



This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 853: Plan Review & Cert of Occup. Scope Changes.

2021-2022 General Assembly

Committee:	House Local Government - Land Use, Planning and Development. If favorable, refer to Rules, Calendar, and Operations of the House	Date:	May 11, 2021
Introduced by:	Reps. Brody, Moffitt, Zenger	Prepared by:	Jonathan Zator and Billy Godwin,
Analysis of:	PCS to First Edition H853-CSBDa-17		Committee Counsels

OVERVIEW: House Bill 853 would limit the scope of requirements for certificates of occupancy and establish requirements for local governments when approving development permit applications.

The Proposed Committee Substitute would eliminate certain provisions and add an appropriation.

CURRENT LAW: Chapter 160D of the General Statutes contains the processes and procedures local governments utilize for development approvals under their planning and development regulations. A local government is a city or county (G.S. 160D-102(22)). A development approval is a written administrative or quasi-judicial approval required to commence development or undertake a specific activity and includes zoning, special use, and building permits, plat and site plan approvals, and variances (G.S. 160D-102(13)). A development regulation is a unified development ordinance; a zoning, subdivisions, erosion and sedimentation control, floodplain or flood damage prevention, mountain ridge protection, stormwater control, wireless telecommunication facility, historic preservation or landmark, or housing code regulation; State Building Code enforcement, or any other regulation adopted under Chapter 160D, local act or charter (G.S. 160D-102(14)).

Article 4 of Chapter 160D governs the administration and enforcement of all development regulations. No person may commence with development without securing any required development approval from the local government with jurisdiction over the development site (G.S. 160D-403(a)). Administrative duties may be assigned various duties relating development regulations (G.S. 160D-402(b)).

Local governments may enact ordinances, procedures, and fee schedules relating to the administration and enforcement of Chapter 160D. The administrative and enforcement provisions related to building permits in Article 11 of Chapter 160D (Building Code Enforcement) must be followed for those permits. (G.S. 160D-402(b)). A local government may make final inspections and issue a certificate of compliance or occupancy if staff finds that the completed work complies with all applicable State and local laws and with the terms of the approval (G.S. 160D-403(g)). No building, structure, or use of land subject to a building permit can be occupied or used until a certificate of occupancy or temporary certificate is issued.

"Applicable codes" mean the North Carolina State Building Code and any other uniform codes adopted by a recognized national code organization together with State or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons (G.S. 160D-921(2)). Chapters 83A, 89A, and 89C of the General Statutes governs the licensing of architects, landscape architects, and engineers and land surveyors.

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House PCS 853

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BILL ANALYSIS: *Section 1* of the PCS to House Bill 953 would prohibit local governments, when reviewing development plans for commercial buildings submitted under the seal of licensed design professionals, from placing additional requirements as a condition of issuing a certificate of occupancy (unless otherwise required by an applicable code). The prohibition would also apply when local governments contract with private engineering firms or architectural firms for development plan review.

Section 2 of the PCS would establish the following requirements for when a local government evaluates and approves construction permits related to site construction and land use permitting:

- Require all standards or requirements issuing construction permits to be included in a written policy, standard procedure, or ordinance (Policy) adopted or authorized by the governing body and available to the public. The Policy may include formal land-use maps, capital improvement plans, or fiscally constrained road improvements.
- Require the governing body to adopt, and make available to the public and publish on its website, a Policy establishing or authorizing a department to establish a schedule (subject to governing body approval) that must be used by the department in reviewing permit applications. The schedule would include a maximum number of days to approve or deny a complete application. Exceptions to the schedule would be permitted if noted in a quarterly report (Report).
- Prohibit a local government from requiring a permittee to reserve land, dedicate rights of way, adhere to planning or land use conditions, or make accommodations for future construction activities, including the installation of future infrastructure (unless these requirements are included in a Policy adopted or authorized by the governing body).
- Require the department responsible for reviewing construction permit applications to, on a quarterly basis, submit a report to the governing body. The Report must (i) include the number of permit application reviews that were completed within the time periods specified in the schedule, (ii) include the number completed prior to the expiration of the time periods, (iii) include the number completed after the expiration of the time periods; (iv) be made available for public inspection and published on the local government's website, if available.
- Prohibit a Policy from requiring a construction permit to be reviewed if another agency or department, including a State agency or department, has conducted its own review of the same or another permit related to the same project. The Policy would need to require construction permits to be reviewed concurrently with other permits related to the same project, unless (i) the project is proposed to be constructed in phases or (ii) the permittee requests nonconcurrent reviews.
- Allow local governments to create and require use of an online permit process.
- Prohibit local governments from requiring a tree survey as part of the development process if that local government does not have a tree ordinance. A local government would not be prevented from establishing development parameter buffer zones and other designated preservation areas, if any buffer zones or designated preservation areas are provided in the Policy.
- Allow local governments to regulate certain portions of private roads, driveways, or parking lots as to slope, width, thickness of the pavement, and design. All other aspects within a submitted plan would need approval if they (i) are designed by a design professional licensed in this State and (ii) meet/exceed all applicable federal/State laws/ regulations.

Section 3 of the PCS would appropriate \$20,000 to the North Carolina Building Council to be used to conduct any independent or proposed code change cost-benefit analyses.

EFFECTIVE DATE: This act would be effective when it becomes law and apply to construction permits submitted for approval on or after that date.