



**MECKLENBURG COUNTY**  
**Land Use and Environmental Services Agency**  
**Code Enforcement**

Dec. 1, 2005

## **The Building Code enforcement process: how North Carolina varies with other states**

### **1. Building Code enforcement process commonly found elsewhere**

Building code enforcement in jurisdictions outside of North Carolina can be very heavily influenced by code interpretations and decisions made on a local level. Not only is the Building Code often adopted on a local level and often amended locally in the process, but there is also usually a vehicle to address peculiar problems. If the application of the code interpretation is questionable, the project owner usually has a grievance process available to address any perceived hardship typically either:

- formal variance procedure
- or Board of Building Appeals procedure.

While the grievance procedure varies in formality among jurisdictions, in its simplest form one entity will plea for relief from a code requirement, making the case of why it isn't justified. The local code official usually defends the requirement and a neutral panel (typically appointed by local government) decides for one side or the other. The panel's decision then stands as the formal building code requirement for that particular project.

### **2. What's different about the Building Code enforcement process in North Carolina**

North Carolina is different in many ways.

- The building code is adopted at the State level and applied uniformly across the state. In other words the State hands the building code to local government and says "use this".
- The State Government dictates, to a great extent, the building code enforcement process, setting both minimum requirements as well as limitations on local authority.
- In North Carolina, by State Law, no local building code amendments are allowed. Only the State entity charged with creating and maintaining the code, the NC Building Code Council, may amend or vary the code (The only exception to this is the NC Fire Prevention Code, although even these changes require review at the state level).
- Perhaps most significantly (for the purpose of this discussion), no local building code variance procedure or local Board of Building Appeals process is allowed in North Carolina. In other words, under no circumstances may the NC Building Code be altered on a local level, either by amendment or variance. Local government may only interpret and apply the code.

This last point is very atypical. To the best of our knowledge, few other states have a "no local variance" restriction on local government. In fact, we are aware of no states which do have such a restriction.

#### **2.1. Regarding Alternate Methods**

Alternate Methods is covered by section 205 of the NC Administration and Enforcement Code. This section is intended to allow the use of alternates to the building code, provided they are approved by the local official at his/her "sole discretion". Section 205 also stipulates that the local official may approve an alternate if it "is at least the equivalent of that prescribed in the technical codes in quality, strength, effectiveness, fire resistance, durability or safety".

Alternate Methods often comes up in discussions of code compliance and is often mistaken as a local variance process. In fact, it is a submittal and analysis process that weighs equivalency with the prescribed code. It is important to understand some key points regarding how we approach this issue in Mecklenburg County.

- Mecklenburg County uses the following procedure on alternate method proposals.
  - a) Alternate proposals must be submitted in writing by the project designer.
  - b) Proposals must identify any code requirement (material or method) which are to be omitted, excepted or substituted.
  - c) Proposals must identify the proposed alternate and explain how the alternate material and/or method will re-establish the project to the equivalent level as prescribed by code.
  - d) If the proposed alternate does not establish equivalency, it will not be approved for use in the project.
- The foregoing process outline sounds simple, and is deceptively so. In practice, the Department must determine,
  - a) if the data supports the “equivalent” standard,
  - b) if the data was complete or selective, omitting facts which may argue against equivalency, or
  - c) if the proposal impacts other sections of the code not addressed (the latter often occurs when one attempts to mix different codes).

In the end, the **Code Official must boil all these factors down, step back and decide if the proposal equals the code or effectively lessens the code** by lowering the requirements in some way. In Mecklenburg County we take the evaluation of alternate methods very seriously, as we believe the decision to accept something as “equivalent” may significantly impact building occupants and users.

### **3. What this means to customers and code users**

Mecklenburg County has many tools and services available to help our customers understand the requirements of the 10 volume NC Building Code family, including:

- Commercial Technical Assistance Center (CTAC)
- Residential Technical Answer Center (RTAC)
- preliminary code reviews,
- various website tools; FAQ’s, electronic interpretations, consistency reports, etc

In addition, our website includes detailed “how to” instructions on the appeal process prescribed by the NC Administrative Code.

**However, one thing we do not have available for customer use is a building code variance process, because, as outlined above, such a process is not allowed in North Carolina by the NC General Statutes.**

Mecklenburg County has excellent code enforcement officials, highly experienced and well trained in interpreting and applying the NC Building Code. We believe our code officials are some of the best in wrestling with complex code compliance issues. However, solutions are always sought in compliance with the code, not with the intent of “bending” the code, or omitting some of its requirements. That strategy is consistent with our duty as State certified code officials as well as the requirements and limitations placed on us by the NC General Statutes.

If you have questions on the foregoing, feel free to contact any of the following:

- James N Bartl, AIA, Director of Code Enforcement; 704 336-3827
- Eddie Prince, AIA, Director of Trades Inspections, 704-432-3311
- Gene Morton, Chief Building Code Administrator, 704-336-3503
- Gerald Harvell, Chief Electrical Code Administrator, 704-336-3523
- Phil Edwards, Chief Mechanical and Plumbing Code Administrator, 704-336-3555
- Tim Taylor, Manager of Residential Technical Services, 704-336-3835
- Willis Horton, Manager of Commercial Plan Review and Permits, 704-336-4301

A brief appendix follows with relevant excerpts from the Department’s publication on “How do customer and Code Enforcement work together?”

# Appendix:

Excerpts from “How Do Customers and Code Enforcement Work Together?”

Full text of this document is available at [www.meckpermit.com](http://www.meckpermit.com); go to reference desk, go to publications.

## 1. What to do when you incur variations in interpretations between plan review and inspections

Field inspectors are ultimately responsible for verifying compliance with the NC Building Code. Sometimes field conditions vary from what the plan reviewer saw or something may be overlooked. In these cases, the inspector is instructed to approve all parts of the work, which are in compliance, and note they have something to review with the office. The inspector and plan reviewer are to discuss variance between field conditions and approved plans, and agree on a final interpretation. If in fact the final interpretation varies from the plan reviewer’s initial interpretation, the plan reviewer will contact the owner’s A/E team and advise them accordingly.

## 2. What if you don’t agree with the inspectors interpretation

The Department has a formal appeal policy published on the website ([www.meckpermit.com](http://www.meckpermit.com); go to architect or contractors tools box, go to “appeals”). In brief, if a customer disagrees with any inspection or plan review interpretation, the order of appeals is as follows;

- a) first, to the inspector or plan reviewer’s superior,
- b) next, to the Director of Code Enforcement,
- c) next, to the NC Department of Insurance, Engineering Section,
- d) next, to the NC Building Code Council,
- e) and finally to Superior Court in Wake County or Mecklenburg County (for procedural issues only, not for technical interpretations).

## 3. Contractor responsibilities, A/E responsibilities, CEO responsibilities

All parties involved in construction have responsibilities outlined by the State Licensing Boards overseeing their work.

- Contractors are required to build in compliance with the building code and to comply with state administrative requirements. Their license may be revoked if they are found guilty of fraud, gross negligence, incompetence or misconduct with respect to Board rules.
- Architects and Engineers are required to take into account all applicable municipal laws and regulations, as well as state law (the NC Building Code). They may be found incompetent and their license revoked if they knowingly design a project in violation of these laws.
- Inspectors are required to verify that observed construction complies with the NC State Building Code. Approving construction without inspecting, or “misconduct, incompetence or gross negligence” are grounds for revocation of an inspector’s state certificate.

## 4. Codes as minimum standards; requiring more or less than the code

The NC State Building Code is a minimum construction standard. Construction documents often exceed minimum codes; in these cases, the inspectors are empowered to verify only compliance with the minimum state standard.

- Neither state law nor Department policy allow inspectors to require more than the code; such cases should be reported to the respective trade chief or the director, immediately. Similarly, inspectors may not allow an installation, which is less than the code.
- Inspectors should not comment or dictate construction methods; such cases should immediately be reported to the respective trade chief or the director.
- Within regulatory limits, Department staff tries to be customer friendly. However, this doesn’t mean the Department provides code consultant services. We have a strict protocol to follow when customers just cannot figure out how to reach code compliance; but even this protocol points to the owner’s design professional as the final source on proposing code compliant solutions for the Department’s review.

Many customers fail to realize inspectors do not perform quality control on a project; they simply enforce the minimum state building code. For quality issues or construction in excess of the minimum state code standard, construction observation by the owner’s design professional should be the ultimate source of verifying compliance with construction documents.