

ANCHORAGE, ALASKA
AO No. 2023-136(S)*, As Amended

* The (S) version is submitted as an entire new clean AO document and does not use legislative formatting markup to show changes from the original ordinance, except in the title. For a summary of changes see the accompanying memorandum.

AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING BUILDING CODES AT ANCHORAGE MUNICIPAL CODE CHAPTER 23.10, ANCHORAGE ADMINISTRATIVE CODE 2018 EDITION, TO REPEAL AND REENACT AMC SECTION 23.10.104.9. TO REORGANIZE THE SECTION AND ALLOW OPTIONAL INDEPENDENT THIRD-PARTY PLAN REVIEW [OF STRUCTURAL DESIGN] FOR COMMERCIAL BUILDING PERMITS ALONG WITH CURRENTLY ALLOWED THIRD-PARTY RESIDENTIAL PLAN REVIEW, AND PROVIDE A SUNSET DATE.

WHEREAS, Title 23 of Anchorage Municipal Code provides applicants applying for a residential single-family, two-family, or three-unit building permit the option to use qualified independent third-party reviewing professionals for plan review; and

WHEREAS, the Anchorage residential building community utilizes this option saving residential builders and Municipality of Anchorage plan review staff time and resources; and

WHEREAS, current vacancies and reduced staff capacity within the Development Services Department pose serious concerns about the Municipality's ability to complete timely review of commercial development projects for the 2024 peak building season, which includes multifamily housing construction; and

WHEREAS, the intent of expanding utilization of third-party review for more types of development projects is not to discontinue a current function of the Municipality, eliminate current positions including vacancies, or absolve the Municipality of its responsibility for residents' health, safety and welfare, but is to allow for additional avenues to complete building permit approvals in a timely manner during periods of peak demand, and when there is reduced Municipal staff capacity such as the current situation; and

WHEREAS, this ordinance would provide applicants applying for a commercial building permit the option to use independent reviewing professionals for review of structural, architectural, mechanical and electrical plans, and provide similar savings and benefits as third-party residential plan review; now, therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 23.10.104.9. is hereby repealed and re-enacted in its entirety, to read as follows (*pursuant to AMC section 1.05.050B. a copy of*

the current text of the repealed section is attached as Exhibit A):

23.10.104.9 – Optional third-party plan review.

- A. General. An applicant for a residential or commercial building permit shall have the option for qualified third-party reviewing professionals to conduct the reviews listed under section 23.10.104.9.B. It shall not be the responsibility of the building official to review disciplines for building code compliance that have been reviewed and stamped in accordance with this section by qualified third-party professionals.

Exclusions: This option is not available for:

1. Risk category III and IV structures as defined in the International Building Code.
2. Structures exceeding 100 feet in height above grade plane.
3. Normally occupied buildings that are four or more stories or 45 feet or more above grade plane.
4. Buildings and structures owned or leased by the Municipality of Anchorage including the Anchorage School District.

- B. Review disciplines. The following review disciplines qualify for optional third-party plan review:

1. Structural review consisting of the review of structural plans and associated calculations for compliance with the building codes, local amendments, and referenced standards adopted under this Title.
2. Architectural review of the nonstructural provisions of the building codes, local amendments, and referenced standards, including review for compliance with the building envelope energy conservation code provisions, adopted under this Title. Review for compliance with the International Fire Code is performed by the Anchorage Fire Department and is excluded from this option.
3. Electrical review for compliance with the electrical code, local amendments, and referenced standards, including the electrical provisions of the energy conservation code, adopted under this Title.
4. Mechanical review for compliance with the mechanical, fuel gas and plumbing codes, local amendments thereto, and referenced standards, including the mechanical provisions in the energy conservation code, adopted under this Title.

- C. Reviewer qualifications. The department shall pre-qualify all reviewers, shall maintain a list of approved reviewers, and assign each a reviewer identification number. Only approved reviewers may perform the optional third-party plan review allowed under this section. A reviewer may qualify for more than one discipline. To apply for inclusion on the list, a person shall first submit an application on a form furnished by the department and include a resume detailing relevant experience. The department shall approve an applicant meeting the requirements set forth below and who has not had the person's state registration revoked or suspended by the

state in the previous five years. The minimum qualifications to perform review, by discipline, are as follows:

1. Structural review shall be performed by a professional engineer currently registered by the State of Alaska Board of Registration for Architects, Engineers and Land Surveyors as either a structural engineer or a civil engineer. A reviewing civil or structural engineer must be able to demonstrate a minimum of 5 years of structural engineering experience in Alaska or a similar climate and seismic zone as Anchorage.
2. Architectural review shall be performed by a professional architect currently registered by the State of Alaska Board of Registration for Architects, Engineers and Land Surveyors or by an engineer currently registered by the State of Alaska Board of Registration for Architects, Engineers and Land Surveyors possessing an International Code Council Building Plans Examiner certification. Review of plans for detached residential buildings with three or fewer dwelling units may be performed by an individual having an International Code Council Building Plans Examiner certification. A person performing architectural review must be able to demonstrate a minimum of 5 years of building design and/or review experience in Alaska or a similar climate.
3. Electrical review shall be performed by a professional engineer currently registered by the State of Alaska Board of Registration for Architects, Engineers and Land Surveyors as an electrical engineer. A reviewing electrical engineer must be able to demonstrate a minimum of 5 years of building electrical design experience in Alaska or a similar climate.
4. Mechanical, fuel gas and plumbing review shall be performed by a professional engineer currently registered by the State of Alaska Board of Registration for Architects, Engineers and Land Surveyors as a mechanical engineer. A reviewing mechanical engineer must be able to demonstrate a minimum of 5 years of building mechanical design experience in Alaska or a similar climate.

D. Process.

1. Reviews shall be conducted only by individuals selected from the department's list of approved review professionals.
2. No permit application will be accepted where a third-party review professional or a member of their household or immediate family serves as a designer of the project, is an employee of the firm or company acting as the engineer or architect of record for the project, or has a business or financial interest in the completed project. For purposes of this section, the definition of "immediate family" in the Ethics Code, section 1.15.180, shall apply.
3. Reviewing professionals shall be hired by the owner or the owner's authorized agent.
4. The applicant shall designate on the building permit application that the third-party plan review option has been elected and completed in accordance with this section and shall list each

- review discipline elected.
 5. Third-party reviews shall be finalized in advance of submitting the reviewed plans to the municipality.
 6. To be considered a complete third-party plan review, the reviewed plans shall be physically or electronically stamped "Reviewed for Code Compliance" by the third-party reviewer, with the stamp including the reviewer's name, signature, date and municipality designated third-party reviewer identification number assigned by the department.
 7. Change orders and deferred submittals shall be reviewed and approved by the third-party reviewers prior to submittal to the department.
- E. Letter of review. Each third-party plan reviewer shall submit a signed letter of review to accompany the permit application. The letter shall include:
1. Description of the scope of work and scope of review.
 2. Detailed description of the reviewer's design and review experience relevant to the specific project.
 3. List of comments, issues identified and corrections made to the completed plans, and
 4. Notes and calculations required by this title from the plan review process.
 5. Statement the reviewer accepts responsibility for the review and does not have a conflict of interest prohibited by subsection D.2.
 6. Statement the reviewer indemnifies, holds harmless and shall defend the municipality from and against all claims, damages, losses and expenses, including but not limited to attorney fees and costs, arising out of or resulting from the performance of the review, to the fullest extent permitted by law. This statement shall be in a form approved by the municipal risk manager and be executed by (a) the reviewing professional; (b) the building construction contractor; and (c) the current owner of the property and any party under contract to purchase the property within a year of its completion.
- F. Restriction of authority. Third-party reviewing professionals do not have authority to approve code modifications or alternative materials, designs, and methods of construction and equipment as defined in this Title. Any request for consideration of code modifications or alternative materials, designs, and methods of construction and equipment shall be submitted to the building official for approval prior to or with the permit application.
- G. Auditing.
1. The building official may audit the reviews conducted by third-party reviewing professionals as necessary to enforce the provisions of this Title.
 2. The building official shall audit a minimum of 10 percent of the reviews submitted under this optional third-party plan review process.

H. Revocation of privilege. The building official may revoke the approved reviewer status of any individual who has their registration suspended or revoked by the state, is found to have provided materially false statements or information on the reviewer application or in a letter of review, or who commits fraudulent acts in the course of providing plan reviewer services. False statements are punishable as unsworn falsification under applicable law. The building official shall provide the person a reasonable opportunity to respond to the grounds for revocation before making a final decision. The building official's final decision under this subsection shall be provided in writing as a notice to the individual consistent with section 23.10.103.3.3.

(AO No. 2020-85, § 1, 10-27-20; AO No. 2021-88(S), § 3, 2-15-22)

Section 2. Anchorage Municipal Code 23.10. Table 3-B, Plan Review Fees, is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

23.10. Table 3-B – Plan review fees.

1. Commercial Plan Review Fees	
A. Building Safety	
(1) Plan review	\$0.0031 valuation with a minimum of \$75
(2) Pre-approved plan review for new buildings	\$0.0017 * Valuation with a minimum of \$75 (In lieu of item A. (1))
(3) Plan review fee for Group R-2 occupancies with 4 or fewer dwelling units (four-plexes)	\$0.005 * Valuation with a minimum of \$75
(4) <u>Optional commercial plan review by third-party reviewing professionals, one or more disciplines</u>	<u>\$0.0024 * Valuation with a minimum of \$75 (In lieu of item A.(1))</u>
B. Land Use Plan Review	15% of the permit fee under Table A with a \$75 minimum fee
C. Fire Department	\$0.0011 * Valuation with a minimum of \$75
2. Residential Plan Review Fees	
A. Building Safety	
(1) Plan Review	\$0.005 * Valuation with a minimum of \$75
(2) Pre-Approved Plan Review	\$0.003 * Valuation with a minimum of \$75
(3) <u>Optional residential plan review by third-party</u>	<u>\$0.003 * Valuation with a</u>

[SINGLE-FAMILY, TWO-FAMILY, AND THREE-UNIT REVIEWED BY INDEPENDENT] reviewing professionals	minimum of \$75
B. Land Use Plan Review	15% of the permit fee under Table 3-A with a minimum of \$75
C. Fire Department optional residential fire plan review for Wildland Urban Interface	\$0.002 * Valuation with a minimum of \$75
***	***

(AO No. 2020-85 , § 1, 10-27-20; AO 2023-130(S), § 1, 1-16-24)

Section 3. The Development Services Department shall submit a report to the Assembly by October 1 annually regarding the efficacy of this ordinance, including **audit results**, the number of independent plan reviews completed, the number of plan reviews completed by staff, any findings or deficiencies identified of the third-party reviewed plans audited by the Department, and any other findings and information regarding the third-party review option that the Department deems relevant for the Assembly's consideration of extension of this privileged option beyond the sunset date. This reporting requirement shall terminate with the 2026 report.

Section 4. This ordinance shall sunset on December 31, 2025 and be automatically repealed unless reauthorized by the Assembly. Repeal shall reinstate the text of section 23.10.104.9., inclusive of amendments subsequent to passage of this ordinance, current immediately prior to adoption of this ordinance, as shown in Exhibit A. Projects under review as of the sunset date by third parties as authorized under this ordinance may be completed without regard to the sunset date. **The Municipal Clerk shall place an ordinance to reauthorize this ordinance on the agenda for a regular Assembly meeting no later than October 15, 2025, consistent with AMC section 1.05.110.**

Section 5. This ordinance shall become effective immediately after passage and approval by the Assembly. This ordinance shall only be effective as to new permit applications submitted after the effective date.

PASSED AND APPROVED by the Anchorage Assembly this 27th day of February, 2024.



Chair

ATTEST:



Municipal Clerk



MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 167-2024

Meeting Date: February 27, 2024

From: Assembly Members Cross, Sulte and Brawley

Subject: AO 2023-136(S): AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING BUILDING CODES AT ANCHORAGE MUNICIPAL CODE CHAPTER 23.10, ANCHORAGE ADMINISTRATIVE CODE 2018 EDITION, TO REPEAL AND REENACT AMC SECTION 23.10.104.9. TO REORGANIZE THE SECTION AND ALLOW OPTIONAL INDEPENDENT THIRD-PARTY PLAN REVIEW [OF STRUCTURAL DESIGN] FOR COMMERCIAL BUILDING PERMITS ALONG WITH CURRENTLY ALLOWED THIRD-PARTY RESIDENTIAL PLAN REVIEW, AND PROVIDE A SUNSET DATE.

This supplemental memorandum is provided with the (S) version of the ordinance pursuant to AMC 2.30.050E. The original AO 2023-136 excluded review of plans for “significant structures” from the option for an independent plan reviewing professional. The proposed (S) version included significant structures in this option only if the reviewing professional is able to demonstrate they have a proven record of experience and professional performance in the field of structural engineering, including with significant structure designs.

This (S) version is a substantial and significant rewrite of the proposed ordinance, and of the existing AMC section 23.10.104.9 (attached), which has been repealed and reenacted. Because legislative markup of the changes would render the document unduly complicated and confusing, it is presented as a clean new ordinance, and the significant changes are described in this memorandum. The Acting Building Official prepared an initial draft of this (S) version.

The proposed (S) version has the following differences from the original ordinance and (S) version:

- Reorganizes AMC section 23.10.104.9. so it addresses residential and commercial plan reviews cohesively, with particular treatment of each noted where applicable. The original proposed AO 2023-136 and (S) version had amended the Code section by leaving existing residential plan review in subsection A., and separately adding a subsection B. for commercial plan review, which much repetition and redundancy between the two subsections in this unnecessary dichotomy. The reorganized section is more efficient and readable, and reduces confusion by eliminating redundancy.
- Allows all disciplines of building construction trades, except for fire suppression systems, to be reviewed by third-party professionals: structural, architectural, electrical, and mechanical. (p. 2 line 9) The original proposed

ordinance only allowed structural plan review to be conducted by a third party, so the scope of this (S) is broadened significantly.

- Unlike the original and (S) version which allowed a permit applicant to select any person meeting the Code qualifications and different than the plan drafter/designer, the (S) limits the selection of third-party reviewing professional to those on a list pre-approved by the Building Official. A person denied inclusion on the list may appeal the decision to the Board of Building Regulation Examiners and Appeals under AMC section 23.10.103.4.1. The (S) requires a third-party reviewer to demonstrate at least 5 years of experience working as a licensed engineer or architect in the discipline they qualify, while the original ordinance and current Code only required some experience and did not specify a minimum number of years. The (S) version would require four or more years of experience in structural plan designs to qualify for significant structures reviews only. The (S) version has a significantly higher standard for reviewing professionals to qualify.
- Excludes from this third-party plan review option (p. 2 line 1). The first three categorical exclusions combined are almost identical to structures within the “significant structures” definition in state regulations, and thus these are similar to the original ordinance’s exclusion of them. The (S) version would allow third-party structural plan review of significant structures. The fourth category in the exclusions for those owned by the Municipality or school district is intended to keep plan review of our own buildings limited to Municipal reviewing professionals, and was not in the original or (S) version. A full description of the exclusions follows:
 - Risk category III and IV structures. These are defined in the International Building Code, 2018 edition, which sets out four risk categories based on the risk associated with unacceptable performance under determined flood, wind, snow, ice and earthquake loads. The descriptions in IBC § 1604.5 are:

III	<p>Buildings and other structures that represent a substantial hazard to human life in the event of failure, including but not limited to:</p> <ul style="list-style-type: none"> • Buildings and other structures whose primary occupancy is public assembly with an occupant load greater than 300. • Buildings and other structures containing Group E occupancies with an occupant load greater than 250. • Buildings and other structures containing educational occupancies for students above the 12th grade with an occupant load greater than 500. • Group I-2, Condition 1 occupancies with 50 or more care recipients. • Group I-2, Condition 2 occupancies not having emergency surgery or emergency treatment facilities. • Group I-3 occupancies. • Any other occupancy with an occupant load greater than 5,000.^a • Power-generating stations, water treatment facilities for potable water, wastewater treatment facilities and other public utility facilities not included in Risk Category IV. • Buildings and other structures not included in Risk Category IV containing quantities of toxic or explosive materials that: Exceed maximum allowable quantities per control area as given in Table 307.1(1) or 307.1(2) or per outdoor control area in accordance with the International Fire Code; and Are sufficient to pose a threat to the public if released.^b
IV	<p>Buildings and other structures designated as essential facilities, including but not limited to:</p> <ul style="list-style-type: none"> • Group I-2, Condition 2 occupancies having emergency surgery or emergency treatment facilities. • Ambulatory care facilities having emergency surgery or emergency treatment facilities. • Fire, rescue, ambulance and police stations and emergency vehicle garages. • Designated earthquake, hurricane or other emergency shelters. • Designated emergency preparedness, communications and operations centers and other facilities required for emergency response. • Power-generating stations and other public utility facilities required as emergency backup facilities for Risk Category IV structures. • Buildings and other structures containing quantities of highly toxic materials that: Exceed maximum allowable quantities per control area as given in Table 307.1(2) or per outdoor control area in accordance with the International Fire Code; and Are sufficient to pose a threat to the public if released.^b • Aviation control towers, air traffic control centers and emergency aircraft hangars. • Buildings and other structures having critical national defense functions. • Water storage facilities and pump structures required to maintain water pressure for fire suppression.

- Structures exceeding 100 feet in height above grade plane. These are one of the characteristics of “significant structures” defined in state regulation. 12 AAC 36.990(a)(44).
- Normally occupied buildings four or more stories or 45 or more feet above grade plane. Similar to the previous category, these are listed in the definition of significant structures.

- The professional liability insurance coverage and limits requirements in current code and for the proposed ordinance are omitted. The Building Official does not believe it is necessary as a code requirement.
- Audits. The building official is required to audit a minimum of ten percent of **all** the third-party plan reviews submitted under this process. The original ordinance only required ten percent of the structural plan reviews to be audited, the (S) includes all of the review disciplines as well as residential plan reviews. Both versions and current Code authorize the Building Official to audit third-party reviewed plans “as necessary to enforce” the building codes, but the minimum amount of mandated audits conducted annually is the changing threshold from the original to the (S) version. In addition, the original ordinance required the building official to audit a plan submitted upon request of the owner or owner’s authorized agent and that is omitted from the (S) version.
- The annual reporting to the Assembly requirement in Section 3 is terminated

after 3 years, or the 2026 report. Nothing prevents the Assembly from requiring further reporting at that time if it seems necessary.

As noted in prior memoranda, third-party plan review of residential projects is already in place in Municipal Code. This ordinance expands the scope to commercial projects, and other types of review, which is in line with many peer local governments. Third-party or independent plan review is a common tool used by cities and counties across the country, with these services even being offered by affiliates of the ICC (International Code Council) as a professional contract service. An article about this tool, *Successful Strategies for Improving Compliance with Building Energy Codes, Third-Party Plan Review*, is attached as Exhibit B. The specifics vary by jurisdiction, but common themes across multiple programs include:

- Projects allowed to have third party review are often large (high value) and/or complex developments, with many factors.
- The jurisdictions themselves still seem to have staffed departments who deal with reviews, it is offered as an option.

Often the building safety department of a jurisdiction maintains the list of approved or qualified reviewers, including some with a registration process. Some also have periodic training requirements to maintain their qualifications.

The intents, purposes, and benefits of utilizing third-party plan reviews described in the memoranda with the original ordinance, the (S) version, and AO 2022-100 apply equally to this (S) version. However, the broader scope, cleaner language and code structure, higher qualification standards, and slightly lighter burden on plan reviewers are justification for supporting this latest version.

We request your support for the (S) version of the ordinance.

Prepared by: Assembly Counsel's Office

Respectfully submitted: Kevin Cross, Assembly Member

District 2 - Eagle River, Chugiak and JBER

Randy Sulte, Assembly Member

District 6 – South Anchorage, Girdwood & Turnagain Arm

Anna Brawley, Assembly Member

District 3 – West Anchorage

Attachments: Exhibit A: AMC 23.10.104.9. current text being repealed
Exhibit B: *Successful Strategies for Improving Compliance with Building Energy Codes, Third-Party Plan Review*, Institute for Market Transformation (Fall 2011).

23.10.104.9 Optional residential single-family and two-family plan review.

For residential single-family or two-family permit applications, the permit applicant shall have the qualified option for independent reviewing professionals, as described in subsection B below, to accept responsibility for plan review and building code compliance for the permit. For permit applications submitted under this provision, it shall not be the responsibility of the building official to review the application for compliance with applicable building codes. The building official shall conduct or cause to be conducted reviews for zoning, address, flood, NPDES, storm water and any other reviews necessary for the project.

- A. The applicant's exercise of the option and the identity of the independent reviewing professionals shall be designated on the building permit application in accordance with this section.
- B. Plan review shall be conducted by independent reviewing professionals as follows:
 - 1. Review of the structural plans and calculations shall be conducted by a professional engineer currently registered by the State of Alaska Board of Registration for Architects, Engineers and Land Surveyors as either a structural engineer or a civil engineer. A reviewing civil engineer must be able to demonstrate experience in structural engineering.
 - 2. Review of the plans for fire code compliance and building safety shall be conducted by either (i) an individual certified as a Building Plans Examiner or Residential Plans Examiner by the International Code Council (ICC), or (ii) a professional architect registered by the State of Alaska Board of Registration for Architects, Engineers and Land Surveyors.
 - 3. The structural review and the review for fire code compliance and building safety may be conducted by a single individual if that individual meets the certification requirements set forth in both subsections B.1 and B.2, above.
 - 4. No application will be accepted where an independent reviewing professional has also served as the designer or builder of the project.
- C. A complete building permit application reviewed pursuant to this section shall include:
 - 1. Complete building plans and structural calculations;
 - 2. Plot plan;
 - 3. Completed storm water discharge permit application;
 - 4. Letter of review signed by the appropriate independent reviewing professional demonstrating experience in structural engineering certifying structural plans, calculations, fire code compliance, building safety, accepting responsibility for plan review, as required by this section;
 - 5. Signed release of liability, as required by this section; and
 - 6. Any geotechnical reports required by Titles 21 and 23 of the Anchorage Municipal Code.
- D. The plans, calculations and all documents required under this section may be submitted electronically via the department's electronic plan review software known as eplans.
- E. The building official shall confirm the application includes the materials required by sections 23.10.104.9 and 23.10.104.10. If complete and compliant with Title 21 regulations, the application shall be accepted, and the building official shall issue the permit provided that:
 - 1. The permit application demonstrates the plans and specifications for residential single-family and/or two-family dwellings have been reviewed by independent reviewing professionals. Each reviewing professional must submit a signed letter of review with the plans describing the scope

- of their review and including the details of their credentials to conduct such review. Each reviewing professional must include their registration number and the related expiration date.
2. The permit applicant and the independent reviewing professionals confirm in writing that the independent reviewing professionals accept responsibility for the plan review.
 3. Each independent reviewing professional either:
 - a. Submits to the building official, in concert with the letter of review, a waiver of claims against the Municipality of Anchorage for all damages, losses and expenses, arising out of or resulting from the performance of the review, to the fullest extent permitted by law and on a form satisfactory to the Municipality of Anchorage Office of Risk Management, executed by (i) the reviewing professional; (ii) the building construction contractor; and (iii) the current owner of the property and any party under contract to purchase the property within a year of its completion; or
 - b. Provides proof that they maintain professional liability insurance meeting each of the following requirements:
 - i. Plan review and building code compliance review under Anchorage Municipal Code are within the scope of the professional liability insurance coverage.
 - ii. The professional liability insurance provides a minimum of \$250,000 in coverage.
 - iii. Coverage extends for no less than two years from completion of the project construction. If the existing policy does not extend for the duration of this period, the independent reviewing professional must specify in his or her reviewing letter when the policy expires and that it will be renewed to ensure continuous coverage for no less than two years from the date of completion.
 4. Each independent reviewing professional indemnifies, holds harmless and states they shall defend the Municipality of Anchorage from and against all claims, damages, losses and expenses, including but not limited to attorney fees and costs, arising out of or resulting from the performance of the review, to the fullest extent permitted by law.
- F. Reviewing professionals do not have authority to approve code modifications or alternative materials, designs, and methods of construction and equipment as defined in this code. Any request for consideration of code modifications or alternative materials, designs, and methods of construction and equipment shall be submitted to the building official for approval prior to or along with the permit application under the optional process.
- G. The building official may revoke the privilege afforded by this section of any individual who displays incompetence or lack of knowledge in matters relevant to the design and construction of one- and two-family dwellings, or who commits fraudulent acts.
- H. The building official may audit the reviews conducted by independent reviewing professionals as necessary to enforce the provisions of this code.

(AO No. 2020-85 , § 1, 10-27-20; AO No. 2021-88(S) , § 3, 2-15-22)

Code Compliance Strategies



**Successful strategies for improving
compliance with building energy codes**

Third-Party Plan Review

Fall 2011



- 1 Building owner or developer hires plan reviewer for their project from a list of certified plan reviewers.
- 2 Construction documents are submitted to the plan reviewers for review.
- 3 Construction documents are reviewed by plan reviewers and necessary corrections are made by the designer before being certified.
- 4 Construction documents are submitted to city or state officials and are given highest priority for review and permit issuance.
- 5 When corrections have been made to all deficient items, the drawings are approved and permits are issued.

This compliance model seeks to reduce the expense to a state or local building department, and increase the level of quality assurance for plan reviews, by utilizing third-party plan reviewers. Often this compliance model will benefit the builder or developer by providing an expedited plan review process, and will benefit the local jurisdiction by realizing tax revenue from the completed project sooner than under the traditional model.

Strategy Overview

Many states and jurisdictions offer the option for third-party plan reviews, often enabling large projects with extensive construction plans to complete the plan review process in half the standard time. When the developer hires a third-party plan reviewer (at an average cost of \$560ⁱ) to ensure that construction documents conform to the requirements of the building code, the project is typically granted priority status for the local jurisdiction plan review. Local jurisdictions may or may not choose to lower permit fees when a third-party plan reviewer is used. As a safeguard, plan reviewers must not be involved in any part of the design or preparation of construction documents.

Training

Third-party plan reviewers should hold valid and current licenses as professional engineers or architects. In addition, certification, training, and continuing education for plan reviewers should be required. Initial certification through the International Code Councilⁱⁱ is usually required for various components (building, mechanical, plumbing, electrical, and energy). Four hours of continuing education training annually is a common standard. An increasingly popular approach to code update training at the state level is online education, which has no commuting or fixed time re-

\$560

**Average cost of
hiring third-party
plan reviewer**

quirements. In the state of Virginia, statewide continuing education and code update training are covered by 2% of permit fees.

Consequences

Certification as a plan reviewer can be revoked for consistently recommending non-compliant plans, not following program guidelines, or not maintaining the minimum qualifications for certification. Prior to revocation of certification, a jurisdiction may opt to issue warnings or enforce a temporary suspension. The jurisdiction should specify the consequences for unsatisfactory performance and any appeals process when a third-party plan review program is implemented.

Requirements for Implementation

- As with all third-party code enforcement methods, continuing education and training are required to keep up with changing codes.
- There must be a pool of qualified plan reviewers, or at a minimum, training available for potential plan reviewers.
- The jurisdiction must establish a process for evaluating and approving third-party plan reviewers and a process for quality assurance.

Options for Implementation

- To prevent conflict of interest, a governing body may choose to contract a single third party to conduct expedited plan reviews, rather than allowing the owner to choose the third-party plan reviewer.
- Informing architects, engineers, and licensed design professionals of the consequences of incorrect plan reviews provides an added measure of quality assurance.
- In addition to standard ICC certification requirements, jurisdictions may choose to require initial training that is specific to the local building code or other local ordinances.
- Specific certification requirements may be established by the building official for the person or agency submitting such reports.
- Building owners wishing to further expedite the plan review process may submit their plans throughout the design phase to a plan reviewer.
- Third-party plan review can also be combined with third-party inspections.

55

Number of
approved
third-party
plan reviewers
in Fairfax
County,
Virginia

Benefits

- Local and state plan reviewers provide a level of quality assurance over the third-party plan reviewers.
- Fewer plan reviewers should be needed in state or local building departments as a result of third-party plan reviewers conducting extensive plan reviews, while the building departments are simply auditing plans for quality assurance.
- The plan review process is often shortened for builders and developers, reducing costs and timelines for large-scale projects.
- A faster plan review process expedites project completion, which means that the completed building appears on the jurisdiction's tax rolls sooner as well.

Challenges

- Energy conservation requirements tend to be overlooked when plan reviewers are responsible for multiple building components (i.e. life safety and structural code requirements).
- Oversight and administration of third-party plan reviewers can be burdensome to building officials.
- It may take time for a local jurisdiction to develop a level of trust with the quality of the third-party plan reviewers.

Selected Examples

>> Fairfax County, Virginia

- Three continuing education courses are required for third-party plan reviewers each year. These 70-minute courses are offered on a weekly basis. Additionally, web-based code update training is required with the implementation of new codes.
- The county has approved 55 third-party plan reviewers.
- A single building official is responsible for oversight of expedited plan reviews, spending just 15% of his/her time on these duties.
- The penalty for consistently recommending non-compliant plans, not following program guidelines, or not maintaining the minimum qualifications for certification is the suspension of the third party's approval status.
- When third-party approved plans are found to be significantly invalid, the plan reviewer is required to meet with building code officials to discuss the discrepancies between the plans and codes.

>> Dayton, Ohio

- The city designates a single third party to conduct an alternative plan review to avoid conflict of interest.
- Applicants must meet with the building official to get approval to use a third-party plan reviewer.
- Only structures regulated by the Ohio Building Code (new or remodel) can use this service.
- This optional approach was created to speed up plan review for time-sensitive projects.
- The owner pays for the third-party plan review in addition to the city's normal permit fees.

>> Washington, D.C.

- In order to be certified to participate in the Third Party Plan Review Program, each party seeking to qualify as a Third Party Plan Review Agency must submit an application to the Department of Consumer and Regulatory Affairs so its qualifications can be evaluated.
- The property owner or their agent is responsible for contracting with an approved third-party plan reviewer.
- The city provides a Third Party Plan Review Procedure Manualⁱⁱⁱ which establishes an application process, minimum qualifications, and duties and responsibilities for third-party plan review agencies as well as quality assurance procedures and a process to remove third parties from the program for inadequate performance.
- Approved third-party plan review agencies may review plans for the following disciplines: elevators, structural/non-structural, mechanical, plumbing, electrical, fire and life safety, green compliance review.
- Permit fees remain the same regardless of whether a third-party or the city conducts the plan review.
- The city also allows for the use of third-parties for inspections.

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References

- i. This value was determined using the assumption that third-party plan reviews (structural, mechanical, electrical, plumbing, accessibility, and fire safety) take an average of 8 hours at an average cost of \$70 per hour.
- ii. <http://www.iccsafe.org/Accreditation/Pages/safetyprofexams.aspx>
- iii. <http://dcra.dc.gov/DC/DCRA/Permits/Third+Party+Plan+Review+Program>

About the Institute for Market Transformation

The Institute for Market Transformation (IMT), founded in 1996, is a Washington, D.C.-based 501(c)(3) nonprofit organization promoting energy efficiency, green building, and environmental protection in the United States and abroad. The prevailing focus of IMT's work is energy efficiency in buildings. In particular, IMT aims to strengthen market recognition of the link between building energy efficiency and financial value. Our activities include technical and market research, policy and program development, and promotion of best practices and knowledge exchange. IMT is the U.S. hub of the Global Buildings Performance Network. For more information, visit www.imt.org.

About the Global Buildings Performance Network

The Global Buildings Performance Network (GBPN) has a mission to significantly reduce greenhouse gas emissions associated with building energy use by

- Promoting best practices in building energy efficiency and performance
- Offering world class energy efficiency expertise to policy makers and business leaders
- Advancing policies and programs that promote low carbon, energy efficient buildings worldwide

The GBPN operates in the United States, Europe, China, and India with its Global Centre in Paris. For more information, visit www.globalbuildings.org.