



## ELITE PERMITS

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**FILED**

Department of Business and Professional Regulation  
Senior Deputy Agency Clerk  
CLERK: Brandon Nichols  
Date: 2/16/2024  
File #:

### PETITION FOR DECLARATORY STATEMENT BEFORE THE FLORIDA BUILDING COMMISSION

**COMPANY:** ELITE PERMITS  
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**NAME:** Tatiana K Gust  
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**DS 2024-010**

February 16, 2024  
Florida Building Commission  
Department of Business and Professional Regulation  
2601 Blair Stone Road, Tallahassee, FL 32399-2212

**Subject:** Petition for Declaratory Statement - Florida Building Code 8th Edition Section 107.3.4.1  
Deferred Submittals, In Accordance With Florida Statutes 553.791 Section 16(a)

Dear Florida Building Commission,

I am writing to formally submit this petition for declaratory statement in accordance with Section 120.565 of the Florida Statutes. The purpose of this petition is to seek clarification and guidance on the interpretation and application of Florida Building Code 8th Edition Section 107.3.4.1 concerning deferred submittals, specifically in cases where local building departments are denying deferral submissions from Private Providers, in light of the provisions of Florida Statutes 553.791 Section 16(a).

#### BACKGROUND

I, Tatiana K Gust a building code administrator in charge of operations and technical interpretations of the Florida Building Codes at Elite Permits, with active licenses number BU1783, BN6220, PX3080. During the past few years, I have encountered instances where local building departments, specifically Collier County, have imposed restrictions on the issuance of permits with deferral submittals for projects employing a Private Provider. These restrictions appear to be inconsistent with the provisions outlined in Section 107.3.4.1 of the Florida Building Code, which permits deferred submittals when submitted to the building official and not detrimental to the safety of the building or its occupants.



**Per Florida Building Code 8<sup>th</sup> edition (FBC), section 202.**

**[A] DEFERRED SUBMITTAL.** Those portions of the design that are not submitted at the time of the application and that are to be submitted to the building official within a specified period.

For regular building permit applications that are reviewed and inspected by the local building department, these items are submitted as a revision to the building department after the permit has been issued. Deferred submittal items are reviewed and approved by the design professional of records and then submitted to the building department.

For building permit applications that have been reviewed and/or inspected by private providers, the building department will not allow the building permit to be issued until all the deferred items are submitted as part of the building permit application.

As an example, permit number PRCS20230938673 received the following review comment:

Correction 2:

Correction 2: 20-B01 107.3.4.1 DEFERRED SUBMITTALS Private Provider  
Status: Outstanding  
Date Status Changed:10/02/2023

Comments: FBC-B 7th 2020 107.3.4.1 - Deferred Submittal's - Collier County Bulletin #2 and the Chief Building Official, deferred submittal are not allowed on Private Provider jobs, whether it is original reviews (prior to issuance) or changing to PP under a revision. Provide drawings for: 1. Structural Steel 2. Pre-engineered Canopy 3. Awnings/Louvers 4. Epicore composite decking

Collier County Bulletin #2 has been attached, please refer to highlighted portion on sheet 2 of 4.

**Per Florida Statutes 553.791 section 16(a)**

A local enforcement agency, local building official, or local government may not adopt or enforce any laws, rules, procedures, policies, qualifications, or standards more stringent than those prescribed by this section.

The imposed limitations affect the ability to have expedited review and inspection services, creating an impediment to the efficient execution of projects in compliance with the Florida Building Code.

Moreover, I wish to highlight the adverse effects of these restrictions on my personal business, as they hinder my ability to provide timely and efficient services aligned with the intention of the Florida Building Code, and consequently affecting our livelihood due to the reduction of business engagement for the additional restrictions imposed by the local building department. The restrictions not only impede expedited reviews and inspections but also deviate from the Code's intended facilitation of private providers' involvement in the building permit process.



In support of this petition, I submit the following points for consideration:

- Section 107.3.4.1 of the Florida Building Code allows for deferred submittals when submitted to the building official and not detrimental to safety.
- Florida Statutes 553.791 Section 16(a) prohibits local enforcement agencies from adopting or enforcing standards more stringent than those prescribed by the statute.
- Restrictions prohibiting the issuance of permits with deferral submittals hinder the ability to provide expedited review and inspection services, impacting project timelines and efficiency.
- These restrictions adversely affect my personal business by creating obstacles not aligned with the intention of the Florida Building Code.

### **Question**

Is the intent of the Florida Building Code section 107.3.4.1 to allow submittal of items within a specified period of time, whether reviewed and/or inspected by the local building department or reviewed and/or inspected by private providers? In other words, the same process shall be followed to process deferred submittal items within each jurisdiction regardless if the permit application or permit involves a private provider. For example, if permits not involving private providers are allowed to submit deferred submittal items after permit issuance, then permits involving private providers shall also be allowed to submit deferral submittal items after permit issuance.

### **Summary**

I kindly request the Florida Building Commission to issue a declaratory statement on this matter, providing guidance on the correct interpretation and application of Florida Building Code 8th Edition Section 107.3.4.1 in conjunction with Florida Statutes 553.791 Section 16(a) in cases involving deferred submittals by Private Providers. Your prompt attention to this issue is crucial for the improvement of the building permitting process in the state of Florida.

Thank you for your time and consideration. I look forward to a positive resolution to this matter.

Sincerely,



**Tatiana Gust**  
CEO, Elite Permits



## Bulletin #2: Review requirements

Date: July 20, 2015

Effective Date: July 20, 2015

Amended: April 26, 2023

To: All Staff

From: Fred Clum

Chief Building Official

Subject: Review requirements

General:

- Permit description box shall only be for permit scope not address or additional notes (need to see how address information on mobile app can be improved for inspectors)use permit details tab dialog box for addition comments
- Simultaneous review (verify check box and permit description)
  - Standard note to be added to permit review
  - Minimum items verified during review – total square footage, sprinkler intention, Construction type.
- Sub Permits shall indicate “primary” permit in which they are tied
- Plans reviewers have the ability to adjust permit scope accordingly to accurately indicate permitted scope and shall note on details tab that the scope has been adjusted.
- Structural plans review will now indicate the appropriate information:
  - Design Occupant load
  - Sprinkler intention and system (i.e. 13, 13R, 13D):
    - Structural reviewer shall verify if sprinkler system is for area increases (i.e. 13 only).
    - Plans reviewers shall add appropriate CO conditions for separate permits (signage, hoods, gas, sprinkler, alarm, etc as appropriate)
    - Mechanical/ electrical / Fire when resolving 61G reviews shall indicate design professional for required engineering.
    - Verification of fire sprinkler system between primary permit and shop drawing permit will be performed by Fire.
    - Fire reviewers resolve CO hold condition on primary permit when sprinkler/ alarm system is approved.



- Mixed use buildings will require occupancy classifications and area breakdowns as follows:
  - Non-separated and separate mixed-use buildings shall have occupancies noted on application tab and areas of each occupancy broken down under work items.
  - Accessory occupancies are only to be applied to plan review requirements. Those occupancies are accessory and apart of the main (primary) occupancy and do not need to be listed as occupancies nor are they required to be broken out in work items. Accessory areas shall be included within the main occupancy of the building under work items.
- Plans shall indicate “un-limited” buildings and we will work with support staff to obtain an attribute check box.
- Plans shall indicate separate permits required and any noted shall be listed within CO condition

Threshold projects:

- Does permit meet definition(size, square footage, occupancy, occupant load)
- Has owner designated building as threshold per FBC section 110.8.2
- Check attribute box (condition auto-populates)
- Verify appropriate documents, license of conducting inspector, shoring plans.
- Threshold inspection (190) shall be added for inspection processes

Permits required to be permitted separately:

- Signs
- Fire alarm shop drawings with 61G requirements as required
- Fire alarm monitoring
- Fire Sprinkler shop drawings with 61G requirements as required
- Underground fire main
- Gas tanks
- Fossil fuels
- Generators (level 1-life safety)

Private Provider:

- PP reviews no longer cover the following reviews or inspections and staff shall perform review:
  - Simultaneous reviews, FEMA reviews, engineering inspections
- Typical notation for PP review per CBO shall be a default notation on CO/CC if either or both of the PP attribute boxes are checked. Staff may note line their review but shall not in permit description.
- Check attribute box(s) for review and inspections (condition auto-populates)
- Deferred submittals not allowed on PP jobs, whether it is original reviews (prior to issuance) or changing to PP under a revision

## ENERGY COMPLIANCE:

- Determine if exempt from energy compliance or not (see formal interpretation #1)
- Renovations, Changes in Occupancy and creation of newly conditioned spaces shall conform to Energy Code
  - Renovations in which the value is greater than 30% (per definition) shall conform to energy code
  - Change of occupancy may require alterations to space, any altered portion shall conform to energy code (101.4.8 & 30% does not apply)
    - New doors (egress)
    - Electrical (wiring methods or lighting)
    - Make up air – mechanical units
    - Additional bathrooms
  - Newly created conditioned spaces
    - Garage conversions
    - Lanai enclosures open to main dwelling or provided with new conditioning
    - Adding conditioning to an existing un-conditioned building
- Plan reviewers
  - Residential projects structural reviewers look over all and ask for assistance from mechanical on special cases or raised concerns
  - Performance or prescriptive needs to be indicated
  - Watch for additional requirements within calculations (i.e. shades, blower door tests, duct sealing, etc.)
  - Commercial projects all reviewers look at calculations
  - New fenestration (not previously existing) needs to conform to FBC-EC
  - Verify new condition is added for CO Hold - EPL card
- Inspections
  - Existing buildings with FBC-EC **not** required; status quo for inspections
  - Existing buildings with FBC-EC **required**; U and SHGC labeling required at time of final or impact inspection
  - Watch which method is being utilized (performance/ prescriptive)

## Permit by affidavits:

- Energy calculations required – new space FBC-EC is required
- FEMA requirements are not covered within affidavits need to have inspected for flood requirements
  - Flood prone materials
  - Venting
  - loading

FEMA:

- Coastal 'A' Zones require one-foot above BFE=DFE
- Commercial applications are required to be one-foot above BFE=DFE per ASCE-24
- Residential applications are required to be equal to or above the BFE=DFE per R322 or if designed by alternative (ASCE-24) to be one-foot above BFE=DFE
- For interior alterations (no extension of footprint) perform 50% analysis
- For additions (expansion of footprint) determine Pre-FIRM or Post-FIRM
- Pre-FIRM: (prior to September 1979)
  - **Determine structural loading (connection)**
  - No alteration of load-bearing requirements of existing – yes
  - Attached to building with minimal connection – yes
  - Only a 36" door connecting addition and existing – yes
  - Less than 50% - yes
  - Addition can be at base structure elevation
  - If any comment above is answered "no" the addition shall be at or above BFE as required.
- Post-FIRM:
  - Determine BFE at time of structure built & current BFE
  - If BFE unchanged addition must meet or exceed BFE (regardless of 50%)
  - If BFE is higher and work less than 50% must meet existing elevation
  - If determined to be greater than 50% and structurally connected the entire structure shall meet elevation requirements.
  - If determined to be greater than 50% and not structurally connected only the addition shall meet BFE elevation requirements.

History: Removed references to 5<sup>th</sup> Edition of FBC & added threshold inspection information,

