

2012-13 UPDATE COURSE

WHEN IS A PERMIT REQUIRED?

Outline:
<u>Introduction</u>
<u>Recent History & Relevant Statutes</u>
<u>When Is a Permit Required?</u>
<u>Record Retention and Duty to Discover</u>
<u>Answers and Comments to Queries</u>
<u>Conclusion</u>

Learning Objective: Upon completing this Section, licensees should have a better understanding of what repairs, additions, renovations, alterations or improvements may require a permit and certificate from the local inspection department authorizing the work and then verifying that the work has been properly completed.

INTRODUCTION

As recently as September 2011, an article appeared in REALTOR magazine in the *Real Life* section titled, “*Remodeling? Don’t Forget the Permit.*” The article discussed owners who make repairs or improvements to their property either themselves or through unlicensed contractors with neither obtaining the necessary permits. The article comments:

“...Ignoring local approval requirements not only poses safety and legal problems but also can potentially derail an otherwise smooth sale....The permit process varies widely from city to city and state to state, but the *purpose* of the document is the same everywhere: It offers *assurance by a municipal building department that the work being done meets all safety codes.*”

[Italics added.]

The article’s bottom line advice: listing agents, ask your sellers *before* you list the property whether they have made any upgrades, replacements, repairs etc. to the property and *whether they “pulled” the permit.* If not, rectify that problem first. Failing to obtain a permit when required may result in substantial fines or being ordered to remove the offending project or incur costs to certify compliance with the applicable codes; it depends. What may surprise licensees is how many seemingly minor improvements/repairs may require a permit. To emphasize that “virtually no job is too small,” the above-referenced article concludes quoting

Michael Hydeck, president of the National Association of the Remodeling Industry, who observes: “There are not too many jobs you don’t need a permit for. It’s better to be safe than sorry.”

Both licensees and consumers might presume that new construction, of whatever type, will be properly permitted, since its construction requires the presence of a general contractor who is obligated by both law and rules to obtain all necessary permits. Nevertheless, it never hurts to ask and/or request copies of all required permits. The more troublesome area is with repairs, alterations, renovations, or additions to the property performed by the owner personally or through an unlicensed contractor. Such situations might properly be viewed as “red flags” by *licensees who minimally should ask who performed the work, whether they are licensed, and whether all necessary permits and final certificates were obtained, as well as copies of those documents*, as the owner or unlicensed contractor may not be aware that the alteration or repair required a permit.

This Section will briefly review the local inspection framework, who certifies the inspectors, state law specifying when a permit is required, and will then apply the law to various fact situations.

RECENT HISTORY & RELEVANT STATUTES

In 1957 the North Carolina General Assembly enacted legislation creating the ***Building Code Council***, which was charged with preparing and adopting a ***North Carolina State Building Code***. The General Assembly specified what the Code should/could contain in **G.S. §143-138** (now nearly 19 pages long!), and articulated the purpose of the Code thus: “*All regulations contained in the North Carolina State Building Code shall have a reasonable and substantial connection with the public health, safety, morals, or general welfare, and their provisions shall be construed reasonably to those ends. Requirements of the Code shall conform to good engineering practice.*”

Originally, enforcement of the Code was vested in the Division of Engineering of the North Carolina Department of Insurance, which still retains enforcement responsibilities *in conjunction and cooperation with* local inspection officials. In **1977** the General Assembly decided to ***impose on counties and cities the primary obligation to perform inspections to ensure compliance with applicable building codes***. Counties/cities could perform this duty either by creating their own inspection department, or creating a joint inspection department with a city or another county, or contracting with another county/city to provide inspection services to the requesting county/city. The same legislation also created the ***North Carolina Code Officials Qualification Board*** that was charged with regulating individuals who would be hired by local inspection departments to conduct these Code enforcement inspections. [G.S. Chapter 143, Article 9C.)

Since 1985 at the latest, all counties and cities have had the primary responsibility for ensuring enforcement of State and local building code provisions either through their own Inspection Department or in conjunction with another local governmental unit. ***There are 100 counties in North Carolina and more than 540 incorporated cities, towns, and villages, many of***

which have individual inspection departments as there currently are nearly 600 inspection jurisdictions in NC.

For example, in the Triangle area, Wake County has its own Planning, Development and Inspections Department that fulfills the county's statutory enforcement functions for all *unincorporated* areas of Wake County as well as for the cities/towns of Knightdale, Rolesville, Wendell and Zebulon by agreement. The cities of Raleigh, Cary, Apex, Fuquay-Varina, Garner, Holly Springs, Morrisville and Wake Forest elected to form their own inspection departments and accept responsibility for Code enforcement within both the jurisdictional limits of each municipality as well as areas over which the municipality exercises extraterritorial jurisdiction. Raleigh's Inspection Department has a Construction Division that reviews construction plans and assures compliance with applicable State and local building codes for all residential and commercial construction, while its Housing and Environmental Division enforces Raleigh's minimum housing and public nuisance codes.

Inspection Duties and Responsibilities

State law imposes the same duties and responsibilities on both counties (G.S. §153A-352) and cities (G.S. §160A-412). These statutes impose on local inspection departments *the duty to enforce within its territorial jurisdiction State and local laws and local ordinances and regulations relating to:*

- 1) the construction of buildings;
- 2) the installation of plumbing, electrical, heating, refrigeration & air-conditioning systems;
- 3) the maintenance of buildings in a safe, sanitary and healthful condition; and
- 4) other matters that may be specified by the county commissioners or city council.

Both statutes impose identical responsibilities on the local inspection departments utilizing slightly different language. The statute governing counties (G.S. 153A-352) states in relevant part:

These duties and responsibilities include receiving applications for permits and issuing or denying permits, making necessary inspections, issuing or denying certificates of compliance, issuing orders to correct violations, bringing judicial actions against actual or threatened violations, keeping adequate records, and taking any other actions that may be required to adequately enforce the laws and ordinances and regulations. The board of commissioners may enact reasonable and appropriate provisions governing the enforcement of the laws and ordinances and regulations.

- **“Code enforcement”** is defined as “...the examination and approval of plans and specifications, or the inspection of the manner of construction, workmanship, and materials for construction of buildings and structures and components thereof, or the enforcement of fire code regulations....”

- **“Qualified Code-enforcement official”** is a person who has been approved by the North Carolina Code Officials Qualification Board as being qualified to engage in the practice of Code enforcement.

● “**Local inspection department**” means the “...agency ...of local government ...with *authority to make inspections of buildings and to enforce the Code and other laws, ordinances, and rules* enacted by the State and local government ...which *establish standards and requirements* applicable to the **construction, alteration, repair, or demolition of buildings**, and conditions that may create hazards of fire, explosion, or related hazards.

North Carolina Code Officials Qualification Board

The **North Carolina Code Officials Qualification Board** is the regulatory and licensing agency for all qualified Code-enforcement officials; it determines the minimum standards, education and experience required for Code-enforcement instructors and issues licenses to eligible applicants. Individuals initially may obtain a *probationary certificate*, subject to various restrictions, or, upon passing a state examination testing knowledge of the NC State Building Code and administrative procedures for Code-enforcement, an applicant may qualify for a *standard certificate*. A standard certificate may be issued at Level I, II or III in any of the areas below and allows the individual to practice as a “qualified Code-enforcement official” within the stated Level for that certificate anywhere in North Carolina, **so long as** s/he is employed by a county or city inspection department. Level III is the highest certification, while Levels I and II have certain restrictions as to the scope of what the individual is “qualified” to inspect. [For those interested in the various levels, see **11 NCAC 8.0706.**] The subject areas are:

- Building inspector
- Electrical inspector
- Mechanical inspector
- Plumbing inspector
- Fire inspector

Unlike a real estate broker’s license which is a personal license that may be maintained on active status and used regardless of employment arrangement or affiliation, a “**qualified Code-enforcement official**” **certificate is valid only so long as the individual remains employed by a county or city inspection department.** Upon leaving the employment of a county or city inspection department, the individual is required by law to surrender his/her certificate to the NC Code Officials Qualification Board. This result flows logically from the fact that the General Assembly has imposed responsibility for enforcing state and local building codes on **county and city inspection departments which are the only entities authorized by law to certify compliance**; thus, if an individual is not an employee of a county or city inspection department, s/he has no authority to act as a Code-enforcement official. According to the Code Officials Qualification Board, as of June 2012, there were approximately 3800 active inspectors state-wide who hold a total of 6000-7000 certifications.

WHEN IS A PERMIT REQUIRED?

Two statutes address when permits are required, but the language of each is nearly identical. One statute governs county inspection departments (G.S.153A-357) and the other governs city inspection departments (G.S. 160A-417), but the standards are the same for both. To facilitate later discussion, relevant portions of the law governing counties is reprinted below. [Emphasis added.]

§ 153A-357. Permits.

(a) **No person** may commence or proceed with any of the following **without first** securing from the inspection department with jurisdiction over the site of the work *each permit required by the State Building Code and any other State or local law or local ordinance or regulation applicable to the work*:

- (1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building.
- (2) The installation, extension, or general repair of any plumbing system **except that in any one- or two-family dwelling unit a permit shall not be required for the connection of a water heater that is being replaced, provided** that the work is performed by a person licensed under G.S. 87-21, who personally examines the work at completion and ensures that a leak test has been performed on the gas piping, **and provided** the *energy use rate or thermal input is not greater than that of the water heater which is being replaced, there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping, and the replacement is installed in accordance with the current edition of the State Building Code.*
- (3) The installation, extension, alteration, or *general repair* of any heating or cooling equipment system.
- (4) The installation, extension, alteration, or *general repair* of any electrical wiring, devices, appliances, or equipment **except that** in any one- or two-family dwelling unit a *permit shall not be required for repair or replacement* of electrical lighting fixtures or devices, such as receptacles and lighting switches, or for the connection of an existing branch circuit to an electric water heater that is being replaced, **provided that all of the following requirements are met**:
 - a. With respect to electric water heaters, the replacement water heater is placed in the same location and is of the same or less capacity and electrical rating as the original.
 - b. With respect to electrical lighting fixtures and devices, the replacement is with a fixture or device having the same voltage and the same or less amperage.
 - c. The work is performed by a person licensed under G.S. 87-43.
 - d. The repair or replacement installation meets the current edition of the State Building Code, including the State Electrical Code.

A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws and local ordinances and regulations.... [I]f the General Statutes of North Carolina require that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit may be issued unless the plans and specifications bear the North Carolina seal of a registered architect or of a registered engineer. If a provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work may be issued unless the work is to be performed by such a duly licensed contractor. **No permit ... shall be required for any construction, installation, repair, replacement, or alteration costing five thousand dollars (\$5,000) or less in any single-family residence or farm building unless the work involves:** the addition, repair or replacement of **load bearing structures**; the addition (excluding replacement of same size and capacity) or change in the design of **plumbing**; the addition, replacement or change in the design of **heating, air conditioning, or electrical wiring, devices, appliances, or equipment**; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of **roofing**. **Violation of this section constitutes a Class 1 misdemeanor.**

The foregoing are the *minimum* permitting requirements imposed by *State* law, but *counties and cities may through ordinances and regulations impose additional permitting requirements*. While licensees clearly are not expected to be experts as to the intricacies of what repairs (in particular), replacements or alterations may require a permit, licensees should at least think to check with the applicable inspection department to learn whether a permit is required and, if so, whether one was obtained whenever they are aware of remodeling, renovation, alteration or repair work. **The final decision as to when a permit is required will be made at the local level by the inspection department having jurisdiction over the property.**

Duration of Permit

State law provides that a permit will *expire six months after issuance unless* work has actually commenced on the project. If work is timely begun, but thereafter abandoned or discontinued for a period of 12 months, the original permit immediately expires and a new permit must be obtained. Inspectors are authorized by state law to “...*make as many inspections of the work as may be necessary to satisfy them that it is being done according to the provisions of the applicable State and local laws and local ordinances and regulations and of the terms of the permit.*” Upon the completion of all work, an inspector must make a final inspection and if s/he determines that the work was performed in accordance with applicable state and local laws and ordinances and the terms of the permit, then s/he will issue a *certificate of compliance*.

Isn't There an Exemption for Property Owners?

As a general rule, no, not really. *Do not confuse exemptions from other licensing requirements, e.g., general contractors, plumbing, heating, or electrical contractors, as being equivalent to an exemption from the permitting requirements as that is not true!* Virtually all property owners must comply with state and local permitting requirements, except for a few narrow exceptions allowed owners of one- or two-family units that will be summarized shortly. A person may construct or alter a building on land owned by that person without having a general contractor's license *so long as* the building is *intended solely for occupancy by the owner and his family AND the owner obtains all required permits*. If such an owner fails to occupy the building for at least 12 months after completion, then it is presumed that the requisite intent was absent at the inception. In order to obtain the necessary permits, the owner must also file an affidavit with the local inspection department attesting that s/he is the owner of the property, that s/he will *personally superintend and manage* all aspects of the construction and will not delegate that duty to any unlicensed person, and the owner must be personally present for all inspections.

Similarly, if an owner chooses to “install, alter or restore” any plumbing or heating/cooling systems, s/he may do so without having a plumbing or heating license, *so long as* the building will be *owner-occupied and all necessary permits are obtained*. The owner-occupied requirement in this instance arises from the explicit language in the plumbing and heating contractors statute which reads: “...Any person who *installs* a plumbing, heating, or fire sprinkler system on property which at the time of installation was intended for sale or to be used primarily for rental is deemed to be engaged in the business of plumbing, heating, or fire sprinkler contracting *without regard to receipt of consideration...*” and thus must be appropriately licensed as a plumbing, heating or fire sprinkler contractor. [See **G.S. 87-21(5)**.]

The plumbing, heating, and fire sprinkler licensing statutes also exclude from the licensure requirement individuals who make “minor repairs or minor replacements” to an already installed plumbing or HVAC system, but require that any repairs, replacements or modifications to an already installed fire sprinkler system must be performed by a licensed fire sprinkler contractor. As to plumbing and heating, the statute defines “*minor repairs*” or “*minor replacements*” as the “...replacement of parts in an installed system which do not require any change in energy source, fuel type, or routing or sizing of venting or piping. Parts shall include a compressor, coil, contactor, motor, or capacitor.” [G.S. 87-21(c).]

Just as with the plumbing and heating contractor statutes, the electrical contractor statutes exempt from licensure “...any person who is himself and for himself installing, maintaining, altering or repairing electric work, wiring, devices, appliances, or equipment upon his own property when such property is not intended at the time for rent, lease or sale.” [G.S. 87-43.1(5a).]

Summary of Permitting Requirement under State Law

Recall that the preceding statute begins with “**No person** may commence or proceed with any of the following *without first securing from the inspection department ... each permit required by the State Building Code and any other State or local law or local ordinance or regulation applicable to the work...*”

Permits ARE Required For:

- 1) any construction, reconstruction (renovation?), alteration, repair, removal or demolition of any building (subject to one exception for single family homes noted below).
- 2) any installation, extension or *general repair* of any plumbing system (subject to an exception for one- or two-family dwellings noted below).
- 3) the installation, extension, alteration, or *general repair* of any heating or cooling equipment system.
- 4) the installation, extension, alteration, or *general repair* of any electrical wiring, devices, appliances, or equipment (subject to an exception for one- or two-family dwelling units noted below).

Limited Permit Exceptions for One- or Two-Family Dwelling Units:

The following work may be exempt from the general permitting requirements above *when done to one- or two-family dwelling units ONLY* and applies only if the specified conditions are met.

- 1) **Plumbing exception:** *replacing* a gas water heater if performed by a *licensed contractor* who personally examines the completed project, ensures that a gas leak test has been performed, and installs it pursuant to current State Building Code requirements **AND** there is no increase in the energy use rate or thermal input, and no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping.

2) **Electrical exception:** a permit is not required for *repair or replacement* of electrical lighting fixtures or devices, e.g., receptacles and switches, or for connecting an *existing* branch circuit to an electric water heater that is being replaced **so long as:**

- a) the replacement water heater is in the same location as the previous and has no greater capacity or electrical rating than the previous;
- b) the replacement lighting fixtures or devices have the same voltage and no greater amperage than the fixture/device being replaced;
- c) *the work is performed by a licensed electrical contractor;* and
- d) the repair or replacement is installed in compliance with the current State Building Code and State Electrical Code.

3) **General exception:** no permit is required for any construction, installation, repair, replacement, or alteration costing \$5,000.00 or less in any *single-family residence* or farm building** **UNLESS** the work involves:

- a) the addition, repair or replacement of *load-bearing structures;*
- b) the addition or change in design of plumbing (excluding replacing same size & capacity);
- c) the addition, replacement or change in design of heating, air-conditioning, or electrical wiring, devices, appliances or equipment;
- d) the use of materials not allowed by the NC Uniform Residential Code; or
- e) the addition of roofing (excluding replacement of like fire-grade resistance).

A “farm building” is defined by statute as “... any structure used or associated with equine activities ...” **or is a greenhouse. [See N.C.G.S. 143-138(b4).]

A project that involves any of the activities specified in **3(a-e)** above **will** require a permit and note further that this exception applies *only to single-family residences* (or farm buildings), whereas the first two apply to both one-family and two-family residences. Understand as well that local ordinances may require permits for repairs, alterations, installations or replacements in addition to those activities specified by statute. When in doubt, consumers or licensees should contact their **local inspection department** for the definitive word as to whether a permit is required.

Practical Application

With the foregoing parameters in mind, review each of the following fact situations and select one of the answers as to whether a permit will be required. *Assume that the repairs, renovations, or additions are being done to existing single-family structures, unless otherwise expressly noted.* Answers and discussion will be provided later.

[**EDITOR’S NOTE:** many of the following examples are taken from a training/approved CE class created by Americas Choice Inspections and are used with the permission of Americas Choice Inspections.]

Queries

	Probably			
	Yes	No	Yes	No
1. Is a permit required to add a window or door?	___	___	___	___
2. Is a permit required to replace a window or door?	___	___	___	___
3. Is a permit required to replace damaged siding or trim with similar grade siding or trim?	___	___	___	___
4. Is a permit required when removing a non-load bearing wall from a residence?	___	___	___	___
5. Is a permit required when adding a disappearing staircase?	___	___	___	___
6. Is a permit required when adding an outside deck?	___	___	___	___
7. Is a permit required when replacing steps to a deck or porch?	___	___	___	___
8. Is a permit required when remodeling a kitchen?	___	___	___	___
9. Is a permit required when replacing a commode with no changes to the existing plumbing?	___	___	___	___
10. Is a permit required when remodeling a bathroom?	___	___	___	___
11. Is a permit required to replace an electric water heater? A gas water heater?	___ ___	___ ___	___ ___	___ ___
12. Is a permit required when adding a water purification system?	___	___	___	___
13. Is a permit required when replacing a light fixture or receptacle? When adding a light fixture or receptacle?	___ ___	___ ___	___ ___	___ ___
14. Is a permit required to install a ceiling fan to an existing junction box?	___	___	___	___
15. Is a permit required to add an attic fan?	___	___	___	___
16. Is a permit required to add insulation to a crawl space or attic?	___	___	___	___
17. Is a permit required to replace all or a portion of a roof with the same fire-grade resistance as the existing roof?	___	___	___	___
18. Is a permit required to replace an HVAC system? To add an HVAC?	___ ___	___ ___	___ ___	___ ___
19. Is a permit required to install hardwood floors?	___	___	___	___

Septic Permitting Regulations

Licensees are reminded that in addition to the local building inspector who issues building permits and certificates and enforces local zoning ordinances, *local Health or Environmental Departments* may be charged with the responsibility of administering other state or local regulations affecting *public health and sanitation*. The most common example is a property that is not connected to a municipal or community water or sewage system and thus must have an onsite septic system. While licensees practicing in less urban areas of the State may encounter this issue more frequently, brokers operating in metropolitan areas should not assume that they are immune from such considerations. One might be amazed at the number of properties in older neighborhoods now engulfed by a municipality providing city water and sewer connections that chose to remain on septic for whatever reasons. Thus, a brief review of septic permitting requirements is warranted here.

Onsite Septic Systems

State law requires that every residence and place of public assembly have an approved system for sewage disposal. Approved systems include municipal systems, community systems and onsite systems. Some properties that are not connected to municipal or community systems may not support an onsite system, thus significantly curtailing the use of that property. *Onsite systems* vary greatly in form and price, from the conventional subsurface system with tank and drainage field to the more complicated low-pressure pipe system. These systems are regulated by *local Health Departments*. Systems that *discharge above the ground*, such as spray-irrigation systems, or systems that *discharge into streams or waterways* are regulated by the *North Carolina Department of Environment and Natural Resources*. *Off-site and community systems that serve more than one lot also are regulated at the state level.*

Prior to consummating the purchase of vacant land, the prudent buyer will request a soil suitability test (previously known as a “perc test”), if the seller has not done so already or will not provide the results from the evaluation. A buyer’s agent should advise his/her buyer-client to have such a test performed. One need only file an application with the local Health Department explaining the proposed use of the property and a Registered Sanitarian from the Health Department will inspect the lot/tract, gather soil samples from different places on the parcel and rate the samples as either “suitable,” “provisionally suitable,” or “unsuitable” for an underground septic system. “Provisionally suitable” means that the location may be suitable if certain conditions are fulfilled.

If the sanitarian finds that there are sufficient suitable or provisionally suitable soils for an onsite system, *and* that there is enough land for a “*repair area*,” that must remain vacant and undisturbed in case the system malfunctions, then the Health Department will issue an improvements permit. Once issued, the permit is valid for a specified period of time, even if the standards later change, so long as the property features or its proposed use has not changed. The period of time during which the permit is valid varies from county to county.

Scope of Permit

The *permit will set a capacity limit for the system*, typically specifying the number of bedrooms for a residence (with presumed occupancy of two per bedroom), or the maximum number of rooms or some other measure for a nonresidential structure. The *permit may prohibit*

the use of an automatic dishwasher, or garbage disposal or other use which might overload the system. The permit also may include a map depicting the best location for the system and repair area. If the property's water source is a well, then no component of the septic system may be within 100 feet of any well serving either the subject property or adjoining properties. **Health Departments keep public records of soil evaluations, improvement permits and certificates of completion issued.**

A seller should consider having a soil suitability test prior to listing vacant land. If the tract is suitable, marketability of the property may be enhanced by applying for and obtaining a permit, as the permit is valid for a specified period and it resolves the question before it becomes an issue. If the seller learns that the tract is not suitable for any onsite system, then the broker will be compelled to disclose that material fact to all prospective purchasers. It may also influence the seller's decision as to whether s/he wishes to sell now, or just wait until perhaps community or municipal service becomes available. *Again, licensees will be responsible for all assertions/ representations they make and should verify what type of system, if any, serves the property before making any statements pertaining thereto.*

RECORD RETENTION AND DUTY TO DISCOVER

State law requires local inspection departments to keep "... complete and accurate records in convenient form of each application received, each permit issued, each inspection and reinspection made, and each defect found, each certificate of compliance granted, and all other work and activities of the department ...for the periods prescribed by the North Carolina Department of Cultural Resources." (G.S. 153A-373.) Pursuant to the NC Dept of Cultural Resources policy for "Public Records with Short Term Value," **six (6) years** appears to be the maximum retention period for most documents pertaining to permits and inspections including:

- existing building inspection reports (if defect, 6 years from correction of defect),
- building permits and applications (6 years from issuance of certificate of occupancy),
- building permit log (showing permit # and date, owner's name and construction cost),
- certificates of occupancy/completion,
- inspection requests, violations, etc re: construction, modification or demolition of existing or new buildings or installation of plumbing, electrical or mechanical systems (6 years from project completion),
- manufactured home permits, and
- unsafe buildings (6 years *provided* all issues have been resolved).

Once the six year period has expired from whatever the onset date is, the inspection department may destroy the records. A **notable exception** however is for ***sewage disposal system permits***, authorizations to *construct or improve* a sewage disposal system, and sewage disposal system records for subdivisions; these *records must be retained until the system is no longer used or is connected to an approved public or community system.* A shorter record retention period applies to sewage disposal systems where the permit was issued but the system was never installed (5 years after permit issue date if fee paid, 1 year if fee unpaid), the permit was denied (3 years) or the permit was voided/expired (1 year).

Thus, whenever a property uses an onsite sewage disposal system, the permitting records should still be available from the local Health Department and brokers hopefully should be able to verify the number of bedrooms authorized by the permit and whether any restrictions were attached, e.g., dishwashers, garbage disposal systems, etc. It may not be as easy to verify whether necessary permits and certificates of completion or occupancy were obtained when the improvements, alterations, repairs, replacements, renovations, etc. were completed more than six years prior to the inquiry. If the current owner undertook the repairs, replacements, alterations, etc., perhaps s/he kept both the permit and certificate, which would be most helpful. If the owner did not retain the permit and certificate, perhaps s/he recalls who performed the work and if that person was a licensed contractor, then presumably the contractor obtained the necessary paperwork.

If a question arises as to whether a replacement, repair or alteration was properly permitted, the first source to check is the applicable inspection department. Many inspection departments' records may be reviewed online. In some jurisdictions that have utilized electronic applications, a description may still be available as to date the permit was obtained or voided, whether a certificate was granted or denied, and who the contractor was going back 10-15 years or more, even though the underlying records have been destroyed. One may search by PIN, property address, or owners' names.

Tax records may also provide useful information regarding improvements or alterations that altered the footprint of the building or otherwise increased the building's value for assessment purposes as such activity typically is noted in the assessor's comments. If a party or broker cannot find answers from the foregoing sources, yet suspects a problem, s/he can always write to the appropriate inspection department asking whether it has any information of permits or certificates being issued for a specific property. The inquiry should include not only the property address and the names of both current and previous owners, but the current PIN as well, and, if applicable, any prior PINs (which occurs when an original tract is subdivided). The inspection department generally will respond that either information is available or is not available. *Retain this written response in the transaction file!* The inquiry is evidence of the licensee's attempt to discover this material fact, but one cannot discover that which no longer exists.

ANSWERS & COMMENTS TO QUERIES

1. *Adding* a window or door? **Yes**, as adding a window or door requires structural work.
2. *Replacing* a window or door? Probably not, *unless* the openings are being increased (structural) *or* the cost exceeds \$5,000.
3. *Replacing* siding or trim with similar grade? Probably not, unless the cost exceeds \$5,000.
4. *Removing* a non-load bearing wall? **Yes**. Note that permits are required for both reconstruction and demolition of a building [G.S. 153A-357(a)(1)] and the exception in the final paragraph under subsection (a) states that no permit is required "... for any construction,

installation, repair, replacement or alteration” There is no mention of reconstruction or demolition, so the inference is that a permit would be required.

5. *Adding* a disappearing staircase? **Yes**, as the addition involves structural changes.

6. *Adding* an outside deck? **Yes**, as the addition involves structural changes.

7. *Replacing* steps to a porch/deck? **Yes**, as the replacement impacts structural matters.

8. *Remodeling* a kitchen? Probably, **yes**, as the remodeling most likely will involve the addition or change in design of both plumbing and the addition, replacement or change in design of electrical wiring, devices, appliances, or equipment. Additionally, if the cost of the project exceeds \$5,000, then the exception doesn’t apply.

9. *Replacing* a commode? Generally, **no**, so long as the replacement commode is merely connected to the existing lines and there is no “installation, extension or general repair” of the plumbing system itself.

10. *Remodeling* a bathroom? Probably **yes**; as with the kitchen, if remodeling involves an addition to or change in design of the existing plumbing or any HVAC or electrical systems, a permit will be required, regardless of cost.

11. *Replacing* a water heater? Replacing an electric or gas water heater in a one- or two-family dwelling falls within a permitting exception **IF** the *work is done by a licensed contractor* who installs the replacement pursuant to current State Building Code requirements, the replacement is of the same or lesser capacity and energy usage as the predecessor, *and* there is no change in fuel, energy source, location, or the routing or sizing of venting and piping. **NOTE** that converting from an electric water heater to a gas water heater or vice-versa **requires a permit**. Further, an owner who replaces a water heater *without using an appropriately licensed contractor* to install the replacement would not be exempt from the permitting requirement.

12. *Adding* a water purification system? **Yes**, as it is the installation/addition of a new system.

13. *Replacing/adding* a light fixture/receptacle? *Replacing or repairing* a light fixture or receptacle usually will *not* require a permit **if** the replacement is with a fixture/device having the same voltage and the same or less amperage **so long as** the work is performed by a licensed electrical contractor who installs it according to current Code requirements. *Adding* a light fixture or receptacle requires a permit, even when the work is done by an electrical contractor.

14. *Installing* a ceiling fan to junction box? It appears that installing or adding a ceiling fan to an existing junction box *still may require a permit*, even when performed by an electrical contractor, since the \$5,000 or less exception does not apply when the work involves “...the *addition, replacement* or change in design of ... electrical wiring, devices, appliances or equipment...” *Seriously?* Yes. Electrical boxes are “approved” or “listed” as appropriate for various applications, but the proposed ceiling fan to be added or installed as a replacement may

weigh more than the junction box is approved to handle, which is why the installation/replacement typically must be verified as Code compliant by an inspector.

15. *Adding* an attic fan? **Yes**, because electrical components (wiring and devices) are involved.

16. *Adding* insulation to a crawl space or attic? **No**, as it does not involve the construction, alteration, repair, etc, of a building, nor does it affect any plumbing, HVAC or electrical system.

17. *Replacing* roof portions? A permit would **not** be required **so long as** the replacement has the same fire resistance grade **and** the total cost does not exceed \$5,000. If the replacement roof does not have the same fire resistance grade, then presumably a permit would be required, regardless of cost. Extending or adding roofing also requires a permit, regardless of cost.

18. *Replacing/adding* an HVAC system? **Yes**; it appears a permit always is required whenever heating or air conditioning systems are being installed, extended, altered, added, replaced or repaired, except *minor repairs* or *minor replacements* to an installed system involving parts that don't change the energy source, fuel type, or routing or sizing of venting or piping, such as compressors, coils, motors, contactors or capacitors may not require a permit.

19. *Installing* hardwood floors? **No**. Installing or replacing carpeting, hardwood floors, new wallpaper, window treatments, etc. doesn't constitute repair, construction, or alteration to the building itself nor does it typically affect plumbing, HVAC or electrical systems.

Recall that the \$5,000 or less project cost exception applies only to single-family homes, whereas the limited electrical and plumbing exceptions apply to both one- and two-family dwellings. Understand too that in those limited scenarios above where a permit was not required because the work fell within one of the few exceptions, the same work performed on a residential dwelling designed for more than two families most likely would require a permit.

CONCLUSION

Licensees have a duty to discover and disclose material facts. The failure of an owner to obtain required permits when necessary can lead to all sorts of complications later, and thus is a material fact that must be disclosed to all prospective buyers and third parties. Consequences may include buyers incurring substantial expenses later to document that an addition or improvement was properly installed per Code requirements, or insurance companies refusing to pay damage claims arising from unpermitted additions, replacements or repairs.

While licensees certainly are not expected to be familiar with the details of all state and local permitting requirements, they are expected to recognize red flags and ask specific questions. Such red flags might arise whenever an owner says s/he "added," or "replaced," or "repaired" or changed some item that affects the structure of the building or the plumbing, HVAC, or electrical systems. Questions might include: what exactly did you do, who performed the labor/service, and did you obtain a permit? ***When in doubt, licensees should contact the applicable Inspection Department to inquire whether a permit is needed and if so, was one***

obtained? Or, rather than calling the local inspection department, one might first check its website to learn what information is available. Some jurisdictions not only have frequently asked questions and a summary of permitting requirements, but also allow one to search online for permits for particular properties both as to date of issuance and whether a final inspection was ever completed. An example of information available on Wake County's websites follows.

See also

www.wakegov.com/inspect/

and

www.charmeck.org/mecklenburg/county/CodeEnforcement/Pages



Wake County Planning, Development & Inspections (PDI) Inspections, Development Plans & Permits

Wake County PDI provides building inspections and permitting services for all unincorporated areas of Wake County and, through contractual agreements, provides building inspection services for the towns of Knightdale, Rolesville, Wendell and Zebulon.

Join the Inspections Forums

Join us on the [Wake County Inspections Forums](#) to ask any code, permitting or plan review questions that you wish to ask. Contractors, homeowners, everyone is invited to participate.

Join our mailing list!

Are you a builder, contractor or developer in Wake County? Would you like to receive updates on any changes Wake County makes to its codes, procedures or policies for inspections and permits? If so, [sign up for our listserv](#) today and we'll send you an email anytime an update or change is issued.

Development Guides

- [Accessory Structures](#)
- [Additions](#)
- [Jurisdiction](#)
- [Manufactured Housing](#)
- [New Home Guide](#)
- [Required Inspections](#)
- [Installing a Swimming Pool](#)
- [When Permits Are Required](#)

[Not sure where to start? Check out our development guides.](#)

Online Services

- [View Permit Information](#)
- [Inspection Results](#)
- [Project Notes](#)
- [Schedule an Inspection](#)
- [Cancel an Inspection](#)
- [Apply for a Mechanical Permit](#)

IDPP Forms

- [Contractor Change Form](#)
- [Impervious Surfaces Calculations](#)
- [Manufactured Home Application](#)
- [Residential Permit Application](#)
- [Commercial Permit Application](#)
- [Homeowner As Contractor](#)
- [Workers Compensation Coverage Form](#)
- [PLOT 11 X 17 Landscape](#)
- [PLOT 11 X 17 Portrait](#)
- [PLOT Legal Landscape](#)
- [PLOT Legal Portrait](#)
- [PLOT Letter Landscape](#)
- [PLOT Letter Portrait](#)
- [View all forms](#)

View Contact Information

Not in an unincorporated area of Wake County or within the towns of Knightdale, Rolesville, Wendell and Zebulon? [View information on other jurisdictions](#).



Announcements

Wake County Inspections field staff are now working summer hours, 7 a.m. to 3:45 p.m.

Wednesday, July 4, is Independence Day, and all County offices will be closed.

Online Inspections

[View permits, inspections results & schedule inspections](#)

Online M Permits

[Apply for a Mechanical Permit](#)

IDPP Forms

[Click here to view and print related forms.](#)

IDPP Fees

Phone: 919-856-6060
Fax: 919-856-6229

Director/Program Manager:
Barry Mooneyham

Location:
Wake County Office Building
First Floor
336 Fayetteville St.
Raleigh, NC 27601
[[map](#)] [[driving](#)]