

Senate Bill 447

By: Senators Dixon of the 45th, Still of the 48th, Anavitarte of the 31st, Goodman of the 8th, Echols of the 49th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 7 of Title 12 of the Official Code of Georgia Annotated, relating to
2 control of soil erosion and sedimentation, so as to revise provisions regarding denial or
3 nonacceptance of permits; to require local issuing authorities to provide rejected permit
4 applicants with a written list of reasons for denial within specified time frames; to provide
5 for automatic acceptance of applications and refunding of fees in certain circumstances; to
6 amend Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to
7 provisions applicable to counties and municipal corporations, so as to provide general
8 provisions for counties and municipalities regarding the acceptance, denial, or nonacceptance
9 of certain permits; to require unambiguous criteria for approval of permits; to require
10 completed applications; to require local issuing authorities to provide rejected permit
11 applicants with a written list of reasons for denial within specified time frames; to provide
12 for automatic acceptance of applications and refunding of fees in certain circumstances; to
13 provide for exceptions; to provide definitions; to provide for related matters; to repeal
14 conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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SECTION 1.

17 Chapter 7 of Title 12 of the Official Code of Georgia Annotated, relating to control of soil
18 erosion and sedimentation, is amended by revising Code Section 12-7-9, relating to
19 applications for permits, erosion and sediment control plans and data, and time for issuance
20 or denial, as follows:

21 "12-7-9.

22 (a) ~~Completed applications~~ Applications for permits shall be submitted in accordance with
23 this chapter and the rules and regulations, ordinances, and resolutions adopted pursuant to
24 this chapter. The local issuing authority shall specify in clear and unambiguous language
25 the criteria for approval of permits pursuant to this chapter. Such applications shall be
26 accompanied by the applicant's erosion and sediment control plans and by such supportive
27 data as will affirmatively demonstrate that the land-disturbing activity proposed will be
28 carried out in such a manner that the minimum requirements set forth in Code
29 Section 12-7-6 shall be met. All applications shall contain a certification stating that the
30 plan preparer or ~~the designee thereof~~ his or her designee visited the site prior to creation
31 of the plan or that such a visit was not required in accordance with rules and regulations
32 established by the board.

33 (b) No permit shall be issued to any applicant unless the local issuing authority
34 affirmatively determines that the plan embracing such activities meets the requirements of
35 Code Section 12-7-6. All applicable fees shall be paid prior to issuance of the land
36 disturbance permit by the local issuing authority.

37 (c) Permits shall be issued or denied as soon as practicable after the application ~~therefor~~
38 has been filed with the local issuing authority, but in any event not later than 45 days
39 ~~thereafter~~ after such filing. In the event that a permit has been denied or deemed not
40 accepted and the applicant thereafter resubmits the application in modified form to address
41 deficiencies identified in the stated reasons for denial or nonacceptance pursuant to
42 subsection (a) of Code Section 12-7-11, then the local issuing authority shall cause the

43 permit to be issued or denied as soon as practicable after such resubmission, but in any
 44 event not later than 14 days after such resubmission.

45 (d) If a local issuing authority requires compliance with additional regulatory items by the
 46 applicant beyond erosion and sediment control, including, but not limited to, storm-water
 47 management, zoning, land use, or utility approvals, all such requirements shall be subject
 48 to the review time frames imposed in subsection (c) of this Code section."

49 **SECTION 2.**

50 Said chapter is further amended by revising Code Section 12-7-11, relating to statement of
 51 reasons for denial of permit required, conditions for approval, and suspension, revocation,
 52 or modification of permit, as follows:

53 "12-7-11.

54 (a) Within the time frames specified by Code Section 12-7-9, the local issuing authority
 55 shall issue or deny the permit. In the event that the local issuing authority does not issue
 56 or deny a permit within the provided time frame, such permit shall be deemed approved
 57 and the local issuing authority shall refund all fees collected in association with the
 58 applicant's permit application. The local issuing authority, upon denial of a permit, shall
 59 state its reasons for the denial, setting forth specifically ~~wherein~~ where such application is
 60 found to be deficient. No local issuing authority shall deny or deem not accepted a permit
 61 for any reason that is not an authorized reason for denial or nonacceptance under local,
 62 state, or federal law with which the application or plans do not comply. Concurrently with
 63 denial or nonacceptance, the local issuing authority shall provide the applicant with a
 64 written list of the reasons for such denial or nonacceptance and a citation to the local, state,
 65 or federal law supporting each reason for the denial or nonacceptance. Should the
 66 applicant make material additions to the resubmitted application that are unrelated to the
 67 cited reasons for the denial or nonacceptance of the original application, the local issuing
 68 authority shall also address such additions in reviewing the resubmitted application. Any

69 land-disturbing activity permitted under this chapter shall be carried out in accordance with
 70 this chapter and the ordinance, resolution, or rules and regulations adopted and
 71 promulgated pursuant to this chapter. The local issuing authority shall specify on the
 72 permit the conditions under which the activity may be undertaken.

73 (b) The permit may be suspended, revoked, or modified by the local issuing authority, as
 74 to all or any portion of the land affected by the plan, upon a finding that the holder or his
 75 or her successor in title is not in compliance with the approved erosion and sediment
 76 control plan or that the holder or his or her successor in title is in violation of this chapter
 77 or any ordinance, resolution, rule, or regulation adopted or promulgated pursuant to this
 78 chapter. A holder of a permit shall notify any successor in title to him or her as to all or
 79 any portion of the land affected by the approved plan of the conditions contained in the
 80 permit."

81

SECTION 3.

82 Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to provisions
 83 applicable to counties and municipal corporations, is amended by adding a new Code section
 84 to read as follows:

85 "36-60-34.

86 (a) As used in this Code section, the term:

87 (1) 'Applicant' means any person, entity, or organization submitting a permit application
 88 for review or approval by a county or municipality.

89 (2) 'Local issuing authority' means the appropriate office or official with a county or
 90 municipal government charged with accepting, reviewing, and approving or denying
 91 permit applications.

92 (3) 'Permit' means any license, permit, or other official governmental approval of the
 93 development of real property issued by a county or municipality pursuant to ordinances
 94 and resolutions enacting subdivision regulations, environmental ordinances and

95 resolutions, state minimum standard codes provided for in Code Section 8-2-25, the
96 Georgia State Fire Code provided for in Code Section 25-2-13, or other ordinances and
97 resolutions regulating the development of real property.

98 (b) Unless otherwise provided by federal or general state law:

99 (1) Counties and municipalities shall specify in clear and unambiguous language the
100 criteria for approval of permits;

101 (2) All applications for a permit shall be submitted to the appropriate local issuing
102 authority as a complete application in accordance with the laws, rules, regulations,
103 ordinances, or resolutions related to such permitting process; and

104 (3) Permits shall be issued or denied by a county or municipality as soon as practicable
105 after the application therefor has been filed, but in any event not later than 45 days
106 thereafter after such filing. In the event that a permit has been denied or deemed not
107 accepted and the applicant thereafter resubmits the application in modified form to
108 address deficiencies identified in the stated reasons for denial or nonacceptance the local
109 issuing authority shall cause the permit to be issued or denied as soon as practicable after
110 such resubmission, but in any event not later than 14 days after such resubmission.

111 (c) Within the time frames specified by paragraph (3) of subsection (b) of this Code
112 section, the local issuing authority shall issue or deny the permit. In the event that the local
113 issuing authority does not issue or deny a permit within the provided time frame, such
114 permit shall be deemed approved and the local issuing authority shall refund all fees
115 collected in association with the applicant's permit application. The local issuing authority,
116 upon denial of a permit, shall state its reasons for the denial, setting forth specifically where
117 such application is found to be deficient. No local issuing authority shall deny or deem not
118 accepted a permit for any reason that is not an authorized reason for denial or
119 nonacceptance under local, state, or federal law with which the application or plans do not
120 comply. Concurrently with denial or nonacceptance, the local issuing authority shall
121 provide the applicant with a written list of the reasons for such denial or nonacceptance and

122 a citation to the local, state, or federal law supporting each reason for the denial or
123 nonacceptance. Should the applicant make material additions to the resubmitted
124 application that are unrelated to the cited reasons for the denial or nonacceptance of the
125 original application, the local issuing authority shall also address such additions in
126 reviewing the resubmitted application.

127 (d) The provisions of this Code section shall not apply to any permit application where
128 general law provides a specific process and time frame for the acceptance, review,
129 approval, or denial of a specific permit. In the event of a conflict between this Code
130 section and another provisions of general law related to the acceptance, review, approval,
131 or denial of a permit application, the more specific provision shall govern."

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SECTION 4.

133 All laws and parts of laws in conflict with this Act are repealed.