

# City of Ojai



## ADU (ACCESSORY DWELLING UNIT) / SECOND UNIT COMPLIANCE PROGRAM GUIDELINES

***Adopted and Amended by City Council Resolutions Nos. 15-30, 16-19, 17-17, 17-18, 19-05, 21-07 and 23-2 and by City Council Ordinance No. 858***

### **GENERAL DESCRIPTION**

The ADU (Accessory Dwelling Unit)/Second Unit Compliance Program (“Program”) is a means by which to legalize dwellings that have been constructed without record of permits. If approved, as provided in the *ADU (Accessory Dwelling Unit)/Second Unit Compliance Program Guidelines*, the *ADU (Accessory Dwelling Unit)/Second Unit Compliance Permit* shall convey legal nonconforming status on the *ADU (Accessory Dwelling Unit)/Second Unit Compliance Unit* pursuant to Article 13.

The Program is operative for a limited time ending March 8, 2025\* and after the end of this program, unpermitted *ADU (Accessory Dwelling Unit)/Second Unit Compliance Units* will be subject to:

All ordinances then in effect including, but not limited to, all permit fees, building construction standards and zoning requirements that otherwise apply to new ADU (Accessory Dwelling Unit)/Second Unit Compliance units; and may be assessed penalties as established by the City Council.

*\*Any termination of this program shall not affect an application for an ADU (Accessory Dwelling Unit)/Second Unit Compliance Permit filed with the City prior to the termination date.*

### **ELIGIBILITY CRITERIA**

**Eligible Applicant.** An Eligible Applicant must be the owner of the Qualifying Property on which Eligible Dwellings are located.

**Eligible Dwellings.** An Eligible Dwelling shall meet the following:

- (i) Shall be accessory to a primary dwelling on the same parcel;

- (ii) Shall provide complete, independent living facilities for one or more persons, including provisions for living, sleeping, eating, cooking, sanitation and parking, and if attached to the primary dwelling, is without interior access to the primary dwelling.
- (iii) Shall be the only habitable accessory structure on site. There shall be no other ADU (Accessory Dwelling Unit)/Second Unit Compliance Unit on the property.
- (iv) The unit shall be in existence prior to July 28, 2015

Qualifying Property. Qualifying Property consists of parcels of land that are located in an A, VMU, O, P-L or R zone district.

Program Standards. Qualifying Property may comply with the terms and conditions of the Program rather than the requirements for new ADU (Accessory Dwelling Unit)/Second Unit Compliance Units as described in the Ojai Municipal Code. At a minimum: (i) the Qualifying Property must comply with the Modified Zoning Regulations and Property Standards adopted for the Program; (ii) the property owner (as the Eligible Applicant) must adhere to the Occupancy Requirements specific to the Qualifying Property; (iii) the unit must qualify as an Eligible Dwelling as described above (iv) the Application Process must be completed in a timely and proper manner; and (v) a Compliance Permit must be issued.

## PROCESS

A compliance permit will be processed as follows:

An application shall be submitted to the City for review and action. The first step in obtaining a compliance permit will be to obtain Zoning Conformance. The Planning Division shall review the proposal for compliance with the Modified Zoning Regulations listed below. If the project meets those requirements a Zoning Conformance shall be issued and the application shall be forwarded to the Building Division for review of the Property Standards. The Building Division will then cause the property to be inspected; a checklist shall be completed and written documentation given to the applicant if there are deficiencies. All Building Division determinations are appealable to the Building Appeals Board.

### Planning process

Based on the information submitted to the Community Development and an inspection of the property the Planning Division shall review the application for conformance to the Modified Zoning Standards as detailed below. If there are issues identified which prohibit the issuance of a Zoning Conformance, staff will provide the applicant in writing those deficiencies. All Zoning Conformance Decisions (Community Development Director's decisions) are appealable to the Planning Commission.

## MODIFIED ZONING STANDARDS

At a minimum the Qualifying Property and an Eligible Dwelling shall conform to the following requirements:

- a. Lease Term. There shall be no maximum limit on the length of occupancy or rental contract on any Compliance Unit. Transient rental of Compliance Units is not permitted.
- b. Zoning District. A Compliance Unit may be either a detached or an attached dwelling located within an A, VMU, O, P-L, or R zone district.
- c. Exterior Design. No exterior design or architectural standards shall apply to any Single Story Compliance Unit. Two story Compliance Units shall require a Design Review Permit for any exterior alterations above the first floor that may be required to issue a Compliance Permit.
- d. Lot Size. There shall be no minimum lot size required for a Compliance Unit
- e. Floor Area. The maximum size of a Compliance Unit shall be 1200 square feet but not less than 220 square feet.
- f. Lot Coverage. At no time shall the Compliance Unit cause the lot coverage of the subject parcel to exceed the maximum lot coverage allowed in that zone district.
- g. Setbacks/building separation. The Compliance Unit may encroach into required rear and side yard setbacks, subject to construction of properly rated fire separation. There shall be a minimum of 5 feet building separation between the primary building and/or any accessory structure and the subject Compliance Unit.
- h. The Compliance Unit may satisfy its parking requirement through common use of parking provided for the primary residence or use of on-street parking. Covered parking need not be provided for a compliance unit. The parking space provided for the ADU (Accessory Dwelling Unit)/Second Unit Compliance Units shall function independently from the parking spaces provided for the primary unit. Parking requirements shall be consistent with State law applied to Accessory Dwelling Units.
- i. Utility Services. All utilities (including gas, electric, water and sewer) serving the Compliance Unit may have common service connections with the primary dwelling or be separated.
- j. Number of Units. There shall only be one habitable unit on site in addition to the primary residential unit which includes a food preparation and/or cooking area. Additional structures may be allowed on the same lot with the recordation of a deed restriction that describes the exact use of the structure and agrees to prohibit a food preparation and/or cooking area. The number of Accessory Dwelling Units on a single parcel shall be consistent with State law.
- k. The units need not be owner-occupied.

### **Building Process**

Once a project has received Zoning Conformance approval the project is forwarded to the Building Division for review. The standards of review and compliance shall be those set forth in California State Housing Law Health and Safety Code Division 13 Part 1.5. Please note that each application must have a completed “In Service Date” affidavit and accompanying documentation substantiating the “In Service Date”. The Building Division will inspect the proposed Compliance Unit, prepare a checklist of all deficiencies and work with the applicant to bring the proposed unit into compliance which may entail the issuance of a building permit (plumbing, electrical, mechanical or structural) and further inspections. All Building Division determinations are appealable to the Building Appeals Board.

At the option of an Eligible Applicant, preliminary consultations may be conducted with the City without having to identify the ownership, occupancy or location of the Qualifying Property. The purpose of Preliminary Consultation is to clarify the application of Property Standards to specific circumstances, thus allowing the Eligible Applicant to determine the estimated cost and feasibility of making formal application for a Compliance Permit. The Preliminary Consultation may be conducted at the request of the Eligible Applicant or through a third-party intermediary such as the City’s ADU (Accessory Dwelling Unit)/Second Unit Compliance Program Ombudsman.

### **PROPERTY STANDARDS**

Each “eligible unit” must conform to the minimum requirements of the California State Housing Law. In order to determine if a property meets the minimum requirements an inspection will be conducted. The inspection will be conducted by either the Building Official or Building Inspector. The City of Ojai Housing Standards Checklist will be utilized to identify issues.

Once an inspection has been conducted and the checklist completed then the City of Ojai’s Building Official will meet with the applicant to discuss the necessary improvements to bring the property into compliance with the minimum standards.

“In Service Date” establishes the date of construction or conversion. The conversion or construction must be before July 28, 2015 to be eligible for this program.

**ADU (Accessory Dwelling Unit)/Second Unit  
Compliance Program Application**

Please Fill out the following:

Submittal Date	Assessor's Parcel Number		
Compliance Unit address	Main Unit Address		
Square footage of Compliance Unit	Owner's Name		
In Service Date	Owner's Address		
Garage Conversion?	Yes <input type="checkbox"/> No <input type="checkbox"/>	Owner's Email	
	Owner's Phone		
In Service Signed Affidavit and Associated materials submitted?	Yes <input type="checkbox"/> No <input type="checkbox"/>	Plot plan and floor plan submitted? Missing information	Yes <input type="checkbox"/> No <input type="checkbox"/>
	Yes <input type="checkbox"/> No <input type="checkbox"/>		

Acknowledgement:

I the owner of the subject parcel, agree to pay all permit, impact, school, and other associated costs prior to permit issuance.

\_\_\_\_\_  
Signature\_\_\_\_\_  
Date**Office Use**

Zoning Conformance

Approved  Disapproved   
If disapproved provide reason \_\_\_\_\_

Housing Standards

Checklist and inspection completed Yes  No

## APPLICATION INSTRUCTIONS AND GUIDELINES

Formal Application. Applications shall be filed with the City's Community Development Department. The following items are required to make an application complete: (i) properly completed application form; (ii) site and floor plan showing property lines, location of main residence and second unit, locations of parking spaces, size and internal layout of the Compliance Unit; (iii) The "Date of Service" information and evidence.

Process. Once an application is deemed complete for processing the application will be routed to the Planning Division for review of the Modified Zoning Regulations. If the project meets the modified Zoning standards a Zoning Conformance approval will be issued and the project will be forwarded to the Building Division for review of the property standards. All Zoning Conformance actions made by the Community Development Director shall be appealable to the Planning Commission (Article 30). All Building Division determinations are appealable to the Building Appeals Board.

Once a Zoning Conformance approval has been issued an inspection of the Qualifying Property will be made by the City to ascertain compliance with the Property Standards. The results of this inspection will be communicated to the Eligible Applicant in writing including all necessary work required to bring to bring the project into compliance with the required property standards. If subsequent inspections determine that additional corrective work is necessary to bring the unit into compliance with the Property Standards, supplemental permits may also be required by operation of the Ojai Municipal Code. A Compliance Permit will be issued based upon Zoning Conformance approval, verification by the City that the project is compliant with all property standards including but not limited to "In Service Date" California State Housing Law and that any necessary corrective work has been completed and that all conditions of eligibility have properly satisfied.

Timing. Applications must be received by the City and deemed complete on or before the termination date of the program determined by City Council. Applications filed after this date or deemed complete after this date will not be processed.

Limitations. The protections and advantages of the Program shall only apply to Qualifying Property for which a Compliance Permit is issued.

Permit Fees. Compliance Permit applications submitted and found to be complete shall be subject to appropriate fees as defined by City Council adopted policies and resolutions.

Disclaimer. Issuance of an Compliance Permit shall not be deemed to grant authorization for any work to be done in violation of the provisions of the State Housing Law, California Building Standards Code, or any other regulation, law, or ordinance judged by the City to be applicable to Compliance Units.

Confidentiality. All information obtained in connection with applications for a Compliance Permit will remain confidential and will *NOT* be placed in the building file for subsequent code enforcement action or in any way “cloud” title to the Qualifying Property. At such time as a Compliance Permit is issued all information shall be placed in the address file and the unit shall be recognized as a legal nonconforming unit.

## PROGRAM SUPPORT

Financial Assistance. The City, independent of the Program, operates a housing rehabilitation program for which the Eligible Applicant may qualify to undertake improvements to the Qualifying Property. For further information on eligibility requirements and funding availability, please contact HELP of Ojai, (805) 640-3320. In exchange for financial assistance, the Compliance Unit shall be subject to Affordability Covenants which limit the rent (for a minimum of duration of 20 years) to an amount not exceeding a sum equal to 15% of the area median income adjusted for family size appropriate to the Compliance Unit.

Ombudsman Support. The City encourages the Eligible Applicant to avail itself of the Preliminary Consultation process and welcomes the use of third-party intermediaries. To facilitate this process, the City has created the Ombudsman Program which allows the Eligible Applicant to seek out the assistance of an independent facilitator (Ombudsman) to assist the prospective applicant in determining the potential of receiving a Compliance Permit for their particular situation. More information on the Ombudsman Program, as well as the availability of third-party intermediaries, may be obtained from the City. The Ombudsman can be reached directly at 805-646-5581 ext. 112.

**ADU (Accessory Dwelling Unit)/Second Unit Compliance Program  
Housing Standards Checklist**

This checklist applies to the undocumented dwelling unit that is applying for an ADU (Accessory Dwelling Unit)/Second Unit Compliance Program to identify housing standard issues.

Address: \_\_\_\_\_, Ojai, CA.

**Electrical hazards**

Lack of adequate permanent wiring or electrical service amperage

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Exposed electrical conductors or equipment

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Improper polarity or lack of GFCI protection in Bathroom or Kitchens

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Lack of continuity of electrical system

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Lack of separate access to electrical shut-off for their unit.

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**Plumbing hazards**

Cross contamination of potable water

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No hot water

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Lack of bathroom or kitchen facilities in dwelling unit

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Lack of connection to approved or adequate sewage system.

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Gas piping installed without inspection and pressure test

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Lack of separate access to gas shut-off.

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Water heater not properly installed

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### **Mechanical hazards**

Lack of permanent heating system capable of 68 degrees at 36" above floor two foot away

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Improper vented gas appliances located within a sleeping room

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Gas vent clearance too close to combustible materials

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Inadequate ventilation (mechanical or natural) of bathrooms

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### **Structural integrity of building**

New or enlarged structural wall openings

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New or increased loads on foundation, horizontal members, floors, ceilings, or roofs

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Foundation is cracked, damaged or shifting

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### **Required egress and room dimensions**

Missing an independent entrance to unit (requires at least one clear and operable 32" wide exit door)

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Does not have minimum ceiling height (7'0")

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Lack of exterior egress window or door

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- Rooms do not meet minimum dimensions

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**Stairs**

- Lack of 36 inch of width
- Riser lack required 8 inch height
- Treads lack required 9 inch width
- Handrails do not have the required height (34"-38" above the tread nose)
- Balusters (Guard rail) have openings larger than 4 inches apart.

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**Light and ventilation**

- Lack of ventilation for each room (excluding Baths, Kitchens, and Laundry rooms)
- Room (excluding Baths, Kitchens, and Laundry rooms) has exterior window/door opening area less than 4% of the floor area of the room

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**Utilities/Emergency Response**

- Address missing on exterior of unit (A separate and new address will be assigned by the City)
- Lack of potable water, electricity, or gas (if needed to serve heaters)

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**Fire safety**

- No operable smoke detector(s) and carbon monoxide detector(s) in:

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Lack of smoke and carbon monoxide detectors in hallways serving sleeping room

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Lack of smoke detector in sleeping room

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Fire protection between units

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### **Hazards**

The property will be evaluated for hazards including but not limited to lead paint, asbestos, flood hazards. If the Qualifying Property is identified as having a hazard then the condition must be abated.

Unit is not free of environmental hazards (peeling or cracking paint (lead) or asbestos.

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Lack of Weather Protection \_\_\_\_\_

Unit is located within a Special Hazard flood area.

Other \_\_\_\_\_

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### **Inspection Information**

Square Footage of the unit \_\_\_\_\_

Inspection Date\_\_\_\_\_

Inspection conducted by\_\_\_\_\_

Findings of inspection \_\_\_\_\_

Issues Cleared    No    Yes if so, date\_\_\_\_\_

Record search\_\_\_\_\_

## In Service date

The City of Ojai

The In-Service Date may be established with one of the following forms of documentation.

1. The County Assessor's initial date recognizing the ADU (Accessory Dwelling Unit)/Second Unit.
2. Escrow documents indentifying the unit.
3. Prior Official Building, Planning or Code Enforcement records
4. Real estate transfer disclosure forms for ADU (Accessory Dwelling Unit)/Second Units.

If the above information is not available then a combination of the following can be utilized to establish the "In Service date".

1. An inspection of the premises by the City Building Official, Building Inspector or a consultant/inspector approved by the City of Ojai.
2. Sanborn maps or maps which identify the unit.
3. Insurance documents.
4. Other documentation will be considered on a case by case basis.

Factors considered:

1. Did the construction occur prior to incorporation of the City (1921)?
2. Did the construction occur prior to annexation into City?
3. Did construction occur prior to adoption of City Zoning
4. Did Construction occur prior to adoption of Building Codes (1959)?
5. Did construction occur prior to the adoption of the first Second Unit Ordinance in 1988?

## Affidavit Acknowledging In-Service Date

Date \_\_\_\_\_

I, \_\_\_\_\_, certify that the documentation used in providing the "In Service" date of \_\_\_\_\_ for the ADU (Accessory Dwelling Unit)/Second Unit Compliance Unit located at \_\_\_\_\_ is to the best of my knowledge true, accurate and unaltered.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Owner Signature \_\_\_\_\_

## Zoning Conformance

### Property Owner and Address Information

ADU (Accessory Dwelling Unit)/Second Unit Compliance Unit

Address \_\_\_\_\_

Main Unit Address \_\_\_\_\_

Submittal Date \_\_\_\_\_

In Service Date \_\_\_\_\_

Owner's Name \_\_\_\_\_

Owner's Phone \_\_\_\_\_

Owner's Address \_\_\_\_\_

Proposed ADU (Accessory Dwelling Unit)/Second Unit Compliance Unit meets the Modified Zoning Standards and a Zoning Conformance Approval is issued.

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Community Development Director

Date

## Decisions of the Building Official Can BeAppealed

Any person adversely affected by a determination made by the Building Official in administering or enforcing any provision of this chapter may appeal the determination to the Building *Appeals* Board.

- (a) *Appeals* shall be in writing, state the grounds for the appeal, and be accompanied by a fee in the amount set by resolution of the City Council. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.
- (b) The appeal shall be filed with the Building Official no later than ten (10) days after receipt of written notice of the determination and the appeal provisions of this chapter. Failure to timely request an appeal constitutes a waiver of the right to a hearing before the Building *Appeals* Board and a failure to exhaust administrative remedies.
- (c) Within forty-five (45) days of receiving an appeal, the Building Official shall schedule a hearing before the Building *Appeals* Board which shall consider relevant evidence presented at the hearing. Appellant shall be given at least ten (10) days' written notice of the date and time of the hearing.
- (d) The Building *Appeals* Board shall render a final written decision with findings within a reasonably prompt time after the filing of the appeal. The authority of the Building *Appeals* Board to render a written decision shall be limited to the scope of authority of the Building Official in the first instance and the Building *Appeals* Board shall have no authority to waive a requirement of this title.
- (e) The decision of the Building *Appeals* Board shall be final and conclusive. The written decision shall be sent to the appellant and shall provide that, pursuant to California Code of Civil Procedure Section 1094.6, any action to review said decision shall be commenced in an appropriate court of law not later than the ninetieth day after the date that the decision becomes final.

## BUILDING APPEALS BOARD

### Informational Sheet

#### WHAT IS AN APPEAL?

An appeal is a request for the Building Appeals Board to review decisions of the Building Official in which it's believed the conclusion reached was inappropriate. Findings, decisions, or determination of the Building Official can be appealed.

#### WHAT ISSUES CAN BE CONSIDER IN AN APPEAL?

An application for appeal is based on a claim that the true intent of the California Building Code or the rules legally adopted there under have been incorrectly interpreted, the provisions of the California Building Code does not fully apply, or an equally good or better form of construction is proposed. The Building Appeals Board may consider appeals of any building-related finding, decision, or determination made by the Building Official.

#### WHO CAN APPEAL A DECISION OR DETERMINATION?

Any involved person may appeal a finding, decision, or determination made by the Building Official.

#### WHERE IS AN APPEAL FILED?

All appeals to the Building Appeals Board must be filed with the City of Ojai's Community Development Department.

#### WHAT IS THE FILING FEE FOR A BUILDING APPEAL?

The filing fee for an appeal is \$300.00, which is refundable if the appeal is granted.

#### WHAT IS REQUIRED TO FILE AN APPEAL?

All appeals to the Building Appeals Board must be filed on an official "Building Appeals Application" form. These forms are available at the Community Development Department. The application form must be completely filled out and clearly state those issues or portion of the findings, decision, or determination being appealed since the Building Appeals Board will consider **only those issues or**

**portions which were raised in the appeal form.** Once an appeal is accepted for filing, additional issues cannot be raised after this time or at the hearing.

### WHAT IS A “STATEMENT OF GROUNDS?”

The appeal application form includes a section entitled “Statement of Grounds for Appeal.” The statement of grounds is the appellant’s opportunity to state the reasons why the decision or determination is being appealed and why the appellant believes that the decision or determination of the Building Official was inappropriately decided.

### WHAT HAPPENS AFTER THE APPEAL IS FILED?

Once a complete appeal is accepted for filing, a hearing is scheduled. The appellant will be notified of the date, time, and place of the hearing by mail in advance. A staff report will be submitted to Building Appeals Board and made available to the appellant prior to the hearing. The staff report provides information on the appeal and the decision or determination being appealed and may include a recommended action. The hearing on the appeal is then held.

### WHAT HAPPENS DURING THE APPEAL HEARING?

The Board conducts a public hearing on the appeal, listening to the arguments and facts from the appellant or property owner, anyone else who wishes to be heard, and from the Building Official. The Building Appeals Board or Building Official may ask questions of staff, appellant, or other persons providing input at the appropriate time in the hearing process. Once the deliberation phase begins, the Board of Appeals can take action to uphold the appeal thereby modifying or overturning the previous decision, to deny the appeal, or to continue the hearing for further deliberation or information. When the Board of Appeals makes its decision on the matter, the appeal process is finished.

#### WHERE TO FILE:

Community Development Department  
Ojai City Hall  
401 S. Ventura Street  
Ojai, CA 93024  
(805) 646-5581

#### OFFICE HOURS:

8:00 am to 5:00 pm  
Monday through Friday

## BUILDING APPEAL APPLICATION

Applicant(s) Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone/Fax/E-mail: \_\_\_\_\_

### ATTACH ADDITIONAL INFORMATION IF NEEDED TO DESCRIBE THE APPEAL IN DETAIL

1. Reason for Appeal \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Statement of Grounds for Appeal: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. If this appeal involves an application or permit application for construction, please provide the following information:

a. Address of Construction Project: \_\_\_\_\_  
b. Owner's Name and Mailing Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Reference the specific section of the code your interpretation involves: \_\_\_\_\_  
Please circle the applicable Code: CBC CEC CMC CPC OMC Other: \_\_\_\_\_

5. Do you have any information materials or references of support, please list each item attached:

Item 1: \_\_\_\_\_

Item 2: \_\_\_\_\_

Item 3: \_\_\_\_\_

**I hereby certify under penalty of perjury that the information I have provided is true and accurate.**

**Signature of Property Owner**

**Date**

## CODE INTERPRETATION APPLICATION

Applicant(s) Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone/Fax/E-mail: \_\_\_\_\_

**ATTACH ADDITIONAL INFORMATION IF NEEDED TO DESCRIBE PROJECT IN DETAIL.**

1. Reason for Request \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Reference the specific section of the code your interpretation involves: \_\_\_\_\_  
Please circle the applicable Code: CBC CEC CMC CPC OMC Other: \_\_\_\_\_

3. Do you have any information materials or references of support, please list each item attached:  
Item 1: \_\_\_\_\_  
Item 2: \_\_\_\_\_  
Item 3: \_\_\_\_\_

4. Would you like to meet with the Building Official to present your viewpoint and comments?

Please Circle: Yes or No

This meeting would be an informal hearing for the sole purpose of explaining your viewpoints regarding the issue(s). The Building Official's goal in this hearing is to make sure he fully understands your position. A written interpretation from the Building Official will be prepared and mailed after meeting.

If you do not choose to meet with the Building Official, a written interpretation from the Building Official will be prepared and mailed.

**I hereby certify under penalty of perjury that the information I have provided is true and accurate.**

**Signature of Property Owner**

**Date**