



HOUSE BILL 488: Code Council Reorganization and Various Code Amendments.

2023-2024 General Assembly

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| Committee: | | Date: | December 18, 2023 |
| Introduced by: | | Prepared by: | Howard Marsilio Staff Attorney |
| Analysis of: | S.L. 2023-108 | | |

OVERVIEW: S.L. 2023-108, as amended by S.L. 2023-137 and S.L. 2023-151, reorganizes the Building Code Council to create a new Residential Code Council and amends various North Carolina State Building Code provisions, land development regulations, and General Contractor licensing laws.

This bill was vetoed by the Governor on July 7, 2023, and that veto was overridden by the General Assembly on August 16, 2023. This act has various effective dates. Please see the full summary for more detail.

CURRENT LAW/BILL ANALYSIS:

Building Code Council Reorganization and the Creation of the Residential Code Council. -

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, through its various Committees, which include a Residential Code Committee and a Building Code Committee.

Section 1 of this act, as amended by Section 51 of S.L. 2023-137 and Part XI of S.L. 2023-151, reorganizes the Building Code Council by removing the Residential Code Committee from within the Building Code Council and creates a separate Residential Code Council within the Office of the State Fire Marshal. The Residential Code Council consists of 13 members, who are appointed by General Assembly and the Governor, and functions similarly to the Building Code Council but is responsible for only the North Carolina Residential Code. This section also clarifies and conforms 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.

The substantive subsections in this section become effective January 1, 2025.

Building Code Council Reorganization/Residential Code Council Report. -

Section 1A: This section directs 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 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.

This section became effective August 16, 2023.

Jeffrey Hudson
Director



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Building Permit Exemptions and Restrictions Modifications. -

Section 2: Current law outlines when certain construction projects are exempt from permitting requirements based on project cost and other permit limitations. Project cost also determines whether a general contractor license is required for undertaking certain construction work.

This section increases and conforms permitting and general contractor licensure cost thresholds to \$40,000, prohibits a local government from requiring more than one residential building permit for simultaneous projects at the time of application located at the same address, and makes various changes tied to that \$40,000 cost threshold in related areas, such as lien agent law.

This section became effective October 1, 2023.

Authorize Alternative Pavement Design Standards within Developments. -

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 can provide for the coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and highways.

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

This section became effective October 1, 2023, and applies to permit applications submitted on or after that date.

Prohibit Exterior Sheathing Inspections. -

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 prohibits the Code or a local government from requiring routine exterior sheathing inspections in regions where ultimate wind speed is less than 140 miles per hour.

This section became effective August 16, 2023, and applies to permit applications submitted on or after that date.

Modify Building Code Summary (Appendix B) Requirements. -

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.

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This section specifies that a local government must not require a permit applicant to complete a Building Code Summary with a set of plans submitted for review and requires the Building Code Council to adopt rules to amend the Code along those lines.

This section became effective August 16, 2023, and expires when permanent rules adopted as required by this section become effective.

Amend Unvented Attic Insulation Requirement. -

Section 6: The North Carolina Energy Conservation Code regulates the design and construction of buildings for the effective use and conservation of energy, and includes Chapters 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 requires 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 became effective August 16, 2023, and expires when permanent rules adopted as required by this section become effective.

Prohibit Further Amendments to Various Chapters within the Residential Code. -

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 temporarily prohibits the Building Code Council from adopting rules to amend the Residential Code, Part 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 became effective August 16, 2023, and applies retroactively to March 1, 2023. This section expires January 1, 2026.

Prohibit Further Energy Conservation and Efficiency Amendments until 2026. -

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

This section temporarily prohibits 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 2026.

This section became effective August 16, 2023, and applies retroactively to March 1, 2023. This section expires January 1, 2026.

Amend the Residential Code to Include Three- and Four-Family Dwellings. -

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-

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family dwellings are currently classified as multi-family construction, and fall outside the Residential Code.

This section requires 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 became effective August 16, 2023, and expires when permanent rules adopted as required by this section become effective.

Clarify Fee Calculation for Erosion and Sedimentation Control Plan Review. -

Section 10: As part of local erosion and sedimentation control programs, a local government can 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 clarifies that the permit applicant can choose the applicable fee calculation based on either the number of 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.

This section became effective August 16, 2023.

Direct the Department of Environmental Quality to Streamline Stormwater Regulation. -

Section 11: This section directs the Department of Environmental Quality, by September 1, 2023, to develop a plan for submittal to the United States Environmental Protection Agency that streamlines the implementation of the Sedimentation Pollution Control Act and federal requirements for stormwater discharge from construction activities, 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.

This section became effective August 16, 2023.

Prohibit Forced Sewer Connections. -

Section 12 of this act is repealed pursuant to Section 50 of S.L. 2023-137. Please see the summary for S.L. 2023-137 for more detail.

Prohibit Local Governments from Requiring Certain Stormwater Control System Payments. -

Section 13: Currently, a local government can 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, can 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 removes the authority of local governments with NPDES permits to require financial arrangements to ensure adequate funds are available for project maintenance as a part of deed restriction and protective covenant requirements. This section further prohibits a local government from adopting a regulation that requires 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 can require those owners to establish an owner retained fund, with limitations, for those purposes.

This section became effective August 16, 2023.

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Local Government Stormwater Permit Transfers. -

Section 13.1: Current law outlines the requirements and procedures for the Department of Environmental Quality to transfer stormwater permits.

This section requires local governments issuing stormwater permits to transfer permits in accordance with the same requirements for the transfer of state-issued stormwater permits.

This section became effective August 16, 2023.

Severability Clause. -

Section 14: This section contains a severability clause.

This section became effective August 16, 2023.

EFFECTIVE DATE: This bill was vetoed by the Governor on July 7, 2023, and that veto was overridden by the General Assembly on August 16, 2023. This act has various effective dates, please see the individual sections for more detail.