

## New 2012 Mandatory Enforcement: 6/1/12

### NC ACCESSIBILITY CODE

2009 NC Bldg Code Ch. 11  
2003 ICC/ANSI A117.1

**Mandatory:** 1 Jan 2010

2012 NC Bldg Code Ch. 11  
2009 ICC/ANSI A117.1

**Effective date:** 1 Sept 2011

**Mandatory:** 1 June 2012

### 2010 ADA STANDARDS:

- Published in Federal Register 9/15/10
- Effective 3/15/11
- Mandatory 3/15/12
- Copy available: [www.ada.gov](http://www.ada.gov)

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The mandatory date for enforcement of the 2012 NC State Building Codes has been extended from March 1, 2012 until June 1, 2012. While there have been NC Building, Fire, Plumbing and Mechanical Codes available, the NC Energy, Residential and Electrical Codes are not available yet, and, in some case, adoption has not yet been final. The decision was made by the **NC Building Code Council** on Monday, December 12, 2012.

Here's the reason why: The NC Residential Code still needs the Mechanical, Electrical and Plumbing sections added in order to be complete. Since the fate of the Electrical Code is up to the NC Legislature when they come back in 2012, the ENC Electrical Code will be printed with a cautionary paragraph at the front similar to the one currently at the front of 2009 NCBC Ch. 11 when everyone was waiting for the Legislature to make a decision on that one

Since the mandatory date is delayed until June 1, 2012, don't forget that the 2010 ADA Standards goes into effect almost 3 months earlier. This means that for any work done by jurisdictions and for all other work that needs to comply with the ADA, waiting until June 1<sup>st</sup> to use the 2012 NCBC may not be a wise decision.

## NCBC 1104.4 Exc. 1+1107: A+B Units

If you have a question about elevator requirements and 2009 NCBC 1104.4 Exc.1, the code works just the same as the previous code. Sorry it's so long to work your way through.

1. You first look at the section addressing elevators for the building: NCBC 1104.4.8.
2. If the building is 3-stories with a min. of 3,000 gross sf on a floor, then an elevator is required.
3. Then you look at the section addressing apartments: NCBC 1107.6.2.1
4. If Type A units are required per NCBC 1107.6.2.1.1, then 5% of each unit type are required to be Type A, but one less than one. [See Exceptions.]
5. As per NCBC 1107.6.2.1.2, if an elevator is required/provided for the building, then ALL non-Type A dwelling units are required to be Type B. If NO elevator is required/provided for the building, then only the ground floor dwelling units that are non-Type A dwelling units are required to be Type B
6. Then you look at NCBC 1107.7.2, which has to do with whether elevator service is provided to the building and if the proposed Type B dwelling units are multi-story or not.
  - a. If there are multistory dwelling units + the building does not have an elevator, then there is no requirement for the multistory non-Type A dwelling units to be Type B.
  - b. If there are multistory dwelling units + the building does have an elevator, then the multistory non-Type A dwelling units are required to be Type B dwelling units.
  - c. If there are multistory dwelling units with elevator service to only the lower floor of each dwelling unit, then NCBC 1107.7.2 requires that the floor provided with the elevator service be the primary entrance floor, the unit shall comply with Type B requirements and a toilet facility shall be provided on that floor. [This comes from Fair Housing.]
7. The NCBC 1104.4 Exc. 1 concerning elevators gets applied last: if the application of NCBC 1107 does not end up with Type A or Type B units on an upper floor, then there is no requirement for access to those floors.





Webinars are a great opportunity for free training on the subject.

## US Access Board Webinars

If you picked up a copy of the **2012 ANSI A117.1**, then you have noticed a brand new chapter addressing Recreational Facilities. **NCBC 1109.14.1, .2 and .3** require that access be provided to common use recreational facilities, both those associated with R-2 and R-3 occupancies and those that are outside of those two groups. This is similar to the language in the **2009 NCBC**.

It may be helpful to know that the **US Access Board** has a number of webinars coming up addressing accessibility. A message was sent out recently reminding everyone about the webinars. Sign up for these in advance and get a group together. I think that you will find these to be helpful.

This was the US Access Board's notice:

### Upcoming Board Webinars

The next scheduled webinars in the Board's free monthly series will cover **accessible golf courses (January 5)** and **courthouses and courtrooms (February 2)**. The webinars, which are scheduled from 2:30 – 4:00 (ET), are made available in cooperation with the national network of ADA Centers. For more information, including registration instructions, visit [www.accessibilityonline.org](http://www.accessibilityonline.org).

## Recent USDOJ Actions

The USDOJ issued notice of a lawsuit having to do with residential occupancies on Nov. 17, 2011. If you are interested, the notice reads as follows:

The Justice Department filed a lawsuit yesterday against the owners and managers of 23 rental homes in Magee, Miss., for violating the Fair Housing Act by discriminating against families with children. To read more, [click here](#).

The latest USDOJ Disability Rights Online News came out. The link to it is:

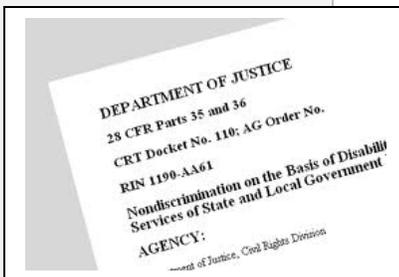
<http://www.ada.gov/newsltr0911.pdf>. There are articles in the newsletter that may be of interest to you:

DEPARTMENT ARGUES THAT NEW STORES' MAIN ENTRANCE MUST BE ACCESSIBLE

This covers a partial summary judgment where a lesser decorated accessible side entrance did not compensate for the highly decorated inaccessible main entrance at a store built after 1991.

NEW YORK APARTMENT COMPLEX WILL BE RETROFITTED FOR ACCESSIBILITY

Here we have another apartment building that entered into a consent decree with USDOJ regarding non-compliance with the federal Fair Housing Act. It involved non-complying kitchens and bathroom, lack of an accessible route into and throughout, lack of accessible common areas and operable controls in inaccessible locations.



Sometimes it helps to know so that building owners can be aware of the consequences.

In an earlier ruling in January 2011, the US Justice Department settled a Fair Housing lawsuit against Garner, NC. A copy of the notice is available at <http://www.justice.gov/opa/pr/2011/January/11-crt-024.html>

The Justice Department announced today [on January 10, 2011] that it has settled its suit against the town of Garner, N.C., and the town's Board of Adjustment alleging that they violated the Fair Housing Act when refused to allow up to eight men recovering from drug and alcohol addictions to live together as a reasonable accommodation.

What is notable about this agreement is the following language in the notice:

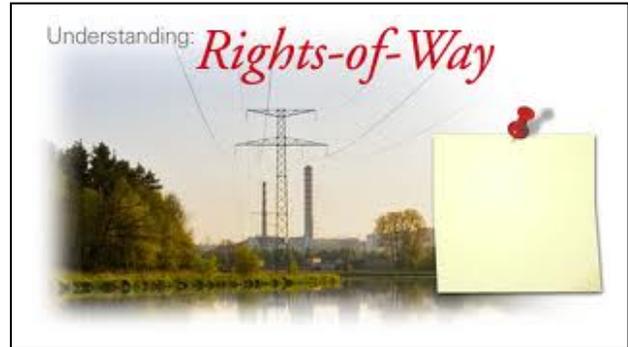
In December 2010, in connection with the parties' proposed settlement, the town amended its zoning code to establish a procedure for addressing future requests for reasonable accommodations.

So, if you work for or with a jurisdiction where the zoning does not have a procedure for addressing a request for reasonable accommodations, this might be something that should be considered.

# Rights-of-Way Rule Comment Period

The Access Board has reopened the comment period on its proposed guidelines for accessible public rights-of-way to **February 2, 2012**. The original comment deadline was November 23. This action is being taken in response to requests from interested parties, including government and trade associations, for additional time to submit comments on the rule, as indicated in a published [notice](#).

The proposed [guidelines](#) address access to public streets and sidewalks, street crossings, on-street parking, and other components of public rights-of-way. Comments can be submitted or viewed through the [www.regulations.gov](http://www.regulations.gov) website. Further information on this rulemaking is available on the Board's [website](#).



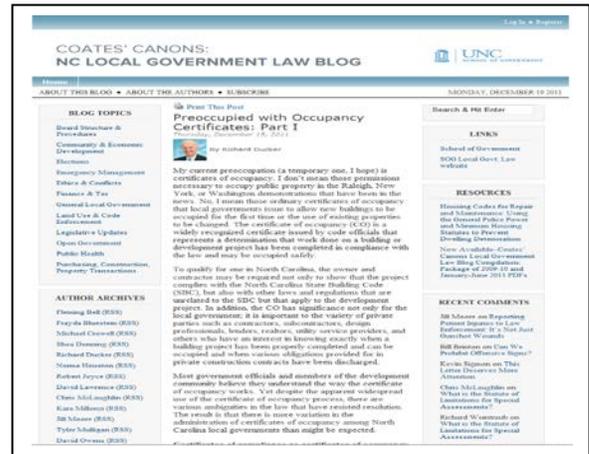
# Occupancy Certificates

The latest NC LOCAL GOVERNMENT LAW BLOG has an article written by Richard Drucker, with UNC School of Government. It is an interesting discussion on **Preoccupied with Occupancy Certificates: Part I**.

The link to reach the article is as follows:  
<http://soqweb.sog.unc.edu/blogs/localgovt/?p=6049>

Richard's next article will address *temporary certificates of occupancy and the relationship of certificates of occupancy to the connection of permanent electrical power to a building*.

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# Accessible Parking Signage Rqmts.

There have been several questions since the **2009 NCBC** was adopted as to what exactly the signage requirements are for the accessible parking signage. **NCBC 1110** simply refers to [General Statute 20-37](#) [the (d) should have been left off and is in the 2012 NCBC], [GS136-30](#) and the [NCDOT Manual on Uniform Traffic Control Devices \[MUTCD\]](#). I checked with Ron King, PE, State Signing and Delineation Engineer for NCDOT and his direction was as follows:

1. There are certain requirements within the sign (shape, color, and location) and its message.
2. NC requires signs to indicate the maximum penalty. [See General Statue links below.]
3. Sign R7-8E meets the requirements of state law and the FHWA [the Federal Highway Administration].

Remember, a separate sign is required for each space so one sign with an arrow does not work. If using sign at right, a separate van accessible sign is required at van accessible spaces.

- GS 20-37:** <http://www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=20-37>  
**GS 136-30:** <http://www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=136-30>  
**MUTCD:** <http://www.ncdot.gov/doh/preconstruct/traffic/MUTCD/html/default.html>

