



**APPENDIX E
APPEALS
NORTH CAROLINA
BUILDING CODE COUNCIL**

322 Chapanoke Road, Suite 200
Raleigh, North Carolina 27603
(919) 661-5880

APPEAL TO NCDOI/NCBCC

Hearing Date _____/_____/_____

GS 153A-374, GS 160A-434
Formal Interpretation by NCDOI _____
Appeal of Local Decision to NCDOI _____

GS 143-140, GS 143-141
Appeal of Local Decision to NCBCC _____
Appeal of NCDOI Decision to NCBCC _____

APPELLANT _____ PHONE (____)____ - _____ X _____.
REPRESENTING _____
ADDRESS _____
CITY _____ STATE _____ ZIP _____
E-MAIL _____ FAX (____)____ - _____.

North Carolina State Building Code, Volume _____ - Section _____

REQUEST ONE: Formal Interpretation by NCDOI Appeal of Local Decision to NCBCC
 Appeal of Local Decision to NCDOI Appeal of NCDOI Decision to NCBCC

Type or print. Include all background information as required by the referenced General Statutes and the attached policies. Attach additional supporting information.

REASON:

Signature _____ DATE: _____ APPEAL TO NCDOI/NCBCC FORM 1/1/06

202.9 Appeals.

202.9.1 Engineering division. A written technical interpretation shall be provided as specified in Section 203.1.2.1.2. Any person may appeal in writing an order, decision, or determination pertaining to the code or any state building law by filing written notice with the Commissioner of Insurance or his designee within 10 days after the order, decision, or determination. A copy of the appeal shall be furnished to each party.

(General Statutes 143-140, 153A-374 and 160A-434)

203.1.2.1 Interpretations.

203.1.2.1.1 Informal interpretations. The Engineering Division shall provide informal interpretations on code related matters either by e-mail, letter or telephone. These informal interpretations may be accepted by the local code enforcement official or party requesting the interpretation. Either party may request a formal interpretation of the code.

203.1.2.1.2 Formal interpretations. Any person may request in writing a formal interpretation of the code. The request shall be addressed to the Chief Code Consultant for the Department of Insurance. The request shall be specific and shall reference the code sections in question. All formal interpretations shall be in writing. A formal interpretation shall be binding on all parties unless appealed to the Building Code Council as specified in Section 201.9.2. Formal interpretations determined to be of a general nature may be posted on the department website. (General Statute 143-140)

203.1.2.2 Appeals. Any person may appeal in writing an order, decision, or determination of a code enforcement official pertaining to the code or any state building law. The appeal shall be addressed to the Chief Engineer for the Department of Insurance by filing written notice within 10 days after the order, decision, or determination. The appeal shall contain the type and size of the building in question, the location of the building, and shall reference the code sections in question. The decision shall be in writing and shall set forth the facts found. The decision rendered shall be based on the technical provisions of the code, public health and safety and shall be construed liberally to those ends. A decision shall be binding on all parties unless an appeal is submitted to the Building Code Council as specified in Section 202.9.2. A copy of the appeal and written decision shall be furnished to each party.

(General Statutes 153A-374 and 160A-434)

202.9.2 Building Code Council. The Building Code Council shall hear appeals from the decisions of a state enforcement agencies relating to any matter related to the code. Any person wishing to appeal a decision of a state enforcement agency to the Building Code Council shall give written notice of appeal as follows:

202.9.2.1 Twenty one copies including an original of the Notice of Appeal shall be filed with the Building Code Council c/o NC Department of Insurance, Engineering

Division, 322 Chapanoke Road, Suite 200, Raleigh, NC 27603 and one copy shall be filed with the State enforcement agency from which the appeal is taken.

202.9.2.2 The Notice of Appeal shall be received no later than thirty (30) days from the date of the decision of the State enforcement agency.

202.9.2.3 The Notice of Appeal shall be legibly printed, typewritten or copied and shall contain the following:

- (1) Name, address of the party or parties requesting the appeal.
- (2) The name of the State enforcement agency, the date of the decision from which the appeal is taken, and a copy of the written decision received from the enforcement agency.
- (3) The decision from which the appeal is taken shall be set forth in full in the Notice of Appeal or a copy of the decision shall be attached to all copies of the Notice of Appeal.
- (4) The contentions and allegations of fact must be set forth in full in a clear and concise manner with reference to the sections of the code in controversy.
- (5) The original Notice of Appeal shall be signed by the party or parties filing appeal.
- (6) The Notice of Appeal shall be received by the first day of the month prior to the Building Code Council's quarterly scheduled meeting in order to be placed on the agenda for that meeting. The Chairman may schedule a special meeting to hear an appeal.

202.9.2.4 Upon the proper filing of the Notice of Appeal, the Building Code Council Secretary shall forward one (1) copy of the Notice of Appeal to each member of the Building Code Council. The Chairman may appoint a Hearing Committee to hear appeals. The Secretary shall send notice in writing to the party or parties requesting an appeal and to the Building Code Council Hearing Committee members at least 15 days prior to the Hearing Committee meeting. A written decision of the Hearing Committee meeting shall be provided to all Building Code Council Members. The actions of the Hearing Committee shall be final, unless appealed to the full Building Code Council in writing within 30 days of the Hearing Committee's action. If a Hearing Committee consists of at least seven council members, it will constitute a quorum of the full council. Further appeals shall be as specified in Section 202.9.3.

202.9.2.5 The Building Code Council shall, upon a motion of the State enforcement agency or on its own motion, dismiss appeals for the following reasons:

1. Not pursued by the appellant or withdrawn;
2. Appeal not filed in accordance with these rules; or
3. Lack of jurisdiction.

202.9.2.6 When the Building Code Council finds that a State enforcement agency was in error in its interpretation of the code, the Building Code Council shall remand

the case to the agency with instructions to take such actions as the Building Code Council directs. When the Building Code Council finds on appeal that materials or methods of construction proposed are equivalent to those required by the code, the Building Code Council shall remand the case to the State enforcement agency with instructions to permit the use of such materials or methods of construction. The Building Code Council shall immediately initiate procedures for amending the code to permit the use of such materials or methods of construction.

202.9.2.7 The Building Code Council shall provide a written decision setting forth the findings of fact and the Building Code Council's conclusions to each party or parties filing the appeal and to the state enforcement agency from which the appeal was taken.

202.9.3 Superior court. Whenever any person desires to appeal a decision of the Building Code Council or a decision of a State or local enforcement agency, he may appeal either to the Wake County Superior Court or the Superior Court of the county in which the proposed building is to be situated in accordance with the provisions of Chapter 150B of the General Statutes.

[(General Statute 143-141(d)]

