

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 794

Short Title: NC Permitting Efficiency Act of 2017. (Public)

Sponsors: Representatives Stone, Saine, Bradford, and Torbett (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: State and Local Government II, if favorable, Regulatory Reform, if favorable,
Finance

April 13, 2017

A BILL TO BE ENTITLED

AN ACT TO IMPROVE EFFICIENCY OF CONSTRUCTION PERMITTING BY
REMOVING REDUNDANCIES IN REVIEWS AND APPROVALS BY STATE AND
LOCAL AGENCIES, IMPROVE ACCOUNTABILITY AND TRANSPARENCY OF
REVIEWING AGENCIES, AND MAKE NORTH CAROLINA A NATIONAL LEADER
IN PERMITTING EFFICIENCY, WHICH WILL ENCOURAGE INVESTORS TO
CHOOSE NORTH CAROLINA TO CREATE JOBS.

Whereas, the construction industry represents 10% of the overall North Carolina
economy; and

Whereas, expediting the permitting process will expedite the commencement of
construction projects, which in turn can increase the speed of job creation in the construction
industry as well as in other industries such as commercial, retail, and manufacturing when
employment facilities are completed; and

Whereas, eliminating redundant steps in the permit approval process will reduce
costs and maximize efficiency; and

Whereas, many businesses that invest in North Carolina do so based on the value of
doing business in the State and often after comparing North Carolina's competitiveness with
other states in which they may do business; and

Whereas, it is the design professionals, duly licensed by North Carolina boards of
licensure, who have responsible charge over the design and the overall responsibility for design
of permit plan preparation, while the permit review agency has authority to review for
compliance of standards set forth by its agency or others authorized to set standards; and

Whereas, maximizing efficiency assists in increasing the affordability of homes; and

Whereas, the General Assembly continues to seek ways to reduce burdens on North
Carolina businesses to make our State the most business friendly in the country while still
maintaining adequate and reasonable review of applications for construction to ensure
protection of the people's interests, health, and welfare and to ensure protection of the
environment; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) Article 6 of Chapter 153A of the General Statutes is amended by
adding a new section to read as follows:

"§ 153A-145.7. General requirements for issuing permits.

The following shall apply to permits issued by a county, including building permits and
land use permits:



- 1 (1) All requirements for the issuance of a permit shall be included in an
2 ordinance adopted by the governing body, and the ordinance shall be
3 available for public inspection in the same manner as other ordinances.
- 4 (2) A county shall not require a permittee to reserve land, dedicate
5 rights-of-way, adhere to planning or land use conditions, or make
6 accommodations for future construction activities, including the installation
7 of future infrastructure, unless the requirement is included in an ordinance
8 adopted by the governing body. An ordinance may include formal land use
9 maps, capital improvement plans, or fiscally constrained road improvements
10 established by the Department of Transportation.
- 11 (3) The governing body shall adopt an ordinance establishing or authorizing
12 county departments to establish a schedule that shall be used by county
13 departments in reviewing permits, including the maximum number of days
14 in which a county department shall have to approve or deny a permit. The
15 schedule shall be published in the same manner as other county ordinances
16 and shall be published on the county's Web site, if one is available. If the
17 governing body authorizes county departments to establish a schedule as
18 provided in this subdivision, the governing body shall approve the schedule
19 before it implemented for use by the public.
- 20 (4) Each county department responsible for issuing permits shall, on a quarterly
21 basis, submit to the governing body a report detailing the department's
22 compliance with the schedule established under subdivision (3) of this
23 section, including the number of permit reviews that were completed within
24 the time periods specified in the schedule, the number completed prior to the
25 expiration of the time periods, and the number completed after the expiration
26 of the time periods. The department's report shall be published in the same
27 manner as county ordinances and shall be published on the county's Web
28 site, if one is available.
- 29 (5) An ordinance shall not require a permit be reviewed only after another
30 agency or department, including a State agency or department, has
31 conducted its own review of the same or another permit related to the same
32 project. Ordinances adopted by the county shall require that permits issued
33 by the county shall be reviewed concurrently with other permits related to
34 the same project.
- 35 (6) If the county uses an online permit review and approval program, every
36 department or agency of the county authorized to review and approve
37 permits shall use the online program. The county shall, where feasible, make
38 its online program accessible to outside local and State agencies, and those
39 agencies shall use the online program to review and approve permits.
- 40 (7) Where feasible, a county shall make its online permit review and approval
41 program accessible by municipalities in the county to facilitate concurrent
42 review and approval of permits.
- 43 (8) A county may establish a fee to cover the cost of creating an online permit
44 review and approval program, but the fee shall not be more than the
45 anticipated first year's actual cost of establishing and implementing the
46 online program, and the total cost of the program shall be evenly distributed
47 to all permit applicants.
- 48 (9) A county shall not require a permittee to construct off-site improvements,
49 including improvements related to utilities or traffic, unless the
50 improvements are necessitated by the direct impact of the permittee's
51 development.

1 (10) A fee in lieu of payments related to off-site improvements authorized by law
2 shall not exceed twenty percent (20%) of the estimated actual costs
3 associated with the direct impact of the permittee's development. The
4 estimated actual costs shall be calculated by a licensed professional
5 engineer."

6 **SECTION 1.(b)** Article 8 of Chapter 160A of the General Statutes is amended by
7 adding a new section to read as follows:

8 **"§ 160A-205.3. General requirements for issuing permits.**

9 The following shall apply to permits issued by a city, including building permits and land
10 use permits:

11 (1) All requirements for the issuance of a permit shall be included in an
12 ordinance adopted by the governing body, and the ordinance shall be
13 available for public inspection in the same manner as other ordinances.

14 (2) A city shall not require a permittee to reserve land, dedicate rights-of-way,
15 adhere to planning or land use conditions, or make accommodations for
16 future construction activities, including the installation of future
17 infrastructure, unless the requirement is included in an ordinance adopted by
18 the governing body. An ordinance may include formal land use maps, capital
19 improvement plans, or fiscally constrained road improvements established
20 by the Department of Transportation.

21 (3) The governing body shall adopt an ordinance establishing or authorizing city
22 departments to establish a schedule that shall be used by city departments in
23 reviewing permits a schedule that shall be used by city departments in
24 reviewing permits, including the maximum number of days in which a city
25 department shall have to approve or deny a permit. The schedule shall be
26 published in the same manner as other city ordinances and shall be published
27 on the city's Web site, if one is available. If the governing body authorizes
28 city departments to establish a schedule as provided in this subdivision, the
29 governing body shall approve the schedule before it implemented for use by
30 the public.

31 (4) Each city department responsible for issuing permits shall, on a quarterly
32 basis, submit to the governing body a report detailing the department's
33 compliance with the schedule established under subdivision (3) of this
34 section, including the number of permit reviews that were completed within
35 the time periods specified in the schedule, the number completed prior to the
36 expiration of the time periods, and the number completed after the expiration
37 of the time periods. The department's report shall be published in the same
38 manner as city ordinances and shall be published on the city's Web site, if
39 one is available.

40 (5) An ordinance shall not require a permit be reviewed only after another
41 agency or department, including a State agency or department, has
42 conducted its own review of the same or another permit related to the same
43 project. Ordinances adopted by the city shall require that permits issued by
44 the city shall be reviewed concurrently with other permits related to the same
45 project.

46 (6) If the city uses an online permit review and approval program, every
47 department or agency of the city authorized to review and approve permits
48 shall use the online program. The city shall, where feasible, make its online
49 program accessible to outside local and State agencies, and those agencies
50 shall use the online program to review and approve permits.

1 **"§ 136-166.53. Department's authority.**

2 (a) The Department may establish review guidelines that a local government shall
3 follow in its review. These guidelines shall be consistent with existing permitting standards and
4 of a technical nature. The Department shall not establish different technical standards for
5 different municipalities. The standards must be similar to those established for other
6 State-maintained roads.

7 (b) If the Department determines a municipality is failing to administer or enforce a
8 local program, it shall notify the municipality in writing and shall specify the deficiencies of
9 administration and enforcement. If the municipality does not take corrective action within 60
10 days of receipt of notification, the Department shall assume administration and enforcement of
11 the program until the municipality demonstrates to the satisfaction of the Department the ability
12 to resume administration and enforcement of the program.

13 (c) The Department shall retain the authority to review and approve construction
14 permits for construction activities within State-maintained road rights-of-way for activities
15 conducted by local, State, or federal governments. The review is limited to technical elements
16 only and the Department may not request modifications to reviewed plans based on conflicting
17 policies established by a municipality that has been delegated authority to approve local
18 programs.

19 **"§ 136-166.54. Local authority.**

20 (a) Municipalities with delegated authority under this Article may do all of the
21 following:

- 22 (1) Adopt ordinances and regulations necessary to establish and enforce
23 transportation review programs established in accordance with this Article.
24 An ordinance shall at least meet, but may not exceed, the minimum
25 requirements established by the Department for State-maintained roads,
26 unless the requirements are consistent with those established for locally
27 maintained roads of similar capacity and nature.
- 28 (2) Create or designate agencies or subdivisions to administer and enforce the
29 programs.
- 30 (3) Establish standards and ordinances for roads to make road design consistent
31 with local roads, including landscaping requirements, on-street parking,
32 signage, and signalization.

33 (b) A municipality shall approve a plan only after determining that it complies with all
34 applicable federal, State, and local regulations and shall condition approval of a construction
35 plan upon the applicant's compliance with federal and State laws, regulations, and rules. Except
36 as otherwise allowed under subsection (e) of this section, a municipality shall disapprove a plan
37 if implementation of the plan would result in a violation of federal and State laws, regulations,
38 rules, and standards.

39 (c) The municipality shall take into consideration adherence to regional plans
40 developed and approved by Metropolitan Planning Organizations (MPOs) or Rural
41 Transportation Planning Organizations (RPOs) as well as local ordinances and standards. The
42 transportation-related elements of a construction plan may be submitted in a manner prescribed
43 by the local government. Separate sets of construction plans which are distinct to the
44 transportation system are not required unless prescribed by the municipality.

45 (d) For projects related to transportation or activities or encroachments within the
46 Department's rights-of-way, a municipality shall review each construction permit application
47 submitted and within 30 days of receipt thereof shall notify the person submitting the
48 application that the application has been (i) approved, (ii) approved with modifications, or (iii)
49 disapproved.

50 (e) If a municipality with delegated authority under this Article establishes a technical
51 standard for a State-maintained road that is different than the State standard, the municipality

1 shall notify the Department in writing of the details of the modification or exception and the
2 reason for the modification or exception. Unless there is a compelling reason for a change in a
3 technical standard, such as implementation to local land use objectives, public safety goals,
4 local development standards, or site-specific conditions, the municipality shall refer to State
5 standards when reviewing construction plans which have activities within State-maintained
6 rights-of-way.

7 **"§ 136-166.55. Fees.**

8 An ordinance adopted by a municipality may establish a fee for the review of a
9 transportation-related or right-of-way impacting construction plan and related activities.
10 However, if the local government already performs reviews of the same construction plans
11 under this Article, it may not establish an additional fee for review of a construction activity
12 impacting a State-maintained road or its right-of-way."

13 **SECTION 2.(b)** This section becomes effective October 1, 2017.

14 **SECTION 3.(a)** Chapter 143 of the General Statutes is amended by adding a new
15 Article to read:

16 "Article 82.

17 "Transparency and Efficiency in State and Local Permitting; Fees.

18 **"§ 143-765. Transparency.**

19 State and local government agencies that have the authority to review and approve permits
20 shall maintain published records that present a summary of adherence to their published review
21 schedules with data on frequency of reviews that were not performed within the established
22 time lines, as well as those reviews performed ahead of schedule. Agencies shall also publish
23 summary data that present the number of reviews and submittals for each project. This data
24 shall be published on the agency's or municipal government's public Web site.

25 **"§ 143-766. Efficiency.**

26 State and local government agencies that have the authority to review and approve permits
27 shall make accommodations to incorporate and facilitate access by staff of other agencies,
28 departments, or local governments so that all entities can utilize the system concurrently and
29 collaboratively. For municipalities that have separate local governments with separate areas of
30 responsibility, such as a county review of building permits and a city with review authority of
31 site plans, but both are reviewing the same construction project, the municipalities shall
32 coordinate their review processes so that submittals and reviews are done online through the
33 same online system or portal.

34 **"§ 143-767. Fees.**

35 State or local governments, which incur costs associated with the creation or adoption of an
36 online permitting system, may establish a fee or increase an existing fee for the review, but the
37 new or additional fee shall not be more than the anticipated actual cost associated with
38 implementation distributed equally among all permit applicants over the course of one year.
39 The fee, or increased fee, shall be in effect only for the first 12 months following the initiation
40 of the online permitting process. The State or local government shall estimate the anticipated
41 number of permit applications for the program's first 12 months based on the number of
42 applicants from the previous 12 months."

43 **SECTION 3.(b)** State agencies which review construction documents and have
44 permit authority shall develop and implement an online system for submittal, review, and
45 approval, by 2020.

46 **SECTION 3.(c)** This section is effective when it becomes law.

47 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes
48 law.