



#9 BUILDING & FIRE CODE APPEALS

Q. What is a Building & Fire Code Appeal?

A. An appeal of a decision made by the Kitsap County building official or the Kitsap County fire marshal can be made when an applicant believes that the code official's decision was inaccurate, is not consistent with the adopted codes, or that the code has not been interpreted correctly, and the applicant feels that they have exhausted all attempts to work out the issue with the code official.

Q. Who hears the appeal?

A. The Consolidated Board of Appeals, established by Kitsap County Code (KCC) section 14.04.950 hears the appeal and makes the final decision. The Consolidated Board of Appeals is made up of volunteer community members that have expertise in construction related issues and are appointed to the Board by the Board of County Commissioners.

Q. What types of decisions can be appealed?

A. Any decision regarding the application or interpretation of a technical code requirement where the applicant believes that the technical code requirement was inaccurately applied, or that the decision did not allow an equal or better alternative method or material to be used may be appealed to the Consolidated Board of Appeals.

Q. What types of decisions cannot be appealed?

A. Decisions dealing with fees, violations, citations or administrative issues cannot be appealed to the Consolidated Board of Appeals.

Q. Can the Consolidated Board of Appeals waive code requirements?

A. No, KCC Section 14.04.990 specifically prohibits the Consolidated Board of Appeals from waiving or reducing any code requirement. An appeal must be based on a claim that a technical provision of the code was inaccurately applied or interpreted by the building official or fire marshal.

Q. Can the Consolidated Board of Appeals grant a variance?

A. No. As stated above the Board cannot waive code requirements or reduce any requirement to less than the minimum established by the code. However, the Board may act on an appeal where the claim is that an equal or better method or material has been proposed, but not accepted by the code official.

Q. Decisions regarding which Kitsap County codes can be appealed to the Consolidated Board of Appeals?

A. Building official and fire marshal decisions regarding technical issues within the construction codes adopted in the Kitsap County Building & Fire Code (KCC 14.04) may be appealed to the Consolidated Board of Appeals. These codes include the Building Code, the Residential Code, the Mechanical Code, the Plumbing Code, the Fire Code, and the Energy and Ventilation Codes.

Q. Can the issuance of a building permit be appealed to the Consolidated Board of Appeals?

A. No, issuance of a building permit is administrative, thus cannot be appealed to the Consolidated Board of Appeals. However, permit issuance may be appealed directly to Superior Court through a “Land Use Petition Act” appeal (LUPA). A LUPA appeal must be filed within 14 days of building permit issuance.

Q. Can the declaration of a building as a “dangerous building” made by the building official or fire marshal be appealed to the Consolidated Board of Appeals?

A. No, when a building or structure has been declared a “dangerous building,” it is a public nuisance and must be abated in accordance with KCC 14.04.875 and KCC Chapter 9.56. Appeals of dangerous building orders or decisions must be made to the Kitsap County Hearings Examiner in accordance with KCC 14.04.860(G), KCC 9.56, and KCC Title 21.

Q. How can I appeal a land use, critical area, shoreline or storm-water requirement decision?

A. Appeals of land use decisions, as well as those regarding critical areas, shoreline or storm-water requirements must be made to the Kitsap County Hearing Examiner in accordance with the procedures set forth in Kitsap County Code Title 21. These appeals are outside the scope of this brochure.

Q. Is there any other way to resolve conflicts regarding technical issues, or issues related to interpretation or application of the codes?

A. Absolutely... We strongly encourage anyone who feels that a decision made by the building official or fire marshal is in error, to contact that official to schedule an appointment to discuss the situation. Actually, in accordance with KCC 21.04.030, the first step in appealing a building code interpretation is to appeal the issue directly to the building official.

Q. How do I file an appeal to the Consolidated Board of Appeals?

A. If after discussions with the building official and/or the fire marshal, you still want to appeal an issue to the Consolidated Board of Appeals, an appeal form must be filled out and submitted to the Department of Community Development, along with the required fee (\$200.00). Forms are available at the DCD office at 619 Division Street, Port Orchard, and also on our website at www.kitsapgov.com/dcd/.

Q. How long after a decision do I have to file an appeal?

A. In accordance with KCC Section 14.04.980, appeals to the Consolidated Board of Appeals must be filed with 21 days of the date of the decision that is being appealed.