



# HOUSE BILL 488: Code Council Reorg. and Var. Code Amend.

2023-2024 General Assembly

<b>Committee:</b>	House Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	<b>Date:</b>	May 2, 2023
<b>Introduced by:</b>	Reps. Brody, D. Hall, Cotham, Riddell	<b>Prepared by:</b>	Howard Marsilio
<b>Analysis of:</b>	PCS to Second Edition H488-CSBG-18		Staff Attorney

**OVERVIEW:** *The Proposed Committee Substitute (PCS) to House Bill 488 would reorganize the Building Code Council, create a new Residential Code Council, and amend various provisions of the North Carolina State Building Code and land development regulations.*

*The PCS would:*

- Clarify responsibilities of the Building Code Council and Residential Code Council as it relates to the 2024 North Carolina State Building Code collection revision, to be effective January 1, 2025 under current law.
- Modify expiration dates of Sections 7 and 8 that apply to specific volumes of the 2024 North Carolina State Building Code collection.
- Add fund collection delay for storm water control project obligations under Section 13(a).
- Make various technical corrections.

[As introduced, this bill was identical to S378, as introduced by Sens. Jarvis, Moffitt, Perry, which is currently in an unknown committee.]

### CURRENT LAW/BILL ANALYSIS:

**Section 1:** The Building Code Council consists of 17-members, who are appointed by the Governor, and who range from licensed architects to licensed engineers to members of local government. Among its various functions, the Building Code Council is tasked with publishing and amending the North Carolina State Building Code, and its volumes, through its various Committees, which include a Residential Code Committee and a Building Code Committee.

This section would reorganize the Building Code Council by removing the Residential Code Committee from within the Building Code Council and would create a separate Residential Code Council within the Department of Insurance. The Residential Code Council would consist of 13-members, who are appointed by General Assembly and the Governor, and would function similarly to the Building Code Council but would be responsible for only the North Carolina Residential Code. This section would also conform and clarify statutory references to the Building Code Council and to the North Carolina State Building Code, and its volumes, with this Code Council reorganization and creation. This substantive provisions in this section would be effective January 1, 2025.

**Section 1A:** This section would direct the Department of Insurance, in consultation with the Building Code Council, to report to the Chair of the House Local Government – Land Use, Planning and Development Committee, the Chair of the Senate State and Local Government Committee, and the Joint

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Director



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Legislative Commission on Governmental Operations, on or before January 31, 2024, and submit recommendations for legislative changes necessary to implement the reorganization of the Building Code Council, the creation of the Residential Code Council, and clarification of statutory references to the North Carolina State Building Code, and its volumes, under Section 1 of this Act.

**Section 2:** Current law outlines when certain single-family residences, farm buildings, or commercial construction projects would be exempt from permitting requirements based on project cost, which is currently set at \$20,000, and other permit limitations.

This section would raise this permit exemption threshold from \$20,000 to \$40,000, and would prohibit a local government from requiring more than one residential building permit for simultaneous projects at the time of application located at the same address. This section would be effective October 1, 2023, and apply to permit applications for construction, installation, repair, replacement, remodeling, renovation, or alteration projects submitted on or after that date.

**Section 3:** Various laws outline the authority of the Department of Transportation and local governments as it relates to the regulation of streets, most of which depend on street classification and whether that street exists on, or will be added to, a public system. Part of street regulation arises in local government subdivision regulations, within its planning and development regulation jurisdiction, which may provide for the coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and highways.

This section would prohibit subdivision regulations detailing roadway pavement standards for new private roadway construction that are more stringent than NCDOT roadway standards, and would require local governments to accept engineered pavement design standards sealed by a licensed professional engineer that meet certain requirements. This would apply to the construction of new privately owned roads, driveways, parking lots and driving areas associated with parking lots, or streets within a new development or subdivision that the developer designates as private and that are intended to remain privately owned after construction.

**Section 4:** The North Carolina State Building Code: Administrative Code and Policies volume outlines required building inspections which include the following: footing inspection; under slab inspection; foundation inspection; rough-in inspection; building framing inspection; insulation inspection; fire protection inspection; and a final inspection. Sheathing (generally speaking, boards or panels that line the walls, floor, and roof) inspections are not required by the Code.

This section would prohibit the Code or a local government from requiring routine exterior sheathing inspections. This section would be effective when it becomes law and would apply to permit applications on or after that date.

**Section 5:** The North Carolina State Building Code: Administrative Code and Policies volume contains an Appendix entitled Appendix B Building Code Summary for All Commercial Projects (Except 1 and 2-Family Dwellings and Townhouses). An amendment to the Administrative Code and Policies volume (effective January 1, 2023) made the Building Code Summary a requirement for commercial project permit applications.

This section would specify that a local government shall not require a permit applicant to complete a Building Code Summary with a set of plans submitted for review and would require the Building Code Council to adopt rules to amend the Code along those lines. This section would expire when permanent rules are adopted as required by this section become effective.

**Section 6:** The North Carolina Energy Conservation Code regulates the design and construction of buildings for the effective use and conservation of energy, and this volume of the Code includes Chapters

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that apply to residential construction. Section 402 of the Energy Conservation Code outlines prescriptive provisions that apply to building thermal envelopes (generally speaking, the boundary of a structure between conditioned and unconditioned spaces), and related insulation requirements for components that vary based on building thermal envelopes.

This section would require the Building Code Council to adopt rules to amend Section 402 to include provisions for an optional insulation requirement alternative to ceiling insulation minimums when air-impermeable insulation (for example, certain spray-foam insulations) is used in unvented attic and unvented enclosed rafter assemblies in residences meeting certain criteria. This section would expire when permanent rules are adopted as required by this section become effective.

**Section 7:** The North Carolina State Building Code: Residential Code for One- and Two- Family Dwellings applies to one- and two- family dwellings and townhomes, and outlines minimum prescriptive requirements to address the alteration, design, repair, and construction of those dwellings. Parts within that volume cover construction requirements by trade e.g. plumbing, framing, mechanical, fuel gas etc.

This section would temporarily prohibit the Building Code Council from adopting rules to amend the Residential Code, Parts V – Mechanical and Part VI – Fuel Gas, until the 2024 Residential Code volume is adopted by the Building Code Council and approved by the Rules Review Commission. This section is effective when it becomes law and applies retroactively to March 1, 2023. This section would expire January 1, 2026.

**Section 8:** The North Carolina Residential Code and North Carolina Energy Conservation Code both contain provisions that apply to residential construction and the effective use of, and conservation of, energy in residences.

This section would temporarily prohibit the Building Code Council from adopting rules to amend the Residential Code, or any part of the Code that applies to buildings, dwellings, and structures to which the Residential Code applies, that relate to energy conservation or efficiency until 2031. This section would be effective when it becomes law and apply retroactively to March 1, 2023. This section would expire January 1, 2026.

**Section 9:** The North Carolina State Building Code: Residential Code for One- and Two- Family Dwellings applies to one- and two- family dwellings and townhomes, and outlines minimum prescriptive requirements to address the alteration, design, repair, and construction of those dwellings. Three- and four-family dwellings are currently classified as multi-family construction, and fall outside the Residential Code.

This section would require the Building Code Council to adopt rules to amend the Residential Code to include three- and four-family dwellings and make conforming changes in North Carolina State Building Code. This section would expire when permanent rules are adopted as required by this section become effective.

**Section 10:** As part of local erosion and sedimentation control programs, a local government may establish fees for the review of an erosion and sedimentation control plan and related activities, based on either the number or acres disturbed or \$100 for single-family lots less than one-acre in a development.

This section would clarify that the permit applicant may choose the applicable fee calculation based on either the number acres disturbed or a fee of no more than \$100 for single-family lots less than one-acre, including those in a common plan of development.

**Section 11:** This section would direct the Department of Environment Quality to develop a plan, to submit and to seek approval from the United States Environmental Protection Agency, to streamline the implementation of the Sedimentation Pollution Control Act and federal requirements for stormwater

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discharge from construction activities no later than September 1, 2023, and to report back to the Environmental Review Commission on the status of their activities pursuant to this section quarterly, beginning August 1, 2024, until the General Assembly repeals this reporting requirement.

**Section 12:** Provisions within Chapter 153A (Counties) and Chapter 160A (Cities) authorize counties and cities to require the owner of developed property, meeting certain requirements, to connect the owner's premises with public water or sewer lines and charge a connection fee.

This section would limit this connection authority by specifying that a county or city may only require connection of an owner's premises to a sewer line when the county or city has adequate capacity to transport and treat the proposed new wastewater at the time of connection.

**Section 13:** Currently, a local government may adopt and enforce stormwater control regulations to protect and control water quality. For example, local governments that hold a National Pollutant Discharge Elimination System (NPDES) stormwater permit, may adopt regulations to comply with this permit which includes requiring deed restrictions and protective covenants to ensure stormwater control project maintenance and the adequacy of funds for stormwater control project maintenance.

This section would remove the authority of local governments with NPDES permits to include financial arrangements to ensure adequate funds are available for project maintenance as a part of deed restriction and protective covenant requirements. This section would further prohibit a local government from adopting a regulation that require private stormwater control project owners to make payments to the local government for stormwater control project maintenance, repair, and reconstruction, but specifies that a regulation may require those owners to establish an owner retained fund, with limitations, for those purposes.

**Section 14:** This section clarifies that if a section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

**EFFECTIVE DATE:** Except as otherwise provided, this act will be effective when it becomes law.