

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

AGENCY: North Carolina Building Code Council

RULE CITATION: 2024 North Carolina Fire Code, Ch. 1

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 102.1, item 2, what is an “Existing structure... not legally in existence at the time of adoption of this code?”

In 102.1, item 3 isn’t grammatical, as it doesn’t flow from the first part of the sentence before the colon. Consider revising or reformatting as an exception.

In 102.13, the exceptions are not inclusive of everything required by G.S. 143-138(b4). Please revise. (Note, the separate amendment to 102.13 addresses this concern).

Also in 102.13, should the exception for temporary motion picture, television, and theater stage sets be included here?

Where is your statutory authority for 104.1? Specifically, where is the statutory authority to permit the fire code official to interpret the code and adopt policies, procedures, rules, and regulations?

Add a period to the end of 104.6.

In 104.3 through 104.7.1, and 104.9 through 104.11, please provide specific cross references to the Administrative Code and to the General Statutes.

In 105.1.2, item 1, to be clear, unless the business is listed in Section 105, a permit is not necessary? What about those operations listed in Section 105 that are designated “optional permit”?

In 105.1.2, item 1.1, what is the “prescribed period”? Prescribed by whom, according to what criteria?

In 105.1.2.1, “fire code official” should be italicized.

Also in 105.1.2.1, what parts of the Administrative Code and General Statutes are you referring to?

Also in 105.1.2.1, does a “change in occupancy” refer to the occupancy classification, or a change in the ordinary meaning of occupancy (i.e. a new person or entity takes up residence in the location)?

Also in 105.1.2.1, what does a “change in operation” mean?

In 105.1.4, the permit application must be submitted within the next business day of what event? The repair? Also, consider using one of “working day” or “business day” but not both.

In 105.1.5, what is an “ordinary repair”? Is it anything except what is listed in the sentences following?

In 105.2, where is the fire code official’s statutory authority to set application form requirements? Pursuant to G.S. 150B-2(8a), a form must go through rulemaking unless the substantive content of the form is described in another rule or in a statute. Thus, if the fire code official is setting the contents of a form, not only must he have the statutory authority to engage in rulemaking, but he must put said forms through the rulemaking process.

In 105.2.2., why would vehicles be included in an inspection of a structure?

In 105.2.3, I don’t quite understand. If the permit is filed, how could it be deemed abandoned? Once it is filed, isn’t it on the fire code official to either approve or deny it?

In 105.2.3.1, what portions of the Administrative Code and General Statutes are you referring to?

In 105.2.4, define “reasonable time”.

In 105.2.4, what are the “pertinent laws”?

In 105.2.4, define “as soon as practicable.”

In 105.3.4, what does “occupied safely” mean? If it means something less than the other requirements of the Code, then are those requirements actually justified for protecting the public health, safety, and welfare?

Is 105.3 and its subsections directed to construction permits, or operational permits as well?

In 105.3.8, what portions of the Administrative Code and General Statutes are you referring to?

In 105.5, what is an “optional permit”? Isn’t that an oxymoron? At whose option is the permit required?

Additionally in 105.5.18, aren’t some of the activities covered by the “optional” permits also covered by the “mandatory” permits? For instance, in item 2, an “optional” permit is offered for storage, handling, or use of Class I liquids in excess of 10 gallons outside a building, yet a mandatory permit is required for operating a tank for flammable and combustible liquids. This appears to me to be same thing.

In 105.5.25, what is “hot work”?

In 105.5.53, define “long-term temporary”.

Also in 105.6.2, please define “substantially modify”.

In the exception to 105.6.2, define “routine” maintenance.

In 106.1, where is your statutory authority to permit the fire code official to set the criteria for the application form? Pursuant to G.S. 150B-2(8a), a form must go through rulemaking unless the substantive content of the form is described in another rule or in a statute. Thus, if the fire code official is setting the contents of a form, not only must he have the statutory authority to engage in rulemaking, but he must put said forms through the rulemaking process.

In 106.2.4.1, what does “provided that adequate information and detailed statements have been filed complying with pertinent requirements of this code” mean? In particular, define “adequate”, “detailed”, and “pertinent requirements”.

In 112.3.3., please define “promptly”.

In 114.1, who is empowered to make the determination that a premises, a structure, or building system constitutes a clear and inimical threat to human life, safety, or health?

In 114.1.1, should the term used be “unsanitary”, rather than “insanitary”?

In 114.3, with whom shall the fire code official file the report?

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