



HOUSE BILL 489: 2021 Building Code and Dev. Reg. Reform.

2021-2022 General Assembly

Committee:	Date:	February 1, 2022
Introduced by:	Prepared by:	Howard Marsilio Staff Attorney
Analysis of:	S.L. 2021-121	

OVERVIEW: *S.L. 2021-121 amends laws that apply to general contractors; the State Building Code; and various laws pertaining to development regulation by local governments under Chapter 160D of the General Statutes including:*

- *Authorizing the State Licensing Board for General Contractors to require criminal background checks for licensure applicants, and making other changes to the laws that relate to the Board.*
- *Requiring the Building Code Council to obtain additional economic analysis or cost-benefit analysis on certain proposed revisions or amendments to the State Building Code.*
- *Establishing the beginning point for measuring sight distances at street intersections.*
- *Limiting the need for separate erosion control plans for development of individual residential lots where an approved master erosion control plan exists; providing for developer options when submitting erosion control plans for development of multiple residential lots; and prohibiting requiring a silt fence where certain topographic features exist.*
- *Requiring the Building Code Council to adopt rules amending provisions of the North Carolina Fire Code, the North Carolina Residential Code, and the North Carolina Plumbing Code.*
- *Amending Section 4 of S.L. 2020-61 with additional definitions and clarifications that relate to building and accessory building sewer systems and their permitting requirements.*
- *Requiring DOT to add approved subdivision street improvements designated as public to the State highway system for maintenance within 90 days.*

Except as otherwise provided, this act became effective August 30, 2021. Sections 1(a) and 1(b) became effective January 1, 2022. Section 5(c) of this act became effective October 1, 2021. Section 9 became effective January 1, 2022.

CURRENT LAW/BILL ANALYSIS:

The State Licensing Board for General Contractors is the licensing board for general contractors in North Carolina. A general contractor's license is required for persons who bid upon or construct any building, highway, public utilities, grading or any improvement or structure where the cost of the undertaking is thirty thousand dollars (\$30,000) or more. The State Building Codes are adopted by the Building Code Council (Council), a 17-member board appointed by the Governor. The Council may consider building code amendments on its own motion or upon application of citizens, State agencies, or political subdivisions of the State and must conduct a cost-benefit analysis for all proposed changes to the North Carolina Energy Conservation Code. A city has authority to classify its streets according to street size and traffic load and to establish minimum set back requirements from the right-of-way line or the center line

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of an existing or proposed street. North Carolina law requires approval of an erosion and sedimentation control plan (Plan) prior to conducting a land-disturbing activity that disturbs more than one acre. Plans are approved, administered, and enforced by the Department of Environmental Quality or by a city or county having local erosion control program approved by the North Carolina Sedimentation Control Commission. The North Carolina Building Code requires two separate and approved fire apparatus access roads for one- or two-family developments where the number of dwelling units exceeds 30, except two direction access is not required on a single public or private fire apparatus access road when the dwellings are equipped with approved automatic sprinkler systems. The North Carolina Residential Code and Plumbing Code specifies acceptable industry standard conformance requirements for specific materials for water service pipes, however, American Water Works Association C900 is not included as an acceptable industry standard for Polyvinyl chloride (PCV) plastic pipe for water service pipes. Sewers that serve a single building may be deemed permitted, subject to compliance with certain criteria specified under the Administrative Code. Sewers shared by a main building and an accessory building on the same lot must also be deemed permitted, subject to compliance with the same criteria under the Code. New subdivision streets dedicated to the public must comply with the State standards and processes for placing subdivision streets on the State highway system for maintenance, by application, subdivision streets are accepted into the State highway system for maintenance with Board of Transportation final approval.

BILL ANALYSIS:

Sections 1(a) and 1(b) authorize the State Licensing Board for General Contractors to:

- Require criminal background checks for general contractor licensure applicants and make that information confidential.
- Approve providers and instructors of general contractor continuing education courses and require providers to register their affiliated instructors with the Board.
- Allow licensees who do not complete their continuing education requirement to request "inactive status" on an annual basis.

Sections 1(c)-1(d):

- Require a court to award attorney's fees of up to \$5,000 plus court costs to the State Licensing Board for General Contractors when it prevails in injunctive actions enforcing its rules or regulations.
- Require the State Licensing Board for General Contractors to adopt temporary rules to implement Sections 1(a) and 1(b) of this act.

Section 2:

- Requires the Building Code Council, when considering a proposed amendment to the State Building Code, to obtain or conduct an additional economic analysis or cost-benefit analysis on the proposed amendment other than from one submitted by the proponent of the amendment unless the amendment was submitted by the Council, a State agency, or political subdivision of the State.

Section 3:

- Requires cities to establish a point within the roadway or edge of pavement of a proposed or existing street as the beginning point for measuring setbacks for sight distances at street intersections, including sight triangles.
- Limits fees charged under local erosion control programs to that authorized in G.S. 113A-60(a) as amended by Section 5(c) of this act.

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Section 4:

- Prohibits local governments from charging a reinspection fee to verify completion or correction of instances of noncompliance with applicable building codes, for new violations that were discovered on items previously approved by the inspections department.

Sections 5(a) and 5(b):

- Clarify that on certain single-family residential lots where the developer owns the lot being developed, financial responsibility for land disturbing activity on that lot transfers from the developer to the new owner when the developer conveys the lot to the new owner, records the deed, and notifies the approval authority.
- Clarify the statutory authority for local erosion control programs to assess fees for erosion control plan review.

Section 5(c):

- Sets the fee under local erosion control programs for plan review and the basis for calculating the fee upon either of the following:
 - The number of acres disturbed.
 - At \$100 per lot in the case of single-family residential lots disturbing less than one acre.
- Prohibits local erosion control programs from requiring a separate erosion control plan for development of a residential lot disturbing less than one acre where an approved erosion control plan exists for the entire development and the developer and builder are the same financially responsible person. Where the developer and builder are not the same person financially responsible, provides that the local government may only require the developer to submit the following for approval:
 - Information to identify the lot owner.
 - The lot address, number, parcel number, subdivision, acreage being developed, and acreage being disturbed.
 - The anticipated start and completion date.
 - Name & signature of person financially responsible.
 - A sketch plan showing the erosion control measures planned for the lot; The sketch plan is not required to be under professional seal, unless required by federal or State law.
- Except as may be required by federal law, provides that local erosion control programs:
 - May not require self-inspections or installation of rain gauges on residential lots where less than one acre is being disturbed.
 - Must allow a developer developing more than one residential lot where the total land disturbance exceeds one acre to submit for approval, either a single erosion control plan for all the lots, or on lots where less than one acre is being disturbed, to submit for approval, the lot information and sketch plan as set forth above.
- Prohibits local erosion control programs from requiring wire backed reinforced silt fences where due to the contour and topography of the development site, the silt fence would not substantially and materially retain the sediment generated by the land disturbing activity.

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Section 5(d):

- Provides that a silt fence damaged or destroyed during land disturbance cannot be assessed a civil penalty if repaired within the compliance period noted in an inspection report or Notice of Violation.

Sections 6(a)-6(f):

- Require the Building Code Council to adopt a rule to amend Section D107 of the 2018 North Carolina Fire Code to provide that automatic sprinkler systems in one- or two- family dwellings would not be required where there are fewer than 100 dwelling units on a single public or private fire apparatus access road with access from one direction. This section expires on the date that rules adopted pursuant to this section become effective.

Sections 7(a)-7(f):

- Require the Building Code Council to adopt a rule to amend various code sections to provide that the American Water Works Association C900 standard would be an acceptable standard for Polyvinyl chloride (PVC) plastic pipe for water service pipes under the North Carolina Residential Code and Plumbing Code. This section expires on the date that rules adopted pursuant to this section become effective.

Section 8 modifies Section 4 of S.L. 2020-61 with additional definitions and clarifications that relate to building and accessory building sewer systems and their permitting requirements.

Section 9 requires the Department of Transportation to add transportation improvements designated as public to the State highway system for maintenance pursuant to G.S. 136-102.6(d) no later than 90 days after receipt of a petition for road addition and the Department determines those subdivision streets meet the minimum standards of the Board of Transportation.

EFFECTIVE DATE: Except as otherwise provided, this act became effective August 30, 2021. Sections 1(a) and 1(b) became effective January 1, 2022. Section 5(c) of this act became effective October 1, 2021. Section 9 became effective January 1, 2022.

Trina Griffin and Billy Godwin, Staff Attorneys, substantially contributed to this summary.