



MIKE CAUSEY, INSURANCE COMMISSIONER & STATE FIRE MARSHAL
BRIAN TAYLOR, CHIEF STATE FIRE MARSHAL

June 3, 2020

Chris Shonk
Davidson County Fire Marshal
935 N. Main St.
Lexington, NC 27295

**RE: 2018 NC Fire Code, Section 105.3.4
Conditional Permits**

Mr. Shonk:

This letter is in response to your request for formal interpretation dated May 31, 2020 that was received by NC DOI by email on that date. In the request you had the following 4 questions:

1. Would a Conditional Permit be the appropriate method for the Fire Code Official to take to provide a route for Egger to begin the commissioning process for the processing equipment?
2. If a conditional permit were issued to the permit holder (being Egger), should there be a legally binding document that would indemnify the authority having jurisdiction from any harm to persons or equipment that should result from any actions being conducted under the conditional permit, whether done in accordance with the stipulations of the permit or not?
3. Should the other trades have something similar in place to protect them from damage to their equipment should it arise from actions conducted in accordance with the stipulations of the conditional permit?
4. Overall, what is DOI's interpretation of the intent of Section 105.3.4 Conditional Permit?

Remarks:

All code section references are from the 2018 NC Fire Code unless noted otherwise in this letter.

Conclusions:

1. No. 105.3.4 is a subsection of 105.3. 105.3 indicates that conditional use permits are for work associated with 105.6 – Required Operational Permits and 105.7 – Required Construction Permits. I find no subsections in 105.6 or 105.7 that allow commissioning of manufacturing equipment. Such commissioning work could be covered with a temporary certificate of occupancy as described in 2018 NC Administrative Code and Policies, Section 204.8.3 and authorized by NC General Statute 153A-363.
2. Whether a conditional permit or temporary CO is issued the requirement that the occupied space is deemed safe for such use by the code official is quite clear. A letter from the permit holder or owner indicating their responsibility for any injuries does not absolve the code official from the duties he has been charged by 105.3.4 and NC Administrative Code and Policies, Section 204.8.3.

3. See answer #1 above. All safety features should be operational in the area having a temporary CO.
4. See answer #1 above.

As a matter of reference, a copy of your letter of request for formal interpretation and attachments (Attachment A below) are included with this letter.

Please call if you have comments or questions.

Sincerely,



Carl Martin, RA
Chief Code Consultant

cc: File
Robbie Davis, Chairman – BCC
Wayne Hamilton, Chairman Fire Code Standing Committee – BCC
Cliff Isaac, Deputy Commissioner of Engineering – NC DOI
Charlie Johnson, Chief Fire Code Consultant – NCDOI

ATTACHEMNT A



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

325 North Salisbury Street, Room 5_44
Raleigh, North Carolina 27603
(919) 647-0019

APPEAL TO NCDOI/NCBCC

Hearing Date ____/____/____

GS 153A-374, GS 160A-434

Formal Interpretation by NCDOI X

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 Christopher M. Shonk PHONE (336) 242-2260 X _____

REPRESENTING Davidson County Fire Marshal

ADDRESS 935 N. Main St

CITY Lexington STATE NC ZIP 27295

E-MAIL plans.review@davidsoncountync.gov FAX () _____ - _____

North Carolina State Building Code, Volume 2018 NC Fire Code - Section 105.3.4

- 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.

I am requesting clarification on the intent of Section 105.3.4 Conditional Permits, in the 2018 NC Fire Prevention Code. I am requesting an interpretation on the specific purpose of a conditional permit, and if it would be the appropriate action as it applies to the specific situation I have outlined in my succeeding letter.

REASON:

The reason for this request is to provide a route for Egger Wood Products to conduct start up procedures for critical equipment used in their process, in specific areas within specific buildings, prior to final acceptance inspections on all trade permits, and without a temporary or full certificate of Occupancy.

Signature C.M. Shonk Digitally signed by C.M. Shonk
Contact Info: (336) 242-2260
Date: 2020.05.31 10:08:58-04'00' DATE: 5/31/2020 APPEAL TO NCDOI/NCBC FORM 3/14/17



*Davidson County Fire Marshal
Office of Plan Review*

935 North Main Street Lexington, NC 27292 (336)242-2270

5/31/2020

Carl Martin
Code Interpretations Supervisor
Office of the State Fire Marshal
Engineering and Codes
1202 Mail Service Center
Raleigh, NC 27699

Re: Formal Interpretation of Section 105.3.4 of the NC Fire Prevention Code

Carl,

I am requesting a formal interpretation of the intent of Section 105.3.4 Conditional Permit.

[A] 105.3.4 Conditional permits. Where permits are required and upon the request of a permit applicant, the *fire code official* is authorized to issue a conditional permit to occupy the premises or portion thereof before the entire work or operations on the premises is completed, provided that such portion or portions will be occupied safely prior to full completion or installation of equipment and operations without endangering life or public welfare. The *fire code official* shall notify the permit applicant in writing of any limitations or restrictions necessary to keep the permit area safe. The holder of a conditional permit shall proceed only to the point for which approval has been given, at the permit holder's own risk and without assurance that approval for the occupancy or the utilization of the entire premises, equipment or operations will be granted.

Overall, my interpretation of this code provision will allow an owner of a building under permit for new construction to occupy the building, or portions thereof, conduct operations within the building that do not relate to the work being conducted that is specifically stipulated on the permit. This occupancy would be related to the need for starting up & commissioning critical equipment needed for production,

preparing areas or machinery for process use, installing production equipment needed for process, etcetera.

Egger Wood Products is a Plywood, & Veneer Mill that will be utilizing presses, thermal oil boilers for the process of those presses, saws, drying equipment, and an array of other industrial equipment utilized at the complex. This equipment will require start up and commissioning measures that will take time to get running and dialed in for precision. There are approximately 20 building projects, all at various stages of construction, under permit associated with the entire complex. For the most part, the trade permits are 90% complete in most buildings, and lack small details to reach full compliance. Furthermore, the complex itself lacks completion in regard to full access to the buildings, full monitoring of alarms, and other features that will relate to the entire facility to be deemed in full compliance and fully completed.

Egger Wood Products is requesting a route to be able to start up the equipment needed for production prior to being fully completed with all trade work. As you can imagine, it is not just as easy as turning on a switch. This equipment has to be started, de-bugged for issues, commissioned, tune in for precision, and so forth. However, the buildings are a good way from being deemed in full compliance and all trade permits from being inspected and closed.

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4. Overall, what is DOI's interpretation of the intent of Section 105.3.4 Conditional Permit?

Thank you for your assistance with this formal interpretation.

Respectfully,



C.M. Shonk, Deputy Fire Marshal
Davidson County Fire Marshal's Office

CC: Charlie Johnson, Chief Fire Code Consultant
Danny Ward, Davidson County Fire Marshal