~  
28 ~~rules applicable to~~ do not apply to (i) farm buildings that are located outside the  
29 building-rules jurisdiction of any municipality, or (ii) farm buildings that  
30 are located inside the building-rules jurisdiction of any municipality if the farm  
31 buildings are greenhouses. A "greenhouse" is a structure that has a glass or plastic roof,  
32 has one or more glass or plastic walls, has an area over ninety-five percent (95%) of  
33 which is used to grow or cultivate plants, is built in accordance with the National  
34 Greenhouse Manufacturers Association Structural Design manual, and is not used for  
35 retail sales.

36 Provided further, that no building permit shall be required under the Code or any  
37 local variance thereof approved under subsection (e) for any construction, installation,  
38 repair, replacement, or alteration costing five thousand dollars (\$5,000) or less in any  
39 single family residence or farm building unless the work involves: the addition, repair,  
40 or replacement of load bearing structures; the addition (excluding replacement of same  
41 size and capacity) or change in the design of plumbing; the addition, replacement or  
42 change in the design of heating, air conditioning, or electrical wiring, devices,  
43 appliances, or equipment, the use of materials not permitted by the North Carolina

1 Uniform Residential Building Code; or the addition (excluding replacement of like  
2 grade of fire resistance) of roofing.

3 Provided further, that no building permit shall be required under such Code from any  
4 State agency for the construction of any building or structure, the total cost of which is  
5 less than twenty thousand dollars (\$20,000), except public or institutional buildings.

6 For the information of users thereof, the Code shall include as appendices

7 (1) Any rules governing boilers adopted by the Board of Boiler and  
8 Pressure Vessels Rules,

9 (2) Any rules relating to the safe operation of elevators adopted by the  
10 Commissioner of Labor, and

11 (3) Any rules relating to sanitation adopted by the Commission for Health  
12 Services which the Building Code Council believes pertinent.

13 In addition, the Code may include references to such other rules of special types,  
14 such as those of the Medical Care Commission and the Department of Public Instruction  
15 as may be useful to persons using the Code. No rule issued by any agency other than the  
16 Building Code Council shall be construed as a part of the Code, nor supersede that  
17 Code, it being intended that they be presented with the Code for information only.

18 Nothing in this Article shall extend to or be construed as being applicable to the  
19 regulation of the design, construction, location, installation, or operation of (1)  
20 equipment for storing, handling, transporting, and utilizing liquefied petroleum gases  
21 for fuel purposes or anhydrous ammonia or other liquid fertilizers, except for liquefied  
22 petroleum gas from the outlet of the first stage pressure regulator to and including each  
23 liquefied petroleum gas utilization device within a building or structure covered by the  
24 Code, or (2) equipment or facilities, other than buildings, of a public utility, as defined  
25 in G.S. 62-3, or an electric or telephone membership corporation, including without  
26 limitation poles, towers, and other structures supporting electric or communication  
27 lines.

28 In addition, the Code may contain rules concerning minimum efficiency  
29 requirements for replacement water heaters, which shall consider reasonable availability  
30 from manufacturers to meet installation space requirements.

31 No State, county, or local building code or regulation shall prohibit the use of special  
32 locking mechanisms for seclusion rooms in the public schools approved under  
33 G.S. 115C-391.1(e)(1)e., provided that the special locking mechanism shall be  
34 constructed so that it will engage only when a key, knob, handle, button, or other similar  
35 device is being held in position by a person, and provided further that, if the mechanism  
36 is electrically or electronically controlled, it automatically disengages when the  
37 building's fire alarm is activated. Upon release of the locking mechanism by a  
38 supervising adult, the door must be able to be opened readily."

39 **SECTION 3.** G.S. 153A-340(h)(1) reads as rewritten:

40 "(1) A clear statement of the problems or conditions necessitating the  
41 moratorium and what courses of action, alternative to a moratorium,  
42 were considered by the county and why those alternative courses of  
43 action were not deemed adequate. A county may not adopt an  
44 ordinance imposing a development moratorium on the sole basis that

1                    an existing ordinance is outdated or in need of amendment or that there  
2                    is a need for a new ordinance."

3                    **SECTION 4.** G.S. 160A-381(e)(1) reads as rewritten:

4                    "(1) A clear statement of the problems or conditions necessitating the  
5                    moratorium and what courses of action, alternative to a moratorium,  
6                    were considered by the city and why those alternative courses of action  
7                    were not deemed adequate. A county may not adopt an ordinance  
8                    imposing a development moratorium on the sole basis that an existing  
9                    ordinance is outdated or in need of amendment or that there is a need  
10                    for a new ordinance."

11                    **SECTION 5.** This act is effective when it becomes law.