

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Building Code Council

RULE CITATION: 2024 North Carolina Existing Building Code, All Provisions

DEADLINE FOR RECEIPT: TBD

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In their comment in opposition to the NC Energy Conservation Code, the NC Homebuilders Association encloses an email exchange between their director of Codes and Construction, Cliff Isaac, and staff at the Building Code Council regarding the Council's failure to incorporate a statutory exemption into the NC Energy Conservation Code.

In the final email of the exchange, Building Code Council member Kim Wooten states:

[t]here are many examples of building codes and state statutes not in agreement. The NCBCC adopts codes for the general welfare of the public per statute. The General Assembly may make laws that contradict codes and may affect the general welfare of NC citizens, but that effort is independent of the NCBCC (emphasis added).

In light of this statement, please disclose any and all provisions of the 2024 NC Existing Building Code that the Council is aware are "not in agreement" with the laws of the State of North Carolina.

In your Submission of Permanent Rule Form, you've said that no fiscal note is necessary for the 2024 Existing Building Code, and that the changes to the Code do not create a substantial economic impact. However, there appear to be changes throughout the Code that impose more stringent requirements than the existing language. Would these changes not have an aggregate effect of \$1 million across the state? Also, to the extent that those apply to residential buildings, do these changes not increase the cost of a residential housing unit by more than \$80?

I noticed there were a few places in the text where new language was colored blue. I assume its just a formatting error, and I don't think you need to waste time changing it at this stage, unless somehow you intended a hyperlink in those areas.

Brian Liebman
Commission Counsel

Date submitted to agency: June 4, 2024

Throughout the text, I noticed references to provisions of the “ICC”. It appears from Ch. 16 that this refers to the International Code Council, so I just wanted to clarify that any reference to the ICC is not to a NC code, but to a separate regulation promulgated by the ICC?

In multiple provisions, the Council uses the following ungrammatical construction or a variant thereof: “...the existing structure is not less complying with the provisions of the Building Code....” I’ve called out specific examples below, but please search the text and correct any instance I’ve missed.

Several individual provisions and full sections are appended with asterisks. I can’t find an explanation for that in the text. Please explain what the significance of the asterisks are.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Building Code Council

RULE CITATION: 2024 North Carolina Existing Building Code, Ch. 1

DEADLINE FOR RECEIPT: TBD

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In 101.10, the Council incorporates G.S. 143-138(i), which deals with a number of topics for high rise buildings. I see that 101.10 states that 143-138(i) is a minimum requirement. If this Code provides a different requirement than 143-138(i), which requirement controls? Consider revising to specifically address this.

In 143-138(i), Section 1008(a) refers to "Section 506". Is this cross-reference, and any other in the statute, still accurate?

In 143-138(j), there are additional conditions on the application of 143-138(i) for particular occupancies. Are these incorporated into the Code?

Also in 143-138(j), it states that "the Council shall adopt rules that allow a business occupancy building built prior to 1953 to have a single exit to remain if the building complies with the North Carolina Building Code on or before December 31, 2006." I did not see any reference to this in the Code. Is this incorporated in some way I did not perceive?

In 101.11, instead of "the provisions for accessibility of this code for Group R-3", consider a direct cross-reference for clarity.

In 101.12, item 1, uncapitalize "IS" before "Group F, S, or U."

In 101.12, you need to acknowledge the exemption for certain commercial buildings from the current iteration of the Energy Conservation Code in G.S. 143-138(b15). This would also be appropriate to include in Section 1104, given its application to additions.

In 104.10.1, item 1, what constitutes "good and sufficient cause"?

In 104.10.1, item 2, what constitutes "exceptional hardship"?

In 104.10.1, item 3, what is an "extraordinary" public expense?

Brian Liebman

Commission Counsel

Date submitted to agency: June 4, 2024

In 104.10.1, item 5, is this really part of a determination that the code official must make? Consider moving this off the list and making it an independent paragraph.

In 104.11, please define “satisfactory” and explain by what standard the code official would use to determine this.

Separate Amendment to 101.2

I do not know what this new exception means. What is the building exempted from? The Building Code? If so, how would it be “in compliance with North Carolina State Building Codes”? Please revise for clarity.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Building Code Council

RULE CITATION: 2024 North Carolina Existing Building Code, Ch. 2

DEADLINE FOR RECEIPT: TBD

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In reviewing this Rule, the staff recommends the following changes be made:

In the definition of “Disproportionate Earthquake Damage”, is “SS” the name of a specific parameter?

In the definition of “Existing Building”, what is the difference between a building that is currently legally occupied and one that was once legally occupied and is now vacant? Is there a third option that this definition is excluding? Otherwise, what work is this definition doing?

In the definition of “Rehabilitation”, where are the categories of work defined? Consider a more specific cross-reference.

The definition of “unsafe” just points to the NC Administrative Code and Policies. I see nothing in the Admin Code defining “unsafe”. Please either add a definition or amend the reference to point to a definition.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Building Code Council

RULE CITATION: 2024 North Carolina Existing Building Code, Ch. 3

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In reviewing this Rule, the staff recommends the following changes be made:

In 301.1, the new text is in blue. Just making sure this isn't an attempt to make this a hyperlink.

In 301.1.1, the text is deleted, including the title, and there are two lines of new text under the deletion. I'm assuming "Bleachers, grandstands..." is the new title, but it's not formatted that way.

In the exception to 301.3, consider "Buildings constructed prior to the existence... shall be considered in compliance with the laws...."

In 302.3, what standards will the code official use to determine whether materials are "unsafe"? Also, italicize "code official".

Can you explain your statutory authority for 304.2? What does Section 7.12 of ASCE 7 provide for? Does the BCC have the authority to empower the code official to take any action under Section 7.12?

In 306.2, when would this Code be applicable over ICC A117.1, and vice versa? What does "as applicable" mean in this context?

After 306.2 and 306.7, I'm assuming the parenthetical "(Revisit after the review of IBC Chapter 11)" is extraneous. Otherwise, what does this mean?

In Exception 3 to 306.5, "technically feasible" is italicized but the term is not defined. What is the definition of "technically feasible"?

In Exception 1 to 306.7.1, what does it mean that the costs "are not required to exceed" 20 percent of the costs of alterations? Are there requirements elsewhere as to how much must be spent on a particular phase of a project? Or does this mean that the owner need not provide an accessible route if costs exceed 20% of the project? Please revise for clarity.

Brian Liebman
Commission Counsel

Date submitted to agency: June 4, 2024

Section 310 appears to be incomplete or otherwise lacks clarity. It does not make sense to say “the provisions of Section 310 shall comply with the International Building Code.” Please revise.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Building Code Council

RULE CITATION: 2024 North Carolina Existing Building Code, Ch. 4

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In reviewing this Rule, the staff recommends the following changes be made:

In 401.2, the phrase “less complying than it was before” is not grammatical. Please revise. Same for 408.1 and 409.1, as “less conforming than it was before” is not grammatical.

In 403.1 and 404.1, again, the sentences are not grammatical. Consider “Repairs shall maintain the existing level of fire protection.” and “Repairs shall maintain the existing level of protection for the means of egress.”

In 404.1, what does “level of protection” refer to?

In 409.3, the last line of the Exception is cut off. Please complete the sentence and resubmit.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Building Code Council

RULE CITATION: 2024 North Carolina Existing Building Code, Ch. 5

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In reviewing this Rule, the staff recommends the following changes be made:

In 502.1, “are not less complying with the provisions of the International Building Code” is ungrammatical. Please revise.

Why is there an asterisk following Exception 2 to 502.5?

In 503.1 “is not less complying with the provisions of the International Building Code” is ungrammatical. Please revise.

Why are there asterisks following Item 4 of 503.13 and 503.14?

In 506.1.1, what is a change in occupancy with no change in occupancy classification?

In 506.7, you should insert an exception here for structures that are exempt from the Energy Conservation Code.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Building Code Council

RULE CITATION: 2024 North Carolina Existing Building Code, Ch. 6

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In reviewing this Rule, the staff recommends the following changes be made:

In the exception to 604.1, what level would alterations to displays or showrooms in Group M be? Level 2?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Building Code Council

RULE CITATION: 2024 North Carolina Existing Building Code, Ch. 7

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In reviewing this Rule, the staff recommends the following changes be made:

In 701.2, who determines that a building is “less safe”? Under what criteria is that determination made?

In 702.5, I’m not sure the addition makes sense. It says that where windows are required for emergency escape openings in residential structures, “replacement windows in Group E classrooms shall be exempt...” I think you need to delete the comma between “Code” and “replacement”, add “and” in its place, and move “replacement windows” after the comma following “classrooms.” It should read:

“...regulated by the International Residential Code, and replacement windows in Group E classrooms, replacement windows shall be exempt...”

In 702.6, you need to exempt structures covered by the Residential Code from the requirements of the Energy Conservation Code.

In 703.1, consider revising to “...the existing level of fire protection.”

In 704.1, consider revising to “...the existing level of protection....”

In Section 708, consider adding an explicit statement that structures covered by the Residential Code should comply with that Code, rather than the ECC.

In 708.1.1, do you need to revise the cross-references to Section R402 of the ECC?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: June 4, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Building Code Council

RULE CITATION: 2024 North Carolina Existing Building Code, Ch. 8

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In reviewing this Rule, the staff recommends the following changes be made:

In 804.4.1.1, does the Code incorporate the exemption in 1434-138(j) for business occupancies built before 1953?

In 804.5.4, I think you meant to delete “panic hardware” at the end of the sentence.

In the exceptions to 805.2, is the text under the deleted language new? If so, it should be underlined.

In 809.1, consider adding an explicit statement that structures covered by the Residential Code should comply with that Code, rather than the ECC.

Separate Amendment to 803.2.1.2

In the exception, I believe it should say “automatic sprinkler system”, rather than “sprinklers system”.

Instead of saying “where an automatic sprinkler system is not existing in a building...” why not just say “where a building does not contain an automatic sprinkler system...”

Also, did you mean “is not otherwise required by Section 803”?

So, to be clear, this exception states that if Section 803 doesn’t require sprinklers, or if they simply aren’t already there, then Section 903.2.8 won’t be applied to require them in an R-3 occupancy?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: June 4, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Building Code Council

RULE CITATION: 2024 North Carolina Existing Building Code, Ch. 9

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In reviewing this Rule, the staff recommends the following changes be made:

In 901.1, correct the cross reference to Section 505 to Section 604.

In 908.1, consider adding an explicit statement that structures covered by the Residential Code should comply with that Code, rather than the ECC.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Building Code Council

RULE CITATION: 2024 North Carolina Existing Building Code, Ch. 10

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In reviewing this Rule, the staff recommends the following changes be made:

In 1001.2, what is a change in occupancy with no change in occupancy classification?

In Section 1007, please correct the numbering for all the subsections. Only 1008.1 was changed to 1007.1.

In 1008.2, define "unsafe".

In 1011.2.1.1, 1011.2.1.2, and 1011.2.1.3, the edit is incomplete. I believe you meant to add "1011" after deleting "1012".

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Building Code Council

RULE CITATION: 2024 North Carolina Existing Building Code, Ch. 11

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In reviewing this Rule, the staff recommends the following changes be made:

In Section 1104, please change the section number from "1106.1" to "1104.1".

Also in 1106.1, please include a reference to G.S. 143-138(b15) and the exclusion from the current iteration of the ECC for certain additions to commercial buildings with a certificate of occupancy received before 1/1/12.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: June 4, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Building Code Council

RULE CITATION: 2024 North Carolina Existing Building Code, Ch. 13

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In reviewing this Rule, the staff recommends the following changes be made:

In 1301.3.1, please note that Section 115 has been deleted. Please fix the cross reference.

In 1301.3.2, what is the International Property Maintenance Code, and do you have statutory authority to require adherence to it?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Building Code Council

RULE CITATION: 2024 North Carolina Existing Building Code, Ch. 14

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In reviewing this Rule, the staff recommends the following changes be made:

In 1401.2, what is the International Property Maintenance Code, and do you have statutory authority to require adherence to it?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: June 4, 2024