

Section 17 of Chapter 53 of the Acts of 2020

<https://malegislature.gov/Laws/SessionLaws/Acts/2020/Chapter53>

AS MODIFIED BY CHAPTER 201 OF THE ACTS OF 2020, SECTIONS 33-38

<https://malegislature.gov/Laws/SessionLaws/Acts/2020/Chapter201>

SECTION 17.

(a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:

“Permit”, a permit, variance, special permit, license, amendment, extension, or other approval issued by a permit granting authority pursuant to a statute, ordinance, bylaw, rule or regulation, whether ministerial or discretionary.

“Permit granting authority”, a local, district, county or regional official or a local, district, county or regional multi-member body that is authorized to issue a permit.

(b) Notwithstanding any general or special law, rule, regulation, charter, ordinance or by-law to the contrary, during the governor’s March 10, 2020 declaration of a state of emergency:

(i) an application for a permit shall be deemed duly filed and accepted as of the date of the filing by the applicant if filed with and certified as received by the city or town clerk if a municipality, or with the secretary or other official established by law to receive such applications if a county or regional entity. Notwithstanding the foregoing, a permit granting authority may contest the completeness of an application at the time of filing if the application is ultimately denied by the permitting board on other grounds or if the permit is ultimately appealed by the applicant. An application for a permit may be filed electronically, through an electronic submission website established by the permit granting authority or through attachment of the requisite forms and supplemental materials to electronic mail sent to the clerk, secretary or official. Certification of receipt for purposes of this paragraph may be provided electronically to the applicant and shall be provided electronically if the permit application is submitted electronically and electronic certification of receipt is requested by the applicant;

(ii) a requirement of a statute, ordinance, bylaw, rule or regulation that a hearing commence within a specific period of time after the filing of an application or request for approval of a permit shall be suspended as of March 10, 2020; provided, however, that the applicable period shall resume ~~45 days after the termination of the state of emergency, or by a date otherwise prescribed by law, whichever is later; December 1, 2020, unless such date is extended by relief from the deadline from the secretary of housing and economic development as set forth in subsection (d);~~

(iii) a permit in effect or existence as of March 10, 2020, including any deadlines or conditions of the permit, shall not lapse or otherwise expire and the expiration date of the permit, or time period for meeting a deadline or for performance of a condition of the permit, shall toll during the state of emergency;

~~(iv) no permit shall be considered granted, approved or denied, constructively or otherwise, due to a failure of the permit granting authority to act within the time required by a statute, ordinance, bylaw, rule or regulation; provided, however, that the permit granting authority acts within 45 days of the termination of the state of emergency or by a date otherwise prescribed by law, whichever is later; provided further, that the applicant and permit granting authority may agree to alternative timing in writing;~~

(iv) when a statute, ordinance, bylaw, rule or regulation provides that a permit shall be considered granted, approved or denied, constructively or otherwise, due to a failure of the permit granting authority to act within a specified time period, the time within which the permit granting authority must act shall be deemed tolled from March 10, 2020 to December 1, 2020 unless relief from the deadline has been granted by the secretary of housing and economic development pursuant to subsection (d);

(v) notwithstanding the time periods by which a permit is to be heard or acted upon, a permit granting authority may, by a declaration of its chair, schedule or reschedule on 1 or more occasions the hearing or decision deadlines on a permit application; provided, however, that the chair may make such declaration whether or not a quorum is present to vote on such matter; provided further, that no such date or deadline is rescheduled for ~~more than 45 days after the termination of the state of emergency or after a date otherwise prescribed by law, whichever is later.~~ a date later than December 1, 2020, unless relief from the deadline has been approved by the secretary of housing and economic development pursuant to subsection (d). The chair shall provide written notice of any applicable rescheduled dates or deadlines to the applicant at the applicant's address and to the general public by posting electronically on the website of the city or town clerk or the website of the county or regional entity;

(vi) if a permit is required to be recorded with the registry of deeds or filed with registry district of the land court, as applicable, for the county or district in which the property subject to the permit is located, within a certain period of time after its issuance in order to remain in force and effect or as a condition to exercising the permit: (A) the period of time for recording the permit shall be suspended during such time that the relevant registry of deeds or registry district of the land court is closed or subject to rules and procedures restricting public in-person access; and (B) the failure to record the permit shall not preclude the permit holder from applying for, obtaining and commencing construction activities pursuant to other required permits and approvals, including, but not limited to, a building permit; provided, however, that such a building permit may be issued and, if issued, shall be considered duly issued pursuant to section 6 of chapter 40A of the General Laws; and

~~(vii) a hearing on a pending application for a permit opened by a permit granting authority before March 10, 2020, which has not been concluded as of March 10, 2020 or has been continued by the permit granting authority as of March 10, 2020, shall be automatically tolled and continued to the first hearing date of the permit granting authority following the termination of the state of emergency or to a date otherwise prescribed by law, whichever is later; provided, however, that the date is not later than 45 days from of the termination of the state of emergency or the date otherwise prescribed by law, whichever is later.~~

(vii) a hearing on a pending application for a permit opened by a permit granting authority before March 10, 2020, which has not been concluded as of March 10, 2020 or has been continued by the permit granting authority as of March 10, 2020, shall be automatically tolled and continued to a date selected by the permitting granting authority but the date may in no event be later than December 1, 2020 unless relief from the deadline has been granted by the secretary of housing and economic development pursuant to subsection (d).

(c) Nothing in this section shall affect the ability of a permit granting authority, subject to applicable notice and hearing requirements, to revoke or modify a permit if that permit or the law or regulation under which the permit was issued authorizes the modification or revocation thereof; provided, however, that the permit granting authority shall not revoke or modify the permit where the permit holder fails as a result of the state of emergency to exercise or otherwise commence work pursuant to the permit or where such work commenced on or before March 10, 2020 but has stopped as a result of the state of emergency or actions taken by an agency or political subdivision of the commonwealth in reliance thereon. The limitations set forth in this subsection shall apply ~~as long as the state of emergency is in effect and for a period of 60 days following the termination of the state of emergency until December 1, 2020~~; provided, however, that a permit holder shall be entitled to a further extension of reasonable length to exercise or otherwise commence work pursuant to the permit at the discretion of the permit granting authority for good cause shown; provided further, that the chair of any permit granting authority may grant such further extension whether or not a quorum is present to vote on the matter.

(d) Notwithstanding [section 20 of chapter 30A of the General Laws](#), a permit granting authority, during the state of emergency, may conduct meetings and public hearings remotely, consistent with the governor's March 12, 2020 order entitled, "Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, § 20", as the order may be amended, supplemented or replaced. Permit granting authorities that are: (i) unable to conduct meetings and public hearings remotely due to lack of access to broadband or other technical limitations; and (ii) unable to conduct such meetings or hearings in person in accordance with applicable public health orders regulating gatherings during the state of emergency, may apply to the secretary of housing and economic development for relief from the deadlines provided in paragraphs (ii), (iv), (v) and (vii) of subsection (b) for good cause shown.

(e) Nothing in this section shall preclude or prohibit a permit granting authority from issuing decisions on permit applications for which duly held public hearings or meetings have been held or preclude or prohibit any building commissioner, inspector of buildings or other permit granting official, as applicable, from issuing permits, including, but not limited to, demolition or building permits.

(f) Notwithstanding any general or special law to the contrary and without limiting the foregoing, this section shall apply to the conduct of public meetings, public hearings or other actions taken in a quasi-judicial capacity by all local boards and commissions.
