

## HOUSE BILL No. 2088

By Committee on Commerce, Labor and Economic Development

Requested by Andrew Wiens on behalf of Opportunity Solutions Project

1-23

1 AN ACT concerning housing; enacting the fast-track permits act; requiring  
2 local governments to meet specified deadlines for issuing building  
3 permits and other required approvals for real estate development;  
4 amending K.S.A. 12-752 and 12-759 and repealing the existing  
5 sections.  
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 New Section 1. (a) The provisions of sections 1 through 3, and  
9 amendments thereto, shall be known and may be cited as the fast-track  
10 permits act.

11 (b) The purpose of the fast-track permits act is to enhance economic  
12 growth in local communities and reduce the regulatory burden on  
13 entrepreneurs, developers and homeowners by streamlining the review  
14 process for local building permits.

15 New Sec. 2. For the purposes of the fast-track permits act:

16 (a) "Act" means the fast-track permits act, sections 1 through 3, and  
17 amendments thereto.

18 (b) "Applicant" means a person that submits an application to a local  
19 government, including a person designated to act on the applicant's behalf.

20 (c) "Application" means:

21 (1) A request to the appropriate local governmental authority for a  
22 building permit or other required local governmental approval of an action  
23 related to the development of a single-family residential, multifamily  
24 residential, commercial or industrial improvement upon real estate within  
25 the jurisdiction of such local governmental authority; or

26 (2) an appeal to a zoning board of appeals or planning commission  
27 designated as a zoning board of appeals by any person aggrieved, or any  
28 officer of a city, county or any governmental agency or body affected by  
29 any decision of an officer administering the provisions of a zoning  
30 ordinance or resolution, as provided by K.S.A. 12-759, and amendments  
31 thereto.

32 (d) (1) "Complete application" means an application containing all  
33 information and meeting all requirements pursuant to:

34 (A) A rule, resolution, ordinance or policy of the local government  
35 that was adopted prior to the date that the complete application was

1 submitted to the local government by the applicant; or

2 (B) applicable state or federal law.

3 (2) A "complete application" shall also include the applicant's mailing  
4 address, telephone number, email address, if the applicant has an email  
5 address and facsimile number, if the applicant has a fax number.

6 (e) "Local government" or "local governmental authority" means the  
7 applicable governing body, commission, board or other authority of a  
8 municipality, city, county, township, district or other political subdivision  
9 of this state with jurisdiction over an application.

10 New Sec. 3. (a) (1) A local government shall approve or deny an  
11 application and provide written notice of such decision to the applicant  
12 within 60 days of receipt of a complete application. If an application is not  
13 complete, the local government shall provide written notice to the  
14 applicant of the reason or reasons that the application is deemed not  
15 complete within 15 days of receipt of the application and provide an  
16 opportunity for the applicant to submit missing information, make required  
17 modifications or cure any other deficiency. If the application is not  
18 complete when received by the local government, the date that the  
19 applicant completes the application shall constitute the date of receipt of  
20 the application, except as provided by paragraph (2).

21 (2) If the local government fails to provide written notice to the  
22 applicant that an application is not complete within 15 days of receipt of  
23 an incomplete application, the deadline of 60 days for the provision of  
24 written notice of approval or denial by the local government pursuant to  
25 paragraph (1) shall apply starting from the date that such incomplete  
26 application was received. If any deficiency in the application requires  
27 resolution prior to a decision by the local government and such deficiency  
28 cannot be cured by the applicant within the period required that the local  
29 government may reasonably approve or deny the application, the local  
30 government shall deny the application as required by this act, with leave  
31 for the applicant to resubmit the application. The provisions of paragraph  
32 (1) shall apply to any resubmitted application in the same manner  
33 applicable to the initial application. No additional filing fees shall be  
34 charged by the local government with respect to such a resubmission of an  
35 application following a denial. An application may be denied and  
36 resubmitted more than once in the event that the applicant is unable to  
37 timely cure a deficiency.

38 (b) If a local government fails to provide written notice to an  
39 applicant of the approval or denial of an application within 60 days from  
40 the date that such application is received or deemed received by the local  
41 government pursuant to subsection (a)(1) or (2), the application shall be  
42 deemed approved by the local government.

43 (c) (1) The local government shall state the reasons for a denial of an

1 application in the written notice to the applicant. A local government shall  
2 not deny an application on the basis of a rule, resolution, ordinance or  
3 policy of the local governmental authority or respective municipality, city,  
4 county, township, district or other political subdivision of the state that is  
5 adopted or amended subsequent to the date the complete application was  
6 submitted by the applicant to the local government.

7 (2) In approving an application, the local government shall not  
8 require any conditions or requirements pursuant to a rule, resolution,  
9 ordinance or policy of the local governmental authority or respective  
10 municipality, city, county, township, district or other political subdivision  
11 that was not adopted or amended prior to the date that the complete  
12 application was submitted by the applicant to the local government.

13 (d) For purposes of this act, any required signatures may be  
14 electronic. A local government shall provide written notice of a decision  
15 on an application or of an incomplete application, and an applicant shall  
16 submit an application on the date that the notice or application is:

17 (1) Deposited in the United States mail, addressed to the address  
18 provided by the applicant or local government and proof of the date of  
19 mailing is obtained;

20 (2) written in the body of or in an attachment to an email sent to the  
21 email address provided by the applicant or local government. If possible,  
22 the email shall be sent with a request for a delivery receipt confirming that  
23 the email was delivered to the recipient's email server;

24 (3) faxed to the facsimile number provided by the applicant or local  
25 government; or

26 (4) submitted to a private courier for delivery addressed to the  
27 address provided by the applicant or local government and proof of the  
28 date of submission to such courier is obtained.

29 (e) For purposes of determining deadlines pursuant to this act,  
30 weekends shall be included. Federal or state holidays shall not be included.

31 (f) The provisions of this section shall not supersede any rule,  
32 resolution, ordinance or policy of a municipality, city, county or other  
33 political subdivision of this state providing for a shorter period of time for  
34 a local governmental authority to issue decisions upon applications or give  
35 notice of incomplete applications. The specified deadlines and provisions  
36 of this section shall apply in addition to any such requirements.

37 Sec. 4. K.S.A. 12-752 is hereby amended to read as follows: 12-752.

38 (a) The owner or owners of any land located within an area governed by  
39 regulations subdividing the same into lots and blocks or tracts or parcels,  
40 for the purpose of laying out any subdivisions, suburban lots, building lots,  
41 tracts or parcels or any owner of any land establishing any street, alley,  
42 park or other property intended for public use or for the use of purchasers  
43 or owners of lots, tracts or parcels of land fronting thereon or adjacent

1 thereto, shall have a plat drawn as may be required by the subdivision  
2 regulations. Such plat shall accurately describe the subdivision, lots, tracts  
3 or parcels of land giving the location and dimensions thereof and the  
4 location and dimensions of all streets, alleys, parks or other properties  
5 intended to be dedicated to public use or for the use of purchasers or  
6 owners of lots, tracts or parcels of land fronting thereon or adjacent  
7 thereto. All plats shall be verified by the owner or owners thereof. All such  
8 plats shall be submitted to the planning commission or to the joint  
9 committee for subdivision regulation.

10 (b) The planning commission or the joint committee shall determine  
11 if the plat conforms to the provisions of the subdivision regulations. If  
12 such determination is not made within 60 days ~~after the first meeting of~~  
13 ~~such commission or committee~~ following the date of the ~~submission~~  
14 ~~receipt~~ of the plat ~~to by the secretary thereof as provided by sections 2 and~~  
15 ~~3, and amendments thereto~~, such plat shall be deemed to have been  
16 approved and a certificate shall be issued by the secretary of the planning  
17 commission or joint committee upon demand. If the planning commission  
18 or joint committee finds that the plat does not conform to the requirements  
19 of the subdivision regulations, the planning commission or joint committee  
20 shall notify the owner or owners of such fact *as required by sections 2 and*  
21 *3, and amendments thereto*. Such notice shall be in writing and shall  
22 specify in detail the reasons the plat does not conform to the requirements  
23 of the subdivision regulations. If the plat conforms to the requirements of  
24 such regulations, there shall be endorsed thereon the fact that the plat has  
25 been submitted to and approved by the planning commission or joint  
26 committee.

27 (c) The governing body shall accept or refuse the dedication of land  
28 for public purposes ~~within 30 days after the first meeting of the governing~~  
29 ~~body~~ following the date of the ~~submission receipt~~ of the plat ~~to by the clerk~~  
30 ~~thereof as provided by sections 2 and 3, and amendments thereto.~~ ~~The~~  
31 ~~governing body may defer action for an additional 30 days for the purpose~~  
32 ~~of allowing for modifications to comply with the requirements established~~  
33 ~~by the governing body. No additional filing fees shall be assessed during~~  
34 ~~that period.~~ If the governing body ~~defers or refuses~~ such dedication, ~~it the~~  
35 ~~governing body~~ shall notify the owner or owners of the land and the  
36 planning commission or joint committee of such fact *in accordance with*  
37 *sections 2 and 3, and amendments thereto*. Such notice shall be in writing,  
38 and if the ~~deferral or~~ refusal of the dedication of land is based upon  
39 noncompliance with the requirements established by the governing body,  
40 the notice shall specify in detail the nature of such noncompliance.

41 (d) The governing body may establish a scale of reasonable fees to be  
42 paid to the secretary of the planning commission or joint committee by the  
43 applicant for approval for each plat filed with the planning commission or

1 joint committee.

2 (e) No building or zoning permit shall be issued for the use or  
3 construction of any structure upon any lot, tract or parcel of land located  
4 within the area governed by the subdivision regulations that has been  
5 subdivided, resubdivided or replatted after the date of the adoption of such  
6 regulations by the governing body or governing bodies but ~~which~~ has not  
7 been approved in the manner provided by this act.

8 (f) Any regulations adopted by a governing body with reference to  
9 subdividing lots shall provide for the issuance of building permits on  
10 platted lots divided into not more than two tracts without having to replat  
11 such lots. Such regulations also may authorize and establish conditions for  
12 the issuance of building permits on lots divided into three or more tracts  
13 without having to replat such lots. Such regulations shall provide that lots  
14 zoned for industrial purposes may be divided into two or more tracts  
15 without replatting such lot. Such regulations shall contain a procedure for  
16 issuance of building or zoning permits on divided lots, which shall take  
17 into account the need for adequate street rights-of-way, easements,  
18 improvement of public facilities, and zoning regulations if in existence.

19 (g) The regulations shall provide for a procedure ~~which~~ *that* specifies  
20 a time limit within which action shall be taken *that shall be subject to the*  
21 *requirements of sections 2 and 3, and amendments thereto*, and shall  
22 further provide, where applicable, for the final decision on the issuance of  
23 such building permit to be made by the governing body, except as may be  
24 provided by law.

25 (h) The register of deeds shall not file any plat until such plat shall  
26 bear the endorsement ~~hereinbefore provided~~ *as provided by subsection (b)*  
27 and the land dedicated for public purposes has been accepted by the  
28 governing body.

29 Sec. 5. K.S.A. 12-759 is hereby amended to read as follows: 12-759.

30 (a) Any governing body ~~which~~ *that* has enacted a zoning ordinance or  
31 resolution shall create a board of zoning appeals by adoption of the  
32 appropriate ordinance or resolution. Such board shall consist of not less  
33 than three nor more than seven members. If a city enacts zoning  
34 regulations ~~which~~ *that* affect land outside the corporate limits of such city,  
35 at least one member of the board shall be a resident of the area outside the  
36 city's limits. The members first appointed shall serve respectively for terms  
37 of one, two and three years, divided equally or as nearly equally as  
38 possible among the members. Thereafter the terms of the members may be  
39 changed to either three or four years, whichever is deemed to be in the best  
40 interest of the city or county. Vacancies shall be filled by appointment for  
41 the unexpired terms. The members of such board shall serve without  
42 compensation. The board annually shall elect one of its members as  
43 chairperson, and shall appoint a secretary who may be an officer or an

1 employee of the city or county. The board shall adopt rules in accordance  
2 with the provisions of the ordinance or resolution creating the board.  
3 Meetings of the board shall be held at the call of the chairperson and at  
4 such other times as the board may determine. The board shall keep  
5 minutes of its proceedings, showing evidence presented, findings of fact  
6 by the board, decisions of the board and the vote upon each question.  
7 Records of all official actions of the board shall be filed in its office and  
8 shall be a public record. The governing body, in the ordinance or  
9 resolution creating such board, may establish a scale of reasonable fees to  
10 be paid in advance by the party appealing. Any two or more cities or  
11 counties ~~which~~ *that* have established a joint planning commission may  
12 establish a joint board of zoning appeals.

13 (b) Any board of zoning appeals in existence on the effective date of  
14 this act shall continue in existence; but shall be governed by the provisions  
15 of this act.

16 (c) The board of zoning appeals shall administer the details of appeals  
17 from or other matters referred to it regarding the application of the zoning  
18 ordinance or resolution as hereinafter provided. The board shall fix a  
19 reasonable time for the hearing of an appeal or any other matter referred to  
20 it. Notice of the time, place and subject of such hearing shall be published  
21 once in the official city newspaper in the case of a city and in the official  
22 county newspaper in the case of a county at least 20 days prior to the date  
23 fixed for hearing. *Such notice shall also be provided at such time on the*  
24 *website of the city or county, if the city or county has a website.* A copy of  
25 the notice shall be mailed to each party to the appeal and to the appropriate  
26 planning commission.

27 (d) Appeals to the board of zoning appeals may be taken by any  
28 person aggrieved, or by any officer of the city, county or any governmental  
29 agency or body affected by any decision of the officer administering the  
30 provisions of the zoning ordinance or resolution. Such appeal shall be  
31 taken within a reasonable time as provided by the rules of the board, by  
32 filing a notice of appeal specifying the grounds thereof and the payment of  
33 the fee required therefor. The officer from whom the appeal is taken, when  
34 notified by the board or its agent, shall transmit to the board all the papers  
35 constituting the record upon which the action appealed from was taken.  
36 The board shall have power to hear and decide appeals where it is alleged  
37 there is error in any order, requirement, decision or determination made by  
38 an administrative official in the enforcement of the zoning ordinance or  
39 resolution. In exercising the foregoing powers, the board, in conformity  
40 with the provisions of this act, may reverse or affirm, wholly or partly, or  
41 may modify the order, requirement, decision, or determination, and to that  
42 end shall have all the powers of the officer from whom the appeal is taken,  
43 may attach appropriate conditions, and may issue or direct the issuance of

1 a permit.

2 (e) When deemed necessary by the board of zoning appeals, the  
3 board may grant variances and exceptions from the zoning regulations on  
4 the *following* basis and ~~in the manner hereinafter provided:~~

5 (1) To authorize in specific cases a variance from the specific terms  
6 of the regulations ~~which~~ *that* will not be contrary to the public interest and  
7 where, due to special conditions, a literal enforcement of the provisions of  
8 the regulations, in an individual case, results in unnecessary hardship, and  
9 provided that the spirit of the regulations shall be observed, public safety  
10 and welfare secured, and substantial justice done. Such variance shall not  
11 permit any use not permitted by the zoning regulations in such district. A  
12 request for a variance may be granted in such case, upon a finding by the  
13 board that all of the following conditions have been met:

14 (A) That the variance requested arises from such condition ~~which~~  
15 *that* is unique to the property in question and ~~which is~~ not ordinarily found  
16 in the same zone or district; and is not created by an action or actions of  
17 the property owner or the applicant;

18 (B) that the granting of the permit for the variance will not adversely  
19 affect the rights of adjacent property owners or residents;

20 (C) that the strict application of the provisions of the zoning  
21 regulations of which variance is requested will constitute unnecessary  
22 hardship upon the property owner represented in the application;

23 (D) that the variance desired will not adversely affect the public  
24 health, safety, morals, order, convenience, prosperity, or general welfare;  
25 and

26 (E) that granting the variance desired will not be opposed to the  
27 general spirit and intent of the zoning regulations; and

28 (2) to grant exceptions to the provisions of the zoning regulation in  
29 those instances where the board is specifically authorized to grant such  
30 exceptions and only under the terms of the zoning regulation. In no event  
31 shall exceptions to the provisions of the zoning regulation be granted  
32 where the use or exception contemplated is not specifically listed as an  
33 exception in the zoning regulation. Further, under no conditions shall the  
34 board of zoning appeals have the power to grant an exception when  
35 conditions of this exception, as established in the zoning regulation by the  
36 governing body, are not found to be present.

37 (f) Any person, official or governmental agency dissatisfied with any  
38 order or determination of the board, *including a decision deemed to have*  
39 *been made pursuant to section 3, and amendments thereto*, may bring an  
40 action in the district court of the county to determine the reasonableness of  
41 any such order or determination. Such appeal shall be filed within 30 days  
42 of the final decision of the board.

43 (g) A planning commission also may be designated as a board of

1 zoning appeals under this section.

2 (h) ~~The provisions of this section shall become effective on and after~~  
3 ~~January 1, 1992 the fast-track permits act, sections 1 through 3, and~~  
4 ~~amendments thereto, shall apply to this section.~~

5 Sec. 6. K.S.A. 12-752 and 12-759 are hereby repealed.

6 Sec. 7. This act shall take effect and be in force from and after its  
7 publication in the statute book.