2022

NC General Statutes Pertaining to the Enforcement of the NC State Building Code

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NC - DOI
11/1/2022

Summary of Changes

November 1, 2022, Message from the NCDOI Engineering & Codes Division staff

This issue of the NC General Statutes and Administrative Code (aka Board Rules) includes a summary of changes since the last edition dated May 22, 2022. These changes are noted by a **vertical bar in the margin** | to assist the reader. Together these Laws and Rules provide the regulatory guidance for the Board and Staff to Certify, Educate, Investigate and Discipline Code Enforcement Officials in North Carolina. This publication is for use and reference by applicants for certification; certified inspectors; continuing education course sponsors and instructors, design, construction and real estate industry professionals, and of course; the general public as they are the ultimate consumers of inspection and code administration and enforcement services as either homebuyers or homeowners that the NC Code Officials Qualification Board is intended to serve and protect. A Summary of Changes is provided below:

The NC General Assembly enacted the following legislative changes to the General Statutes through the Session Laws (SL) listed below.

Session Law 2021-81

- G.S. 83A-1 Definitions. Amended to include interior designers and related definitions.

Session Law 2021-88

- G.S. 160D-403 Administrative development approvals and determinations. Amended to provide clarity and to align with 160D General Statutes.
- G.S. 160D-1102 Building Code administration. Rewritten to provide clarity and to align with 160D General Statutes.
- G.S. 160D-1111 Expiration of building permits. Rewritten to provide better clarity.
- G.S. 150B-21.2 Procedure for adopting a permanent rule. Rewritten to provide better clarity.

Session Law 2021-117

- G.S. 143-139(b) Remote Inspections for NC State Building Code Compliance. Amended by adding a new subdivision (3).
- G.S. 160D-1104 Duties and Responsibilities. Rewritten removing inspection visit and changing to state inspection.
- G.S. 160D-1104.1 Remote Inspection Alternative. Amended by adding a new section requiring inspection departments to implement remote inspection procedures.

Session Law 2021-121

- G.S. 143-138(d1) North Carolina State Building Code cost-benefit analysis on code revisions or amendments.
- G.S. 143-138(e) Amended to align references to NCGS 160D in text.

Session Law 2021-180

- G.S. 143-138(g) Amended for publication and distribution of codes to various agencies.

Session Law 2021-183

- G.S. 160D-1104(d) Amended to limit ability of local governments to adopt or enforce regular, routine inspections of buildings or structure constructed in compliance with the NC Residential Code for One- and Two-Family Dwellings without approval from NC Building Code Council, also shall not delay issuance of a temporary certificate of occupancy. Also, to modify One- and Two-Family dwelling residential development fire apparatus access road requirements.
- G.S. 143-143.2 Amended for Electric wiring of houses, buildings, and structures to include 4 subsections (a–d).

Session Law 2021-192

- G.S. 83A-13(c) Exemptions. Amended to increase project value for institutional or commercial buildings requiring architectural license for preparation.
- G.S. 83A-13(c) Exemptions. Amended to exempt commercial building projects with a total value less than $300,000 dollars.
- G.S. 83A-13(c1) Exemptions. Amended to exempt three requirements for a professional architectural seal.
- G.S. 143-138(b21) Exclusion for Certain Minor Activities in Commercial Buildings and Structures. Amended to exclude permit required for construction, installation, repair, replacement, or alteration costing $20,000 or less in any commercial building or structure.
- G.S. 143-138(b22) Limit Requirement for Certain Plans to be Under Professional Seal. Amended to exempt plans and specifications for alteration, remodeling, renovation or repair of commercial building or structure less than $300,000 and building area does not exceed 3,000 square feet with three conditions.
- G.S. 160D-1104 (d1) Amended to limit a local government from adopting or enforcing a local ordinance, resolution, or policy that requires plans and specifications for alteration, remodeling, renovation, or repair of a commercial building or structure to be prepared under the seal of a registered architect under two conditions.
- G.S. 160D-1110(c) Amended no permit issued under Article 9 or 9C of Chapter 143 of the General Statutes is required for a permit for construction, installation, repair, replacement, or alteration $20,000 or less in a single-family residence, farm building, or commercial building under six conditions.
- G.S. 143-138(b5) Permit Exclusion for Certain Minor Activities. Amended to increase project costing $20,000 or less in single family residence, farm building, or commercial building under six conditions.

Session Law 2022-11

- G.S. 87-43.3 Classification of licenses. Amended to modify classification of electrical contracting licenses.
- G.S. 130A-336 Improvement permit and construction authorization required. Amended to require construction authorization for wastewater systems under subsections (a) (b) (b1) (c).
- G.S. 130A-338 Amended construction authorization required before other permits to be issued.
- G.S. 130A-339 Amended for limitation on electrical service permits and authorization for wastewater systems.
- G.S. 143-140.1 Amended, The NC Building Code Council shall, by January 1, 2023, promulgate rules, procedures, and policies for the approval of alternative designs and construction.
- G.S. 160D-1102(a) Amended requiring every local government to designate a person responsible for the daily oversight of the local government's duties and responsibilities under G.S. 160D-1104.
- G.S. 160D-1102(c) Amended requiring every local government to publish an annual financial report on how it used fees from the prior fiscal year for the support, administration, and implementation of its building code enforcement program as defined in G.S. 160D-402(d).
- G.S. 87-10(a1) Amended pertaining to general contractor license project value increases.
- G.S. 143-139.4(f1) Amended by adding a new subsection, Personnel assigned by the Commissioner to conduct inspections under this section must begin conducting an inspection within two business days after assignment by the Commissioner. (k)(2) was rewritten for clarity, (l) was amended by adding a new subsection, The Commissioner shall contract with any individual, corporation, or other business entity that holds one of the applicable certificates as provided in G.S. 143-151.13 to conduct inspections under this section.
- G.S. 143-139(b) Amended for additional technical corrections to conform certain statutes to Chapter 160D of the General Statutes.

Session Law 2022-55

- G.S. 143-138(b4) Exclusion for Certain Farm Buildings. Amended to clarify the applicability of the farm building exception to the Building Code. (See note d)
- G.S. 160D-903 Agricultural uses. Amended to clarify a farm building or structure used solely for storage of cotton, peanuts, or sweet potatoes, or any byproduct of those commodities is a bona fide farm purpose.

Session Law 2022-56

- G.S. 143-143.7 Amended by adding a new section imposing safety requirements for elevators in certain residential rental accommodations.
- G.S. 42-42(1a) Landlord to provide fit premises. Amended to comply with applicable elevator safety requirements in G.S. 143-143.7.
- G.S. 42A-31(1a) Landlord to provide fit premises. Amended to comply with applicable elevator safety requirements in G.S. 143-143.7.

Session Law 2022-62

- G.S. 87-14 Amended relating to regulations as to issuance of building permits.
- G.S. 115C-525 Fire Prevention. Amended to align with 160D General Statute.
- G.S. 143-139 Enforcement of Building Code, (b) & (b1) were amended to align with 160D General Statutes.
- G.S. 143-139.4 Certain building inspections by State. Amended to align with 160D General Statutes.
- G.S. 143-151.8 Definitions. Amended pertaining to the NC Code Officials Qualification Board.
- G.S. 143-151.12 Powers. Amended concerning powers of the Board.
- G.S. 143-151.13(e) Required standards and certificates for Code-enforcement officials. Amended to align with 160D General Statutes.
- G.S. 143-151.15 Return of certificate to Board; reissuance by Board. Amended removing G.S. 153A-350.1 for Indian Tribal lands.
- G.S. 143-151.17(a) Grounds for disciplinary actions; investigation; administrative procedures. Amended for clarity.

Session Law 2022-75

- G.S. 143-139.1(a) & (b) Amended pertaining to Certification of manufactured buildings, structures, or components recognized independent testing laboratory; minimum standards for single-family, on-frame modular homes.
- G.S. 87-21(c) Amended to clarify scope of licensed water heater installation and repair.

NC Administrative Code (NCAC/Board Rules)

11 NCAC 08.0100 - .0800 – No new NC Code Officials Qualification Board rule changes are effective with this edition.

REPRINT OF THE GENERAL STATUTES PERTAINING TO THE ENFORCEMENT OF THE NORTH CAROLINA STATE BUILDING CODE

The North Carolina State Building Codes do not include all additional requirements for buildings and structures that may be imposed by other State agencies, occupational licensing boards and commissions. It shall be the responsibility of a permit holder, design professional, contractor or occupational license holder to determine whether any additional requirements exist.

The current language of the General Statutes may be viewed at www.ncleg.gov.
The following list, while extensive, may not include all applicable General Statutes.

§ 1-539.2	Dismantling Portion of Building
§ 14-68	Failure of Owner of Property to Comply with Orders of Public Authorities
§ 14-228 thru 232	Misconduct in Public Office
§ 14-414	Pyrotechnics Defined; Exceptions
§ 15-27.2	Warrants to Conduct Inspections Authorized by Law
§ 42-38 thru 46	Residential Rental Agreements
§ 58-2-95	Commissioner to Supervise Local Inspectors
§ 58-31-40	Commissioner to Inspect State property
§ 58-79-20	Inspection of Premises; Dangerous Material Removed
§ 66-23 thru 27	Electrical Materials, Devices, Appliances and Equipment
§ 83A-1 thru 17	Architects and Registered Interior Designers
§ 87-1 thru 15.4	General Contractors
§ 87-15.6	Homeowners Recovery Fund
§ 87-21	Plumbing, Heating and Fire Sprinkler Contractor
§ 87-43	Electrical Contracting Defined; Licenses
§ 87-57 thru 58	Refrigeration Contractors
§ 89C-3 & 23	Engineering and Land Surveying
§ 95-69.8 thru .10	Uniform Boiler and Pressure Vessel Act
§ 106-581.1 Article 52	Agriculture Defined
§ 115C 525	School Sites and Property
§ 119.54 Article 5	Liquified Petroleum Gases
§ 130A-336 thru 339	Wastewater Systems
§ 133-1 thru 4	Public Works
§ 143-135.1	Inspection of State-Owned Buildings
§ 143-136 thru 143.7	Building Code Council and Building Code
§ 143-151.8 thru .21	NC Code Officials Qualification Board
§ 143-151.42	Master Electrical and Natural Gas Meters Prohibited
§ 143-151.43 thru.64	North Carolina Home Inspector Licensure Board
§ 150B-18-21	Administrative Procedures Act
§ 160D-402 – 404	Administration, Enforcement, and Appeals
§ 160D-903	Agricultural Uses
§ 160D-1101 – 1129	Building Code Enforcement

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CHAPTER 1 - CIVIL PROCEDURE

ARTICLE 43
Nuisance & Other Wrongs

§ 1-539.2 DISMANTLING PORTION OF BUILDING.

When one person owns a portion of a building and another or other persons own the remainder of said building, neither of said owners shall dismantle his portion of said building without making secure the portions of said building belonging to other persons. Any person violating the provisions of this section shall be responsible in damages to the owners of other portions of such building.

CHAPTER 14 - CRIMINAL LAW

ARTICLE 15
Arson & Other Burnings

§ 14-68 FAILURE OF OWNER OF PROPERTY TO COMPLY WITH ORDERS OF PUBLIC AUTHORITIES.

If the owner or occupant of any building or premises shall fail to comply with the duly authorized orders of the chief of the fire department, or of the Commissioner of Insurance, or of any municipal or county inspector of buildings or of particular features, facilities, or installations of buildings, he shall be guilty of a Class 3 misdemeanor, and punished only by a fine of not less than ten ($10.00) nor more than fifty dollars ($50.00) for each day's neglect, failure, or refusal to obey such orders.

ARTICLE 31
Misconduct in Office

§ 14-228 BUYING AND SELLING OFFICES.

If any person shall bargain away or sell an office or deputation of an office, or any part or parcel thereof, or shall take money, reward or other profit, directly or indirectly, or shall take any promise, covenant, bond or assurance for money, reward or other profit, for an office or the deputation of an office, or any part thereof, which office, or any part thereof, shall touch or concern the administration or execution of justice, or the receipt, collection, control or disbursement of the public revenue, or shall concern or touch any clerkship in any court of record wherein justice is administered; or if any person shall give or pay money, reward or other profit, or shall make any promise, agreement, bond or assurance for any of such offices, or for the deputation of any of them, or for any part of them, the person so offending in any of the cases aforesaid shall be guilty of a Class I felony.

§ 14-229 ACTING AS OFFICER BEFORE QUALIFYING AS SUCH.

If any officer shall enter on the duties of his office before he executes and delivers to the authority entitled to receive the same the bonds required by law, and qualifies by taking and subscribing and filing in the proper office the oath of office prescribed, he shall be guilty of a Class 1 misdemeanor and shall be ejected from his office.

§ 14-230 WILLFULLY FAILING TO DISCHARGE DUTIES.

If any clerk of any court of record, sheriff, magistrate, school board member, county commissioner, county surveyor, coroner, treasurer, or official of any of the State institutions, or of any county, city or town, shall willfully omit, neglect or refuse to discharge any of the duties of his office, for default whereof it is not elsewhere provided that he shall be indicted, he shall be guilty of a Class 1 misdemeanor. If it shall be proved that such officer, after his qualification, willfully and corruptly omitted, neglected or refused to discharge any of the duties of his office, or willfully and corruptly violated his oath of office according to the true intent and meaning thereof, such officer shall be guilty of misbehavior in office, and shall be punished by removal therefrom under the sentence of the court as a part of the punishment for the offense.

§ 14-231 FAILING TO MAKE REPORTS AND DISCHARGE OTHER DUTIES.

If any State or county officer shall fail, neglect or refuse to make, file or publish any report, statement or other paper, or to deliver to his successor all books and other property belonging to his office, or to pay over or deliver to the proper person all moneys which come into his hands by

virtue or color of his office, or to discharge any duty devolving upon him by virtue of his office and required of him by law, he shall be guilty of a Class 1 misdemeanor.

§ 14-232 SWEARING FALSELY TO OFFICIAL REPORTS.

If any clerk, sheriff, register of deeds, county commissioner, county treasurer, magistrate or other county officer shall willfully swear falsely to any report or statement required by law to be made or filed, concerning or touching the county, State or school revenue, he shall be guilty of a Class 1 misdemeanor.

ARTICLE 54

Sale of Pyrotechnics

§ 14-414 PYROTECHNICS DEFINED; EXCEPTIONS.

For the proper construction of the provisions of this Article, "pyrotechnics," as is herein used, shall be deemed to be and include any and all kinds of fireworks and explosives, which are used for exhibitions or amusement purposes: provided, however, that nothing herein contained shall prevent the manufacture, purchase, sale, transportation, and use of explosives or signaling flares used in the course of ordinary business or industry, or shells or cartridges used as ammunition in firearms. This Article shall not apply to the sale, use, or possession of the following:

(1) Explosive caps designed to be fired in toy pistols, provided that the explosive mixture of the explosive caps shall not exceed twenty-five hundredths (.25) of a gram for each cap.

(2) Snake and glow worms composed of pressed pellets of a pyrotechnic mixture that produce a large, snake-like ash when burning.

(3) Smoke devices consisting of a tube or sphere containing a pyrotechnic mixture that produces white or colored smoke.

(4) Trick noisemakers which produce a small report designed to surprise the user and which include:

a. A party popper, which is a small plastic or paper item containing not in excess of 16 milligrams of explosive mixture. A string protruding from the device is pulled to ignite the device, expelling paper streamers and producing a small report.

b. A string popper, which is a small tube containing not in excess of 16 milligrams of explosive mixture with string protruding from both ends. The strings are pulled to ignite the friction-sensitive mixture, producing a small report.

c. A snapper or drop pop, which is a small, paper-wrapped item containing no more than 16 milligrams of explosive mixture coated on small bits of sand. When dropped, the device produces a small report.

(5) Wire sparklers consisting of wire or stick coated with nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition. These items must not exceed 100 grams of mixture per item.

(6) Other sparkling devices which emit showers of sparks and sometimes a whistling or crackling effect when burning, do not detonate or explode, do not spin, are hand-held or ground-based, cannot propel themselves through the air, and contain not more than 75 grams of chemical compound per tube, or not more than a total of 200 grams if multiple tubes are used.

CHAPTER 15 - CRIMINAL PROCEDURE

ARTICLE 4A

Administrative Search & Inspection Warrants

§ 15-27.2 WARRANTS TO CONDUCT INSPECTIONS AUTHORIZED BY LAW.

(a) Notwithstanding the provisions of Article 11 of Chapter 15A, any official or employee of the State or of a unit of county or local government of North Carolina may, under the conditions specified in this section, obtain a warrant authorizing him to conduct a search or inspection of property if such a search or inspection is one that is elsewhere authorized by law, either with or without the consent of the person whose privacy would be thereby invaded, and is one for which such a warrant is constitutionally required.

(b) The warrant may be issued by any magistrate of the general court of justice, judge, clerk, or assistant or deputy clerk of any court of record whose territorial jurisdiction encompasses the property to be inspected.

(c) The issuing officer shall issue the warrant when he is satisfied the following conditions are met:

(1) The one seeking the warrant must establish under oath or affirmation that the property to be searched or inspected is to be searched or inspected as part of a legally authorized program of inspection which naturally includes that property, or that there is probable cause for believing that there is a condition, object, activity or circumstance which legally justifies such a search or inspection of that property;

(2) An affidavit indicating the basis for the establishment of one of the grounds described in (1) above must be signed under oath or affirmation by the affiant;

(3) The issuing official must examine the affiant under oath or affirmation to verify the accuracy of the matters indicated by the statement in the affidavit;

(d) The warrant shall be validly issued only if it meets the following requirements:

(1) Except as provided in subsection (e), it must be signed by the issuing official and must bear the date and hour of its issuance above his signature with a notation that the warrant is valid for only 24 hours following its issuance;

(2) It must describe, either directly or by reference to the affidavit, the property where the search or inspection is to occur and be accurate enough in description so that the executor of the warrant and the owner or the possessor of the property can reasonably determine from it what person or property the warrant authorizes an inspection of;

(3) It must indicate the conditions, objects, activities or circumstances which the inspection is intended to check or reveal;

(4) It must be attached to the affidavit required to be made in order to obtain the warrant.

(e) Any warrant issued under this section for a search or inspection shall be valid for only 24 hours after its issuance, must be personally served upon the owner or possessor of the property between the hours of 8:00 A.M. and 8:00 P.M. and must be returned within 48 hours. If the warrant, however, was procured pursuant to an investigation authorized by G.S. 58-79-1, the warrant may be executed at any hour, is valid for 48 hours after its issuance, and must be returned without unnecessary delay after its execution or after the expiration of the 48 hour period if it is not executed. If the owner or possessor of the property is not present on the property at the time of the search or inspection and reasonable efforts to locate the owner or possessor have been made and have failed, the warrant or a copy thereof may be affixed to the property and shall have the same effect as if served personally upon the owner or possessor.

(f) No facts discovered or evidence obtained in a search or inspection conducted under authority of a warrant issued under this section shall be competent as evidence in any civil, criminal or administrative action, nor considered in imposing any civil, criminal, or administrative sanction against any person, nor as a basis for further seeking to obtain any warrant, if the warrant is invalid or if what is discovered or obtained is not a condition, object, activity or circumstance which it was the legal purpose of the search or inspection to discover; but this shall not prevent any such facts or evidence to be so used when the warrant issued is not constitutionally required in those circumstances.

(g) The warrants authorized under this section shall not be regarded as search warrants for the purposes of application of Article 11 of Chapter 15A of the General Statutes of North Carolina.

CHAPTER 42 – LANDLORD TENANT

ARTICLE 5

Residential Rental Agreements

§ 42-38 APPLICATION.

This Article determines the rights, obligations, and remedies under a rental agreement for a dwelling unit within this State.

§ 42-39 EXCLUSIONS.

(a) The provisions of this Article shall not apply to transient occupancy in a hotel, motel, or similar lodging subject to regulation by the Commission for Public Health.

(a1) The provisions of this Article shall not apply to vacation rentals entered into under Chapter 42A of the General Statutes.

(c) Nothing in this Article shall apply to any dwelling furnished without charge or rent.

§ 42-40 DEFINITIONS.

For the purpose of this Article, the following definitions shall apply:

(1) "Action" includes recoupment, counterclaim, defense, setoff, and any other proceeding including an action for possession.

(2) "Premises" means a dwelling unit, including mobile homes or mobile home spaces, and the structure of which it is a part and facilities and appurtenances therein and grounds, areas, and facilities normally held out for the use of residential tenants.

(3) "Landlord" means any owner and any rental management company, rental agency, or any other person having the actual or apparent authority of an agent to perform the duties imposed by this Article.

(4) "Protected tenant" means a tenant or household member who is a victim of domestic violence under Chapter 50B of the General Statutes or sexual assault or stalking under Chapter 14 of the General Statutes.

§ 42-41 MUTUALITY OF OBLIGATIONS.

The tenant's obligation to pay rent under the rental agreement or assignment and to comply with G.S. 42-43 and the landlord's obligation to comply with G.S. 42-42(a) shall be mutually dependent.

§ 42-42 LANDLORD TO PROVIDE FIT PREMISES.

(a) The landlord shall:

(1) Comply with the current applicable building and housing codes, whether enacted before or after October 1, 1977, to the extent required by the operation of such codes; no new requirement is imposed by this subdivision (a)(1) if a structure is exempt from a current building code.

(1a) Comply with all applicable elevator safety requirements in G.S. 143-143.7.

(2) Make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition.

(3) Keep all common areas of the premises in safe condition.

(4) Maintain in good and safe working order and promptly repair all electrical, plumbing, sanitary, heating, ventilating, air conditioning, and other facilities and appliances supplied or required to be supplied by the landlord provided that notification of needed repairs is made to the landlord in writing by the tenant, except in emergency situations.

(5) Provide operable smoke alarms, either battery-operated or electrical, having an Underwriters' Laboratories, Inc., listing or other equivalent national testing laboratory approval, and install the smoke alarms in accordance with either the standards of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the landlord shall retain or provide as proof of compliance. The landlord shall replace or repair the smoke alarms within 15 days of receipt of notification if the landlord is notified of needed replacement or repairs in writing by the tenant. The landlord shall ensure that a smoke alarm is operable and in good repair at the beginning of each tenancy. Unless the landlord and the tenant have a written agreement to the contrary, the landlord shall place new batteries in a battery-operated smoke alarm at the beginning of a tenancy and the tenant shall replace the batteries as needed during the tenancy, except where the smoke alarm

is a tamper-resistant, 10-year lithium battery smoke alarm as required by subdivision (5a) of this subsection. Failure of the tenant to replace the batteries as needed shall not be considered as negligence on the part of the tenant or the landlord.

(5a) After December 31, 2012, when installing a new smoke alarm or replacing an existing smoke alarm, install a tamper-resistant, 10-year lithium battery smoke alarm. However, the landlord shall not be required to install a tamper-resistant, 10-year lithium battery smoke alarm as required by this subdivision in either of the following circumstances:

a. The dwelling unit is equipped with a hardwired smoke alarm with a battery backup.

b. The dwelling unit is equipped with a smoke alarm combined with a carbon monoxide alarm that meets the requirements provided in subdivision (7) of this section.

(6) If the landlord is charging for the cost of providing water or sewer service pursuant to G.S. 42-42.1 and has actual knowledge from either the supplying water system or other reliable source that water being supplied to tenants within the landlord's property exceeds a maximum contaminant level established pursuant to Article 10 of Chapter 130A of the General Statutes, provide notice that water being supplied exceeds a maximum contaminant level.

(7) Provide a minimum of one operable carbon monoxide alarm per rental unit per level, either battery-operated or electrical, that is listed by a nationally recognized testing laboratory that is OSHA-approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075, and install the carbon monoxide alarms in accordance with either the standards of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the landlord shall retain or provide as proof of compliance. A landlord that installs one carbon monoxide alarm per rental unit per level shall be deemed to be in compliance with standards under this subdivision covering the location and number of alarms. The landlord shall replace or repair the carbon monoxide alarms within 15 days of receipt of notification if the landlord is notified of needed replacement or repairs in writing by the tenant. The landlord shall ensure that a carbon monoxide alarm is operable and in good repair at the beginning of each tenancy. Unless the landlord and the tenant have a written agreement to the contrary, the landlord shall place new batteries in a battery-operated carbon monoxide alarm at the beginning of a tenancy, and the tenant shall replace the batteries as needed during the tenancy. Failure of the tenant to replace the batteries as needed shall not be considered as negligence on the part of the tenant or the landlord. A carbon monoxide alarm may be combined with smoke alarms if the combined alarm does both of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke alarms; and (ii) emits an alarm in a manner that clearly differentiates between detecting the presence of carbon monoxide and the presence of smoke. This subdivision applies only to dwelling units having a fossil-fuel burning heater, appliance, or fireplace, and in any dwelling unit having an attached garage. Any operable carbon monoxide detector installed before January 1, 2010, shall be deemed to be in compliance with this subdivision.

(8) Within a reasonable period of time based upon the severity of the condition, repair or remedy any imminently dangerous condition on the premises after acquiring actual knowledge or receiving notice of the condition. Notwithstanding the landlord's repair or remedy of any imminently dangerous condition, the landlord may recover from the tenant the actual and reasonable costs of repairs that are the fault of the tenant. For purposes of this subdivision, the term "imminently dangerous condition" means any of the following:

a. Unsafe wiring.
b. Unsafe flooring or steps.
c. Unsafe ceilings or roofs.
d. Unsafe chimneys or flues.
e. Lack of potable water.
f. Lack of operable locks on all doors leading to the outside.
g. Broken windows or lack of operable locks on all windows on the ground level.
h. Lack of operable heating facilities capable of heating living areas to 65 degrees Fahrenheit

when it is 20 degrees Fahrenheit outside from November 1 through March 31.

i. Lack of an operable toilet.

j. Lack of an operable bathtub or shower.

k. Rat infestation as a result of defects in the structure that make the premises not impervious to rodents.

l. Excessive standing water, sewage, or flooding problems caused by plumbing leaks or inadequate drainage that contribute to mosquito infestation or mold.

(b) The landlord is not released of his obligations under any part of this section by the tenant's explicit or implicit acceptance of the landlord's failure to provide premises complying with this section, whether done before the lease was made, when it was made, or after it was made, unless a governmental subdivision imposes an impediment to repair for a specific period of time not to exceed six months. Notwithstanding the provisions of this subsection, the landlord and tenant are not prohibited from making a subsequent written contract wherein the tenant agrees to perform specified work on the premises, provided that said contract is supported by adequate consideration other than the letting of the premises and is not made with the purpose or effect of evading the landlord's obligations under this Article.

§ 42-42.1 WATER, ELECTRICITY, AND NATURAL GAS CONSERVATION.

(a) For the purpose of encouraging water, electricity, and natural gas conservation, pursuant to a written rental agreement, a lessor may charge for the cost of providing water or sewer service to lessees pursuant to G.S. 62-110(g), electric service pursuant to G.S. 62-110(h), or natural gas service pursuant to G.S. 62-110(i).

(b) The lessor may not disconnect or terminate the lessee's electric service, water or sewer services, or natural gas service due to the lessee's nonpayment of the amount due for electric service, water or sewer services, or natural gas service.

§ 42-42.2 VICTIM PROTECTION - NONDISCRIMINATION.

A landlord shall not terminate a tenancy, fail to renew a tenancy, refuse to enter into a rental agreement, or otherwise retaliate in the rental of a dwelling based substantially on: (i) the tenant, applicant, or a household member's status as a victim of domestic violence, sexual assault, or stalking; or (ii) the tenant or applicant having terminated a rental agreement under G.S. 42-45.1. Evidence provided to the landlord of domestic violence, sexual assault, or stalking may include any of the following:

(1) Law enforcement, court, or federal agency records or files.

(2) Documentation from a domestic violence or sexual assault program.

(3) Documentation from a religious, medical, or other professional.

§ 42-42.3 VICTIM PROTECTION - CHANGE LOCKS.

(a) If the perpetrator of domestic violence, sexual assault, or stalking is not a tenant in the same dwelling unit as the protected tenant, a tenant of a dwelling may give oral or written notice to the landlord that a protected tenant is a victim of domestic violence, sexual assault, or stalking and may request that the locks to the dwelling unit be changed. A protected tenant is not required to provide documentation of the domestic violence, sexual assault, or stalking to initiate the changing of the locks, pursuant to this subsection. A landlord who receives a request under this subsection shall change the locks to the protected tenant's dwelling unit or give the protected tenant permission to change the locks within 48 hours.

(b) If the perpetrator of the domestic violence, sexual assault, or stalking is a tenant in the same dwelling unit as the victim, any tenant or protected tenant of a dwelling unit may give oral or written notice to the landlord that a protected tenant is a victim of domestic violence, sexual assault, or stalking and may request that the locks to the dwelling unit be changed. In these circumstances, the following shall apply:

(1) Before the landlord or tenant changes the locks under this subsection, the tenant must provide the landlord with a copy of an order issued by a court that orders the perpetrator to stay away from the dwelling unit.

(2) Unless a court order allows the perpetrator to return to the dwelling to retrieve personal belongings, the landlord has no duty under the rental agreement or by law to allow the perpetrator access to the dwelling unit, to provide keys to the perpetrator, or to provide the perpetrator access to the perpetrator's personal property within the dwelling unit once the landlord has been provided with a court order requiring the perpetrator to stay away from the dwelling. If a landlord complies with this section, the landlord is not liable for civil damages, to a perpetrator excluded from the dwelling unit, for loss of use of the dwelling unit or loss of use or damage to the perpetrator's personal property.

(3) The perpetrator who has been excluded from the dwelling unit under this subsection remains liable under the lease with any other tenant of the dwelling unit for rent or damages to the dwelling unit.

A landlord who receives a request under this subsection shall change the locks to the protected tenant's dwelling unit or give the protected tenant permission to change the locks within 72 hours.

(c) The protected tenant shall bear the expense of changing the locks. If a landlord fails to act within the required time, the protected tenant may change the locks without the landlord's permission. If the protected tenant changes the locks, the protected tenant shall give a key to the new locks to the landlord within 48 hours of the locks being changed.

§ 42-43 TENANT TO MAINTAIN DWELLING UNIT.

(a) The tenant shall:

(1) Keep that part of the premises that the tenant occupies and uses as clean and safe as the conditions of the premises permit and cause no unsafe or unsanitary conditions in the common areas and remainder of the premises that the tenant uses.

(2) Dispose of all ashes, rubbish, garbage, and other waste in a clean and safe manner.

(3) Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits.

(4) Not deliberately or negligently destroy, deface, damage, or remove any part of the premises, nor render inoperable the smoke alarm or carbon monoxide alarm provided by the landlord, or knowingly permit any person to do so.

(5) Comply with any and all obligations imposed upon the tenant by current applicable building and housing codes.

(6) Be responsible for all damage, defacement, or removal of any property inside a dwelling unit in the tenant's exclusive control unless the damage, defacement or removal was due to ordinary wear and tear, acts of the landlord or the landlord's agent, defective products supplied or repairs authorized by the landlord, acts of third parties not invitees of the tenant, or natural forces.

(7) Notify the landlord, in writing, of the need for replacement of or repairs to a smoke alarm or carbon monoxide alarm. The landlord shall ensure that a smoke alarm and carbon monoxide alarm are operable and in good repair at the beginning of each tenancy. Unless the landlord and the tenant have a written agreement to the contrary, the landlord shall place new batteries in a battery-operated smoke alarm and battery-operated carbon monoxide alarm at the beginning of a tenancy and the tenant shall replace the batteries as needed during the tenancy, except where the smoke alarm is a tamper-resistant, 10-year lithium battery smoke alarm as required by G.S. 42-42(a)(5a). Failure of the tenant to replace the batteries as needed shall not be considered as negligence on the part of the tenant or the landlord.

(b) The landlord shall notify the tenant in writing of any breaches of the tenant's obligations under this section except in emergency situations.

§ 42-44 GENERAL REMEDIES, PENALTIES, AND LIMITATIONS.

(a) Any right or obligation declared by this Chapter is enforceable by civil action, in addition to other remedies of law and in equity.

(a1) If a landlord fails to provide, install, replace, or repair a smoke alarm under the provisions of G.S. 42-42(a)(5) or a carbon monoxide alarm under the provisions of G.S. 42-42(a)(7) within 30 days of having received written notice from the tenant or any agent of State or local government of the landlord's failure to do so, the landlord shall be responsible for an infraction and shall be subject to a fine of not more than two hundred fifty dollars ($250.00) for each violation. After December 31, 2012, if the landlord installs a new smoke alarm or replaces an existing smoke alarm, the smoke alarm shall be a tamper-resistant, 10-year lithium battery smoke alarm, except as provided in G.S. 42-42(a)(5a). The landlord may temporarily disconnect a smoke alarm or carbon monoxide alarm in a dwelling unit or common area for construction or rehabilitation activities when such activities are likely to activate the smoke alarm or carbon monoxide alarm or make it inactive.

(a2) If a smoke alarm or carbon monoxide alarm is disabled or damaged, other than through actions of the landlord, the landlord's agents, or acts of God, the tenant shall reimburse the landlord the reasonable and actual cost for repairing or replacing the smoke alarm or carbon monoxide alarm within 30 days of having received written notice from the landlord or any agent of State or local government of the need for the tenant to make such reimbursement. If the tenant fails to make reimbursement within 30 days, the tenant shall be responsible for an infraction and subject to a fine of not more than one hundred dollars ($100.00) for each violation. The tenant may temporarily disconnect a smoke alarm or carbon monoxide alarm in a dwelling unit to replace the batteries or when it has been inadvertently activated.

(b) Repealed by Session Laws 1979, c. 820, s. 8.

(c) The tenant may not unilaterally withhold rent prior to a judicial determination of a right to do so.

(c1) A real estate broker or firm as defined in G.S. 93A-2 managing a rental property on behalf of a landlord shall not be personally liable as a party in a civil action between the landlord and tenant solely because the real estate broker or firm fails to identify the landlord of the property in the rental agreement.

(d) A violation of this Article shall not constitute negligence per se.

§ 42-45 EARLY TERMINATION OF RENTAL AGREEMENT BY MILITARY PERSONNEL, SURVIVING FAMILY MEMBERS, OR LAWFUL REPRESENTATIVE.

(a) Any military technician under section 10216 of Title 10 of the United States Code who (i) is required to move pursuant to permanent change of station orders to depart 50 miles or more from the location of the dwelling unit, or (ii) is prematurely or involuntarily discharged or released from active duty with the Armed Forces of the United States, may terminate the member's rental agreement for a dwelling unit by providing the landlord with a written notice of termination to be effective on a date stated in the notice that is at least 30 days after the landlord's receipt of the notice. The notice to the landlord must be accompanied by either a copy of the official military orders or a written verification signed by the member's commanding officer.

(a1) Any military technician under section 10216 of Title 10 of the United States Code who is deployed with a military unit for a period of not less than 90 days may terminate the member's rental agreement for a dwelling unit by providing the landlord with a written notice of termination. The notice to the landlord must be accompanied by either a copy of the official military orders or a written verification signed by the member's commanding officer. Termination of a lease pursuant to this subsection is effective 30 days after the first date on which the next rental payment is due or 45 days after the landlord's receipt of the notice, whichever is shorter, and payable after the date on which the notice of termination is delivered.

(a2) Upon termination of a rental agreement under this section, the tenant is liable for the rent due under the rental agreement prorated to the effective date of the termination payable at such time as would have otherwise been required by the terms of the rental agreement. The tenant is not liable for any other rent or damages due to the early termination of the tenancy except the liquidated damages provided in subsection (b) of this section. If a member terminates the rental agreement pursuant to this section 14 or more days

prior to occupancy, no damages or penalties of any kind shall be due.

(a3) If a military technician under section 10216 of Title 10 of the United States Code dies while on active duty, then an immediate family member, or a lawful representative of the member's estate, may terminate the member's rental agreement for a dwelling unit by providing the landlord with a written notice of termination to be effective on the date described in subsection (a1) of this section. A copy of the death certificate, official military personnel casualty report, or letter from the commanding officer verifying the member's death must accompany the notice for this subsection to be effective. Termination of the member's lease obligations under this subsection shall also terminate the lease obligations of any cotenants who are immediate family members. If the member was a cotenant with a person who is not an immediate family member, then the termination shall relate only to the obligation of the member under the rental agreement. The prorated charges in subsection (a2) of this section and the liquidated damages provisions of subsection (b) of this section shall apply to any claims against the member's estate.

(b) In consideration of early termination of the rental agreement, the tenant is liable to the landlord for liquidated damages provided the tenant has completed less than nine months of the tenancy and the landlord has suffered actual damages due to loss of the tenancy. The liquidated damages shall be in an amount no greater than one month's rent if the tenant has completed less than six months of the tenancy as of the effective date of termination, or one-half of one month's rent if the tenant has completed at least six but less than nine months of the tenancy as of the effective date of termination.

(c) The provisions of this section may not be waived or modified by the agreement of the parties under any circumstances. Nothing in this section shall affect the rights established by G.S. 42-3.

§ 42-45.1 EARLY TERMINATION OF RENTAL AGREEMENT BY VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING.

(a) Any protected tenant may terminate his or her rental agreement for a dwelling unit by providing the landlord with a written notice of termination to be effective on a date stated in the notice that is at least 30 days after the landlord's receipt of the notice. The notice to the landlord shall be accompanied by either: (i) a copy of a valid order of protection issued by a court pursuant to Chapter 50B or 50C of the General Statutes, other than an ex parte order, (ii) a criminal order that restrains a person from contact with a protected tenant, or (iii) a valid Address Confidentiality Program card issued pursuant to G.S. 15C-4 to the victim or a minor member of the tenant's household. A victim of domestic violence or sexual assault must submit a copy of a safety plan with the notice to terminate. The safety plan, dated during the term of the tenancy to be terminated, must be provided by a domestic violence or sexual assault program which substantially complies with the requirements set forth in G.S. 50B-9 and must recommend relocation of the protected tenant.

(b) Upon termination of a rental agreement under this section, the tenant who is released from the rental agreement pursuant to subsection (a) of this section is liable for the rent due under the rental agreement prorated to the effective date of the termination and payable at the time that would have been required by the terms of the rental agreement. The tenant is not liable for any other rent or fees due only to the early termination of the tenancy. If, pursuant to this section, a tenant terminates the rental agreement 14 days or more before occupancy, the tenant is not subject to any damages or penalties.

(c) Notwithstanding the release of a protected tenant from a rental agreement under subsection (a) of this section, or the exclusion of a perpetrator of domestic violence, sexual assault, or stalking by court order, if there are any remaining tenants residing in the dwelling unit, the tenancy shall continue for those tenants. The perpetrator who has been excluded from the dwelling unit under court order remains liable under the lease with any other tenant of the dwelling unit for rent or damages to the dwelling unit.

(d) The provisions of this section may not be waived or modified by agreement of the parties.

§ 42-45.2 EARLY TERMINATION OF RENTAL AGREEMENT BY TENANTS RESIDING IN CERTAIN FORECLOSED PROPERTY.

Any tenant who resides in residential real property containing less than 15 rental units that is being sold in a foreclosure proceeding under Article 2A of Chapter 45 of the General Statutes may terminate the rental agreement for the dwelling unit after receiving notice pursuant to G.S. 45-21.17(4) by providing the landlord with a written notice of termination to be effective on a date stated in the notice of termination that is at least 10 days, but no more than 90 days, after the sale date contained in the notice of sale, provided that the mortgagor has not cured the default at the time the tenant provides the notice of termination. Upon termination of a rental agreement under this section, the tenant is liable for the rent due under the rental agreement prorated to the effective date of the termination payable at the time that would have been required by the terms of the rental agreement. The tenant is not liable for any other rent or damages due only to the early termination of the tenancy.

§ 42-46 AUTHORIZED LATE FEES AND EVICTION FEES.

(a) In all residential rental agreements in which a definite time for the payment of the rent is fixed, the parties may agree to a late fee not inconsistent with the provisions of this subsection, to be chargeable only if any rental payment is five days or more late. If the rent:

  (1) Is due in monthly installments, a landlord may charge a late fee not to exceed fifteen dollars ($15.00) or five percent (5%) of the monthly rent, whichever is greater.

  (2) Is due in weekly installments, a landlord may charge a late fee not to exceed four dollars ($4.00) or five percent (5%) of the weekly rent, whichever is greater.

  (3) Repealed by Session Laws 2009-279, s. 4, effective October 1, 2009, and applicable to leases entered into on or after that date.

(b) A late fee under subsection (a) of this section may be imposed only one time for each late rental payment. A late fee for a specific late rental payment may not be deducted from a subsequent rental payment so as to cause the subsequent rental payment to be in default.

(c) Repealed by Session Laws 2009-279, s. 4, effective October 1, 2009, and applicable to leases entered into on or after that date.

(d) A lessor shall not charge a late fee to a lessee pursuant to subsection (a) of this section because of the lessee's failure to pay for water or sewer services provided pursuant to G.S. 62-110(g).

(e) Complaint-Filing Fee. - Pursuant to a written lease, a landlord may charge a complaint-filing fee not to exceed fifteen dollars ($15.00) or five percent (5%) of the monthly rent, whichever is greater, only if the tenant was in default of the lease, the landlord filed and served a complaint for summary ejectment and/or money owed, the tenant cured the default or claim, and the landlord dismissed the complaint prior to judgment. The landlord can include this fee in the amount required to cure the default.

(f) Court-Appearance Fee. - Pursuant to a written lease, a landlord may charge a court-appearance fee in an amount equal to ten percent (10%) of the monthly rent only if the tenant was in default of the lease and the landlord filed, served, and prosecuted successfully a complaint for summary ejectment and/or monies owed in the small claims court. If the tenant appeals the judgment of the magistrate, and the magistrate's judgment is vacated, any fee awarded by a magistrate to the landlord under this subsection shall be vacated.

(g) Second Trial Fee. - Pursuant to a written lease, a landlord may charge a second trial fee for a new trial following an appeal from the judgment of a magistrate. To qualify for the fee, the landlord must prove that the tenant was in default of the lease and the landlord prevailed. The landlord's fee may not exceed twelve percent (12%) of the monthly rent in the lease.

(h) Limitations on Charging and Collection of Fees.

  (1) A landlord who claims fees under subsections (e) through (g) of this section is entitled to charge and retain only one of the above fees for the landlord's complaint for summary ejectment and/or money owed.

  (2) A landlord who earns a fee under subsections (e) through (g) of this section may not deduct payment of that fee from a tenant's subsequent rent payment or declare a failure to pay the fee as a default of the lease for a subsequent summary ejectment action.

(3) It is contrary to public policy for a landlord to put in a lease or claim any fee for filing a complaint for summary ejectment and/or money owed other than the ones expressly authorized by subsections (e) through (g) [and] (i) of this section, and a reasonable attorney's fee as allowed by law.

(4) Any provision of a residential rental agreement contrary to the provisions of this section is against the public policy of this State and therefore void and unenforceable.

(5) If the rent is subsidized by the United States Department of Housing and Urban Development, by the United States Department of Agriculture, by a State agency, by a public housing authority, or by a local government, any fee charged pursuant to this section shall be calculated on the tenant's share of the contract rent only, and the rent subsidy shall not be included.

(i) Out-of-Pocket Expenses. - In addition to the late fees referenced in subsections (a) and (b) of this section and the administrative fees of a landlord referenced in subsections (e) through (g) of this section, a landlord is also permitted to charge and recover from a tenant the following actual out-of-pocket expenses:

(1) Filing fees charged by the court.

(2) Costs for service of process pursuant to G.S. 1A-1, Rule 4 of the North Carolina Rules of Civil Procedure and G.S. 42-29.

(3) Reasonable attorneys' fees actually incurred, pursuant to a written lease, not to exceed fifteen percent (15%) of the amount owed by the tenant, or fifteen percent (15%) of the monthly rent stated in the lease if the eviction is based on a default other than the nonpayment of rent.

(j) The out-of-pocket expenses listed in subsection (i) of this section are allowed to be included by the landlord in the amount required to cure a default.

CHAPTER 58 – INSURANCE

ARTICLE 2

Commissioner of Insurance

§ 58-2-95 COMMISSIONER TO SUPERVISE LOCAL INSPECTORS.

The Commissioner shall exercise general supervision over local investigators of fires and fire prevention inspectors. Whenever the Commissioner has reason to believe that the local inspectors are not doing their duty, he or his deputy shall make special trips of inspection and take proper steps to have all the provisions of the law relative to the investigation of fires and the prevention of fire waste enforced.

ARTICLE 31

Insuring State Property, Officials and Employees

§ 58-31-40 COMMISSIONER TO INSPECT STATE PROPERTY.

(a) The Commissioner shall, as often as is required in the fire code adopted by the North Carolina Building Code Council or more often if the Commissioner considers it necessary, visit, inspect, and thoroughly examine every State property to analyze and determine its protection from fire, including the property's occupants or contents. The Commissioner shall notify in writing the agency or official in charge of the property of any defect noted by the Commissioner or any improvement considered by the Commissioner to be necessary, and a copy of that notice shall be forwarded by the Commissioner to the Department of Administration.

(b) No agency or person authorized or directed by law to select a plan or erect a building comprising 20,000 square feet or more for the use of any county, city, or school district shall receive and approve of the plan until it is submitted to and approved by the Commissioner as to the safety of the proposed building from fire, including the property's occupants or contents.

(c) Repealed by Session Laws 2009-474, s. 1, effective October 1, 2009.

ARTICLE 79

Investigation of Fires and Inspection of Premises

§ 58-79-20 INSPECTION OF PREMISES; DANGEROUS MATERIAL REMOVED.

The Commissioner of Insurance, or the chief of fire department or chief of police where there is no chief of fire department, or the city or county building inspector, electrical inspector, heating inspector, or fire prevention inspector has the right at all reasonable hours, for the purpose of examination, to enter into and upon all buildings and premises in their jurisdiction. When any of such officers find in any building or upon any premises overcrowding in violation of occupancy limits established pursuant to the North Carolina State Building Code, combustible material or inflammable conditions dangerous to the safety of such building or premises they shall order the same to be removed or remedied, and this order shall be forthwith complied with by the owner or occupant of such buildings or premises. The owner or occupant may, within twenty-four hours, appeal to the Commissioner of Insurance from the order, and the cause of the complaint shall be at once investigated by his direction, and unless by his authority the order of the officer above named is revoked it remains in force and must be forthwith complied with by the owner or occupant. The Commissioner of Insurance, fire chief, or building inspector, electrical inspector, heating inspector, or fire prevention inspector shall make an immediate investigation as to the presence of combustible material or the existence of inflammable conditions in any building or upon any premises under their jurisdiction upon complaint of any person having an interest in such building or premises or property adjacent thereto. The Commissioner may, in person or by deputy, visit any municipality or county and make such inspections alone or in company with the local officer. The Commissioner shall submit annually, as early as consistent with full and accurate preparation, and not later than the first day of June, a detailed report of his official action under this Article, and it shall be embodied in his report to the General Assembly.

CHAPTER 66 - COMMERCE AND BUSINESS

Article 4

Electrical Materials, Devices, Appliances and Equipment

§ 66-23 SALE OF ELECTRICAL GOODS REGULATED.

Every person, firm or corporation before selling, offering for sale, assigning, or disposing of by gift as premiums or in any similar manner any electrical material, devices, appliances or equipment shall first determine if such electrical materials, devices, appliances and equipment comply with the provision of this Article.

§ 66-24 IDENTIFICATION MARKS REQUIRED.

All electrical materials, devices, appliances and equipment shall have the maker's name, trademark, or other identification symbol placed thereon, together with such other markings giving voltage, current, wattage, or other appropriate ratings as may be necessary to determine the character of the material, device, appliance or equipment and the use for which it is intended; and it shall be unlawful for any person, firm or corporation to remove, alter, change or deface the maker's name, trademark or other identification symbol.

§ 66-25 ACCEPTABLE LISTINGS AS TO SAFETY OF GOODS.

(a) All electrical materials, devices, appliances, and equipment shall be evaluated for safety and suitability for intended use. Except as provided in subsection (b) of this section, this evaluation shall be conducted in accordance with nationally recognized standards and shall be conducted by a qualified testing laboratory. The Commissioner of Insurance, through the Engineering Division of the Department of Insurance, shall implement the procedures necessary to approve suitable national standards and to approve suitable qualified testing laboratories. The Commissioner may assign his authority to implement the procedures for specific materials, devices, appliances, or equipment to other agencies or bodies when they would be uniquely qualified to implement those procedures.

In the event that the Commissioner determines that electrical materials, devices, appliances, or equipment in question cannot be adequately evaluated through the use of approved national standards or by approved qualified testing laboratories, the Engineering Division of the Department of Insurance shall specify any alternative evaluations which safety requires.

The Engineering Division of the Department of Insurance shall keep in file, where practical, copies of all approved national standards and resumes of approved qualified testing laboratories.

(b) Electrical devices, appliances, or equipment used by the Division of Adult Correction of the Department of Public Safety shall be evaluated for safety and suitability by the Central Engineering Section of the Department of Public Safety. The evaluation shall be conducted in accordance with nationally recognized standards.

§ 66-26 LEGAL RESPONSIBILITY OF PROPER INSTALLATIONS UNAFFECTED.

This Article shall not be construed to relieve from or to lessen the responsibility or liability of any party owning, operating, controlling or installing any electrical materials, devices, appliances or equipment for damages to persons or property caused by any defect therein, nor shall the electrical inspector, the Commissioner, or agents of the Commissioner be held as assuming any such liability by reason of the approval of any material, device, appliance or equipment authorized herein.

§ 66-27 VIOLATION MADE MISDEMEANOR.

Any person, firm or corporation who shall violate any of the provisions of this Article shall be guilty of a Class 2 misdemeanor.

§ 66-27.01 ENFORCEMENT.

The Commissioner or his designee or the electrical inspector of any State or local governing agency may initiate any appropriate action or proceedings to prevent, restrain, or correct any violation of this Article. The Commissioner or his designee, upon showing proper credentials and in discharge of his duties pursuant to this Article may, at reasonable times and without advance notice, enter and inspect any facility within the State in which there is reasonable cause to suspect that electrical materials, devices, appliances, or equipment not in conformance with the requirements of this Article are being sold, offered for sale, assigned, or disposed of by gift, as premiums, or in any other similar manner.

CHAPTER 83A - ARCHITECTS AND INTERIOR DESIGNERS

Architects and Interior Designers

§ 83A-1 DEFINITIONS.

When used in this Chapter, unless the context otherwise requires:

(1) Architect. - A person who is duly licensed to practice architecture.

(1a) Architect Emeritus. - A person who has been duly licensed as an architect by the Board and who chooses to relinquish or not to renew a license to practice architecture and who applies to and is approved by the Board after review of record, including any disciplinary action, to be granted the use of the honorific title "Architect Emeritus."

(1b) Architectural firm. - A professional corporation certified by the Board as meeting the requirements under this Chapter for registration for the practice of architecture.

(2) Board. - The North Carolina Board of Architecture and Registered Interior Designers.

(2a) CIDQ. - The Council for Interior Design Qualification.

(3) Firm certificate. - A certificate of firm registration issued by the Board recognizing the firm named in the certificate as meeting the requirements for the firm practice of architecture or interior design.

(4) Firm practice of architecture. - "Practice of architecture," as defined in G.S. 83A-1(7) by a firm which is organized or domesticated in this State, and which holds a current "firm certificate" from this Board.

(4a) Firm practice of interior design. - "Practice of interior design" as defined in subdivision (8) of this section by a registered interior design firm organized or domesticated in this State that holds a current firm certificate from this Board.

(5) Good moral character. - Character as tends to assure the faithful discharge of the fiduciary duties of an architect or registered interior designer to his or her client. Evidence of lack of such character shall include the willful commission of an offense

justifying discipline under this Chapter, the practice of architecture in violation of this Chapter, the practice of interior design in violation of this Chapter, or of the laws of another jurisdiction, or the conviction of a felony.

(5a) Interior design. - Includes, but is not limited to, the preparation of reflected ceiling plans, space planning, creation or alteration of paths of egress, occupancy calculations, provided no increases in occupancy or number of exits is required, selection of furnishings, and the fabrication of nonstructural elements within and surrounding interior spaces of buildings. The term "interior design" specifically excludes the following:

a. The design of or the responsibility for architectural and engineering work, except as explicitly provided for within this Chapter.
b. Altering or affecting the structural system of a building.
c. Changing the means of access system.
d. Changing the building's live or dead load on the structural system.
e. Changes of use to occupancies not already allowed by the current building.
f. Changes to life safety plans, including exiting and exit stairs.

(6) License. - A certificate of registration issued by the Board recognizing the individual or firm named in the certificate as meeting the requirements for registration under this Chapter.

(6a) Nonstructural element. - An element of a building or structure which does not require structural bracing and is not one or more of the following:

a. Load-bearing wall.
b. Load-bearing column.
c. Beam.
d. Truss.
e. Lateral force-resisting component.
f. Any other load-bearing element of a building or structure which is essential to the structural integrity of the building.

(7) Practice of architecture. - Performing or offering to perform or holding oneself out as legally qualified to perform professional services in connection with the design, construction, enlargement or alteration of buildings, including consultations, investigations, evaluations, preliminary studies, the preparation of plans, specifications and contract documents, administration of construction contracts and related services or combination of services in connection with the design and construction of buildings, regardless of whether these services are performed in person or as the directing head of an office or organization.

(8) Practice of interior design. - The preparation of working drawings and documents relative to interior construction, materials, finishes, space planning, furnishings, fixtures, and equipment as defined in subdivision (5a) of this section. Except as provided herein, interior design services do not include services that constitute the practice of architecture as defined in this Chapter or the practice of engineering as defined in G.S. 89C-3.

(9) Reflected ceiling plan. - A ceiling design plan which is laid out as if it were projected downward and which may include lighting and other elements.

(10) Registered interior design firm. - A business corporation certified by the Board as meeting the requirements for registration under this Chapter for the practice of interior design.

(11) Registered interior designer. - A person who is duly registered and who is qualified by education, experience, and examination to engage in the practice of interior design as authorized by the Board. A registered interior designer shall possess the authority to sign and seal interior technical submissions covering the scope of the practice of interior design and shall have the authority to submit construction documents where the registered interior designer is the contract holder and Designer of Record to a State or local government entity for the purpose of obtaining requisite permits for an interior construction project. A registered interior designer may only sign and seal interior technical submissions within the scope of the practice of interior design defined by this Chapter.

(12) Registration. - A certificate of registration issued by the Board recognizing the individual or firm named in the certificate as meeting the requirements for registration under this Chapter.

(13) Space planning. - The analysis, programming, or design of spatial requirements, including preliminary space layouts and final planning.

§ 83A-2 NORTH CAROLINA BOARD OF ARCHITECTURE AND REGISTERED

INTERIOR DESIGNERS; CREATION; APPOINTMENT, TERMS AND OATH OF MEMBERS; VACANCIES; OFFICERS; BOND OF TREASURER; NOTICE OF MEETINGS; QUORUM.

(a) Powers; Duties. - The North Carolina Board of Architecture and Registered Interior Designers shall have the power and responsibility to administer the provisions of this Chapter in compliance with the Administrative Procedure Act.

(b) Composition. - The Board shall consist of 10 members appointed by the Governor, as follows:

(1) Five of the members of the Board shall be licensed architects appointed for five-year terms. The terms shall be staggered so that the term of one architect member expires each year. No architect member shall be eligible to serve more than two consecutive terms.

(2) Three of the members of the Board shall be registered interior designers appointed for five-year terms. The terms shall be staggered so that the term of one registered interior designer member expires each year. No registered interior designer member shall be eligible to serve more than two consecutive terms.

(3) Two of the members of the Board shall be persons who are not licensed architects or registered interior designers, and who represent the interest of the public at large. The public members shall have full voting powers and shall serve at the pleasure of the Governor.

(b1) Oath. - Each Board member shall file with the Secretary of State an oath faithfully to perform duties as a member of the Board, and to uphold the Constitution of North Carolina and the Constitution of the United States.

(b2) Vacancies. - If a vacancy occurs during a term, the Governor shall appoint a person to fill the vacancy on the Board for the remainder of the unexpired term.

(c) Officers; Meetings; Quorum. - Officers of the Board shall include a president, vice-president, secretary and treasurer elected at the annual meeting for terms of one year. The treasurer shall give bond in such sum as the Board shall determine, with such security as shall be approved by the Board, said bond to be conditioned for the faithful performance of the duties of his office and for the faithful accounting of all moneys and other property as shall come into his hands. Notice of the annual meeting, and the time and place of the annual meeting shall be given each member by letter at least 10 days prior to such meeting and public notice of annual meetings shall be published at least for two weeks preceding such meetings on the website of the Board. A majority of the members of the Board shall constitute a quorum.

§ 83A-3 EXPENSES OF BOARD MEMBERS; BOARD FINANCES.

(a) Each member of the Board shall be entitled to receive travel and expense reimbursement as authorized by G.S. 93B-5 for similar boards.

(b) All funds received by the Board under the provisions of this Chapter shall be deposited by the treasurer or such other officer or staff employee as the Board may designate in such depository and under such security as the Board may direct. All expenses incurred by the Board shall be paid out of funds derived from examination, licensing, renewal or other fees herein provided and shall be paid by the treasurer upon vouchers drawn by the secretary and approved by the president. The Board shall have the power to determine necessary expenses, and to fix the compensation for board employees and for professional services. The State of North Carolina shall not be liable for the compensation of any Board members or officers. Payment of expenses and salaries pursuant to administration of this Chapter may not exceed available funds of the Board. All Board receipts and disbursements shall be subject to audit and accounting procedures established by the State for similar boards.

(c) The Board shall have the power to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State. Collateral pledged by the Board for an encumbrance shall be limited to the assets, income, and revenues of the Board.

§ 83A-4 FEES.

(a) All fees and charges by the Board shall be established by Board rule subject to the provisions of the Administrative Procedure Act.

(b) Fees set by the Board shall not exceed the following amounts:

Initial Application for Licensure to Practice Architecture by Exam	
a. Individual	$100
b. Firm	$150
Annual License to Practice Architecture Renewal	
a. Individual	$150
b. Firm	$200
Late Renewal Penalty for Individual Architects and Firms	
a. Up-to-30 days	$100
b. 30 days to 1 year	$100
c. Reciprocal License	$300
Reinstatement of Expired License	
a. Architect	$500
b. Firm	$500
Initial Application for Registration to practice Interior Design	
a. Individual	$100
b. Firm	$150
Annual Registration to Practice Interior Design Renewal	
a. Individual	$150
b. Firm	$200
Late Renewal penalty for Interior Designers and Interior Design Firms	
a. Up-to-30 days	$100
b. 30 days to 1 year	$100
c. Reciprocal Registration	$300
Reinstatement of Expired Registration	
a. Interior Designer	$500
b. Interior Design Firm	$500

The above fees are provided in addition to any other fees prescribed by law. Reasonable fees for examination materials, certificates, rosters and other published materials shall be established by the Board, but the Board shall not collect any fees not authorized by this Chapter.

§ 83A-5 BOARD RECORDS; ROSTERS; SEAL.

(a) The Board shall maintain records of board meetings, of applications for individual or firm registration and the action taken thereon, of the results of examinations, of all disciplinary proceedings, and of such other information as deemed necessary by the Board or required by the Administrative Procedure Act or other provisions of the General Statutes.

(b) A complete roster showing the name and last known address of all resident and nonresident architects and architectural firms holding current licenses and interior designers holding current registrations from the Board shall be maintained and published by the Board, and shall include each registrant's authorization or registration number. Copies of the roster shall be filed with the Secretary of State and the Attorney General, and may be made available on the Web site of the Board.

(c) The Board shall adopt a seal containing the name of the Board for use on its official records and reports.

§ 83A-6 BOARD RULES; BYLAWS; STANDARDS OF PROFESSIONAL CONDUCT.

(a) The Board shall have the power to adopt bylaws, rules, and standards of professional conduct to carry out the purposes of this Chapter, including, but not limited to:

(1) The adoption of bylaws governing its meetings and proceedings.

(2) The establishment of qualification requirements for admission to examinations, and for individual or firm licensure and individual or firm registration as provided in G.S. 83A-7 and G.S. 83A-8.

(3) The establishment of the types and contents of examinations, their conduct, and the minimum scores or other criteria for passing such examinations.

(4) The adoption of mandatory standards of professional conduct concerning misrepresentations, conflicts of interest, incompetence, disability, violations of law, dishonest conduct, or other unprofessional conduct for those persons or corporations regulated by this Chapter, which standards shall be enforceable under the disciplinary procedures of the Board.

(5) The establishment or approval of requirements for renewal of licenses and registrations designed to promote the continued professional development and competence of licensees and registered interior designers. Such requirements shall be designed solely to improve the professional knowledge and skills of a licensee or a registered interior designer directly related to the current and emerging bodies of knowledge and skills of the licensee's or registered interior designer's profession.

When necessary to protect the public health, safety, or welfare, the Board shall require such evidence as it deems necessary to establish the continuing competency of architects and interior designers as a condition of renewal of licenses and registrations.

(b) The Board shall not adopt any rule or regulation which prohibits advertising.

(c) The adoption, amendment or revocation of rules, regulations, and standards of professional conduct, and the publication and distribution of the same shall be subject to the provisions of the Administrative Procedure Act.

(d) In reviewing disciplinary actions and continuing education decisions, the Board shall be organized into committees, and by rules, shall list the responsibilities of an architect committee, an interior design committee, and a continuing professional education (CE) committee. The president of the Board shall appoint the chairs and members of each committee.

§ 83A-7 QUALIFICATIONS AND EXAMINATION REQUIREMENTS.

(a) Licensing by Examination. - Any individual who is at least 18 years of age and of good moral character may make written application for examination by completion of a form prescribed by the Board accompanied by the required application fee. Subject to qualification requirements of this section, the applicant shall be entitled to an examination to determine qualifications for licensure.

(1) The qualification requirements for licensure by examination as a duly licensed architect shall be all of the following:
   a. Practical training and experience as specified by rules of the Board.
   b. The successful completion of a licensure examination in architecture as specified by the rules of the Board.
   c. The successful completion of an accredited master's or bachelor's degree in architecture as specified by the rules of the Board.

(2) The Board shall adopt rules to set requirements for professional education, practical training and experience, and examination which must be met by applicants for licensure and which may be based on the published guidelines of nationally recognized councils or agencies for the accreditation, examination, and licensing for the architectural profession.

(b) Licensing by Reciprocity. - Any individual holding a current license for the practice of architecture from another state or territory, and holding a certified record issued by the National Council of Architectural Registration Boards, NCARB, may upon application and within the discretion of the Board be licensed without written examination. The Board may, in its discretion, waive the requirement for National Council of Architectural Registration Boards (NCARB) certified record if the qualifications, examination and licensing requirements of the state in which the applicant is licensed are substantially equivalent to those of this State and the applicant otherwise meets the requirements of this Chapter.

(c) Registration. - Any individual who is at least 18 years of age and of good moral character may apply for registration as a registered interior designer, and shall provide substantial evidence to the Board that the applicant meets one of the following requirements:
   (1) The applicant shall provide a verification from the Council for Interior Design Qualification or its successor in interest as proof that he or she passed the NCIDQ examination, and the applicant is an NCIDQ Certificate holder in good standing.
   (2) The applicant is a licensed architect certified by the Board.

(d) Registration by Reciprocity. - The Board may accept satisfactory evidence of registration, licensure, or certification as an interior designer in another jurisdiction, if the jurisdiction's requirements for registration, licensure, or certification are substantially equivalent to or greater than those required for registration in this State at the date of application.

§ 83A-8 QUALIFICATION FOR FIRM PRACTICE.

(a) Any architectural firm desiring to practice architecture in this State shall file a firm application on forms provided by the Board, accompanied by the required application fee. To be eligible for a firm certificate to practice architecture, the firm must meet all requirements of the Professional Corporation Act.

(b) Architectural firms from other states may be granted firm certificates to practice architecture in this State

upon filing application with the Board and satisfying the Board that they meet the requirements of subsection (a) above. Those firms shall designate the individual or individuals licensed to practice architecture in this State who shall be in responsible control of all architectural work offered or performed by that firm in this State. Those firms shall notify the Board of changes in such designation.

(b1) Any interior design firm desiring to practice interior design in this State shall file a firm application on forms provided by the Board, accompanied by the required application fee. To be eligible for a firm registration, the firm must meet all requirements of the Business Corporation Act.

(b2) Interior design firms from other states may be granted firm registration for practice of interior design in this State upon filing an application with the Board and satisfying the Board that they meet the requirements of subsection (b1) of this section. Those firms shall designate the individual or individuals registered to practice interior design in this State who shall be in responsible control of all interior design work offered or performed by that firm in this State. Those firms shall notify the Board of changes in such designation.

(c) All firms holding firm certificates of licensure to practice architecture or certificates of registration to practice interior design from the Board shall be subject to the applicable rules and regulations adopted by the Board, and to all the disciplinary powers applicable to individual licensees or registered interior designers who are officers or employees of the firm. Firms may perform no acts or things forbidden to officers or employees as licensees or registered interior designers.

§ 83A-9 PARTNERSHIP PRACTICE.

This Chapter neither prevents practice of architecture or interior design as defined in this Chapter by a partnership nor requires partnership seals or certificates of practice provided that the members of the partnership are duly licensed to practice architecture or are registered interior designers for any partnership that wishes to hold itself out as a registered interior design entity, and, provided that the partnership files with the Board and keeps current a list of the partners, their license identifications, and the types of services offered by the partnership.

§ 83A-10 PROFESSIONAL SEALS.

(a) Architects. - Every licensed architect shall have a seal of a design authorized by the Board, and shall imprint all drawings and sets of specifications prepared for use in this State with an impression of such seal. Licensed architectural firms shall employ firm professional seals, of a design approved by the Board, for use in identifying plans, specifications and other professional documents issued by the firm, but use of such firm seals shall be in addition to and not in substitution for the requirement that the individual seal of the author of such plans and professional documents be affixed.

(b) Interior Designers. - Each registered interior designer shall obtain a seal as prescribed by the Board. A document issued by the registered interior designer and being filed for public record shall bear the signature and seal of the interior designer who prepared or approved the document and the date on which it was sealed. The signature, date, and seal shall be evidence of the authenticity of the document. No registered interior designer shall affix, or permit to be affixed, his or her seal or signature to any plan, specification, drawing, or other document that depicts work that he or she is not competent or certified to perform.

§ 83A-11 EXPIRATIONS AND RENEWALS.

Certificates or registrations must be renewed on or before the first day of July in each year. No less than 30 days prior to the renewal date, a renewal application shall be transmitted to each individual and corporate licensee. The completed application together with the required renewal fee shall be returned to the Board on or before the renewal date. When the Board is satisfied as to the continuing competency of an architect or a registered interior designer, it shall issue a renewal of the certificate or registration. Upon failure to renew within 30 days after the date set for expiration, the license or registration shall be automatically revoked but such license or registration may be renewed at any time within one year following the expiration date upon proof of continuing competency and payment of the renewal fee plus a late renewal fee. After one year from the date of revocation, reinstatement may be made by the Board, or in its discretion, the application may be treated as new subject to reexamination and qualification requirements as in the case of new applications.

§ 83A-12 PROHIBITED PRACTICE.

The purpose of the Chapter is to safeguard life, health and property. It shall be unlawful for any individual, firm or corporation to practice or offer to practice architecture in this State as defined in this Chapter, or to use the title "Architect" or "Registered Interior Designer" or any form thereof, except as provided in Chapter 89A for Landscape Architects, or to display or use any words, letters, figures, titles, sign, card, advertisement, or other device to indicate that such individual or firm practices or offers to practice architecture as herein defined or is an architect or architectural firm qualified to perform architectural work, or is a registered interior designer or a registered interior design firm qualified to perform interior design work, unless such person holds a current individual or corporate certificate of admission to practice architecture or registration to practice interior design under the provisions of this Chapter.

§ 83A-13 EXEMPTIONS.

(a) Nothing in this Chapter shall be construed to prevent the practice of general contracting under the provisions of Article 1 of Chapter 87, or the practice by any person who is qualified under law as a "registered professional engineer" of such architectural work as is incidental to engineering projects or utilities, or the practice of any other profession under the applicable licensure provisions of the General Statutes.

(b) Nothing in this Chapter shall be construed to prevent a duly licensed general contractor, professional engineer, architect, or registered interior designer acting individually or in combination thereof, from participating in a "Design/Build" undertaking including the preparation of plans and/or specifications and entering individual or collective agreements with the owner in order to meet the owner's requirements for pre-determined costs and unified control in the design and construction of a project, and for the method of compensation for the design and construction services rendered; provided, however, that nothing herein shall be construed so as to allow the performance of any such services or any division thereof by one who is not duly licensed to perform such service or services in accordance with applicable licensure provisions of the General Statutes; provided further, that full disclosure is made in writing to the owner as to the duties and responsibilities of each of the participating parties in such agreements; and, provided further, nothing in this Chapter shall prevent the administration by any of the said licensees of construction contracts and related services or combination of services in connection with the construction of buildings.

(c) Nothing in this Chapter shall be construed to require an architectural license for the preparation, sale, or furnishing of plans, specifications and related data, or for the supervision of construction pursuant thereto, where the building, buildings, or project involved is in one of the following categories:

(1) A family residence, up to eight units attached with grade level exit, which is not a part of or physically connected with any other buildings or residential units;

(2) A building upon any farm for the use of any farmer, unless the building is of such nature and intended for such use as to substantially involve the health or safety of the public;

(3) An institutional or commercial building if it does not have a total value exceeding three hundred thousand dollars ($300,000);

(4) An institutional or commercial building if the total building area does not exceed 3,000 square feet in gross floor area;

(5) Alteration, remodeling, or renovation of an existing building that is exempt under this section, or alteration, remodeling, or renovation of an existing building or building site that does not alter or affect the structural system of the building; change the building's access or exit pattern; or change the live or dead load on the building's structural system. This subdivision shall not limit or change any other exemptions to this Chapter or to the practice of engineering under Chapter 89C of the General Statutes.

(6) The preparation and use of details and shop drawings, assembly or erection drawings, or graphic descriptions utilized to detail or illustrate a portion of the work required to construct the project in accordance with the plans and specifications prepared or to be prepared under the requirements or exemptions of this Chapter.

(c1) Notwithstanding subdivisions (c)(3) and (4) of this section, all of the following shall be exempt from the requirement for a professional architectural seal:

(1) A commercial building project with a total value of less than three hundred thousand dollars ($300,000) and a total project area of less than 3,000 square feet in gross floor area.

(2) Any alteration, remodeling, renovation, or repair of a commercial building with a total value of less than three hundred thousand dollars ($300,000).

(3) Any alteration, remodeling, renovation, or repair of a commercial building if the total building area does not exceed 3,000 square feet in gross floor area.

(d) Nothing in this Chapter shall be construed to prevent any individual from making plans or data for buildings for himself.

(e) Plans and specifications prepared by persons or corporations under these exemptions shall bear the signature and address of such person or corporate officer.

(f) This Chapter does not apply to persons holding themselves out as "interior decorators" or offering "interior decorating services," and who provide services that are not subject to regulation under applicable building codes, such as selection or assistance in selecting surface materials, window treatments, wall coverings, paint, floor coverings, surface-mounted lighting, or loose furnishings.

(g) This Chapter does not apply to persons engaging in professional services limited to any of the following:

(1) The planning, design, and implementation of residential kitchen and bath spaces.

(2) The planning, design, and implementation of commercial kitchen and bath spaces within the construction area and cost limits as set forth in subdivisions (c)(3) and (4) of this section.

(3) The specification of products for kitchen and bath areas.

(h) This Chapter does not prevent any person from rendering interior design services, provided the person does not use the title of "registered interior designer" unless registered under this Chapter.

§ 83A-13.1 ARCHITECT WHO VOLUNTEERS DURING AN EMERGENCY OR DISASTER; QUALIFIED IMMUNITY.

(a) A professional architect who voluntarily, without compensation, provides structural, electrical, mechanical, or other architectural services at the scene of a declared disaster or emergency, declared under federal law or in accordance with the provisions of Article 1A of Chapter 166A of the General Statutes, at the request of a public official, law enforcement official, public safety official, or building inspection official, acting in an official capacity, shall not be liable for any personal injury, wrongful death, property damage, or other loss caused by the professional architect's acts or omissions in the performance of the architectural services.

(b) The immunity provided in subsection (a) of this section applies only to an architectural service:
(1) For any structure, building, piping, or other architectural system, either publicly or privately owned.
(2) That occurs within 45 days after the declaration of the emergency or disaster, unless the 45-day immunity period is extended by an executive order issued by the Governor under the Governor's emergency executive powers.

(c) The immunity provided in subsection (a) of this section does not apply if it is determined that the personal injury, wrongful death, property damage, or other loss was caused by the gross negligence, wanton conduct, or intentional wrongdoing of the professional architect or arose out of the operation of a motor vehicle.

(d) As used in this section:
(1) "Building inspection official" means any appointed or elected federal, State, or local official with overall executive responsibility to coordinate building inspection in the jurisdiction in which the emergency or disaster is declared.
(2) "Law enforcement official" means any appointed or elected federal, State, or local official with overall executive responsibility to coordinate law enforcement in the jurisdiction in which the emergency or disaster is declared.
(3) "Public official" means any federal, State, or locally elected official with overall executive responsibility in the jurisdiction in which the emergency or disaster is declared.

(4) "Public safety official" means any appointed or elected federal, State, or local official with overall executive responsibility to coordinate public safety in the jurisdiction in which the emergency or disaster is declared.

§ 83A-14 DISCIPLINARY ACTION AND PROCEDURE.

Any person may file with the Board a charge of unprofessional conduct, negligence, incompetence, dishonest practice, or other misconduct or of any violation of this Chapter or of a Board rule adopted and published by the Board. Upon receipt of such charge, or upon its own initiative, the Board may give notice of an administrative hearing under the Administrative Procedure Act, or may dismiss the charge as unfounded or trivial, upon a statement of the reasons therefor which shall be mailed to the architect or registered interior designer and the person who filed the charge by registered or certified mail.

§ 83A-15 DENIAL, SUSPENSION OR REVOCATION OF LICENSE.

(a) The Board shall have the power to suspend or revoke a license or certificate of registration of an architect or a registration of an interior designer, to deny a license or certificate of registration of an architect or a registration of an interior designer, or to reprimand or levy a civil penalty not in excess of five hundred dollars ($500.00) per violation against any registrant who is found guilty of:

(1) Dishonest conduct, including but not limited to:
   a. The commission of any fraud, deceit, or misrepresentation in any professional relationship with clients or other persons; or with reference to obtaining or maintaining license, or with reference to qualifications, experience and past or present service.
   b. Using or permitting an individual professional seal to be used by or for others, or otherwise representing registrant as the author of drawings or specifications other than those prepared personally by or under direct supervision of registrant.
   c. Using a professional license or registration from the Board that had been suspended or revoked.
   d. Conduct of the registrant resulting in the imposition of other disciplinary action by a regulatory body of another state for any cause other than failure to pay applicable fees.
   e. Surrendered or did not renew a professional license or registration after the initiation of any investigation or proceeding by such body.

(2) Incompetence, including but not limited to:
   a. Gross negligence, recklessness, or excessive errors or omissions or building failures in registrant's record of professional practice; or
   b. Mental or physical disability or addiction to alcohol or drugs so as to endanger health, safety and interest of the public by impairing skill and care in professional services.
   c. The registrant has been adjudged mentally incapable by a court of competent jurisdiction.

(3) Unprofessional conduct, including but not limited to:
   a. Practicing or offering to practice architecture or interior design without a current license or registration from this Board.
   b. Knowingly aiding or abetting others to evade or violate the provisions of this Chapter, or the health and safety laws of this or other states;
   c. Knowingly undertaking any activity or having any significant financial or other interest or accepting any compensation or reward except from registrant's clients, any of which would reasonably appear to compromise registrant's professional judgment in serving the best interest of clients or public.
   d. Willfully violating this Chapter or any rule or standard of conduct published by the Board or pleading guilty or nolo contendere to a felony or any crime involving moral turpitude.
   e. Falsely impersonating a practitioner or former practitioner of a like or different name or practicing under an assumed or fictitious name.
   f. Grossly unprofessional conduct.

(b) Actions to recover civil penalties against any registrant may be commenced by the Board pursuant to Chapter 150B of the General Statutes. In determining the amount of any civil penalty, the Board shall consider the degree and extent of harm caused by the violation. The clear proceeds of any civil penalty collected hereunder shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

§ 83A-16 VIOLATIONS OF CHAPTER; PENALTIES.

(a) Any individual or firm not registered under this Chapter, who shall wrongfully use the title "Architect" or represent himself or herself to the public as an architect, practice architecture as herein defined, present as his or her own the license of another, give false or forged evidence to the Board or any member thereof in obtaining a license, falsely impersonate any other practitioner of like or different name, use or attempt to use a license that has been revoked, or seek to avoid the provisions of this Chapter by the use of any other designation than "Architect": (i) shall be guilty of a Class 2 misdemeanor; and (ii) be subject to a civil penalty not to exceed five hundred dollars ($500.00) per day of such violation. Each day of such unlawful practice shall constitute a distinct and separate violation. The clear proceeds of any civil penalty collected hereunder shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(a1) Any individual or firm not registered under this Chapter, who shall wrongfully use the title "registered interior designer," represent himself or herself to the public as a "registered interior designer," seek to avoid the provisions of this Chapter by the use of any other designation than "registered interior designer," present as his or her own the registration of another, give false or forged evidence to the Board or any member thereof in obtaining a registration, falsely impersonate any other practitioner of like or different name, use or attempt to use a registration that has been revoked, or otherwise violate any of the provisions in this Chapter shall be guilty of a Class 2 misdemeanor and be subject to a civil penalty not to exceed five hundred dollars ($500.00) per day of such violation. Each day of such unlawful practice shall constitute a distinct and separate violation. The clear proceeds of any civil penalty collected hereunder shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(a2) Before imposing and assessing a civil penalty, the Board shall consider the following factors:

(1) The nature, gravity, and persistence of the particular violation.
(2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.
(3) Whether the violation was willful and malicious.
(4) Any other factors that would tend to mitigate or aggravate the violations found to exist.

(b) Actions and prosecutions under this section shall be commenced in the county in which the defendant resides, or has his principal place of business, or in the case of an out-of-state corporation, is conducting business.

(c) Actions to recover civil penalties shall be initiated by the Attorney General, or any private counsel retained under G.S. 114-2.3.

(d) The Board shall establish a schedule of civil penalties for violations of this Chapter and rules adopted by the Board.

(e) The Board may in a disciplinary proceeding charge costs, including reasonable attorneys' fees, to the licensee or registered interior designer against whom the proceedings were brought.

§ 83A-17 POWER OF BOARD TO SEEK INJUNCTION.

The Board may appear in its own name and apply to courts having jurisdiction for injunctions to prevent violations of this Chapter or of rules issued pursuant thereto, and such courts are empowered to grant such injunctions regardless of whether criminal prosecution or other action has been or may be instituted as a result of such violation. A single act of unauthorized or illegal practice shall be sufficient, if shown, to invoke the injunctive relief of this section or criminal penalties under G.S. 83A-16.

CHAPTER 87 – CONTRACTORS

Article 1
General Contractors

§ 87-1 "GENERAL CONTRACTOR" DEFINED, EXCEPTIONS.

(a) For the purpose of this Article any person or firm or corporation who for a fixed price, commission, fee, or wage, undertakes to bid upon or to construct or who

undertakes to superintend or manage, on his own behalf or for any person, firm, or corporation that is not licensed as a general contractor pursuant to this Article, the construction of any building, highway, public utilities, grading or any improvement or structure where the cost of the undertaking is thirty thousand dollars ($30,000) or more, or undertakes to erect a North Carolina labeled manufactured modular building meeting the North Carolina State Building Code, shall be deemed to be a "general contractor" engaged in the business of general contracting in the State of North Carolina.

(b) This section shall not apply to the following:
  (1) Persons, firms, or corporations furnishing or erecting industrial equipment, power plan equipment, radial brick chimneys, and monuments.
  (2) Any person, firm, or corporation who constructs or alters a building on land owned by that person, firm, or corporation provided (i) the building is intended solely for occupancy by that person and his family, firm, or corporation after completion; and (ii) the person, firm, or corporation complies with G.S. 87-14. If the building is not occupied solely by the person and his family, firm, or corporation for at least 12 months following completion, it shall be presumed that the person, firm, or corporation did not intend the building solely for occupancy by that person and his family, firm, or corporation.
  (3) Any person engaged in the business of farming who constructs or alters a building on land owned by that person and used in the business of farming, when the building is intended for use by that person after completion.

§ 87-1.1 EXCEPTION FOR LICENSEES UNDER ARTICLE 2 OR 4.

G.S. 87-1 shall not apply to a licensee under Article 2 or 4 of this Chapter of the General Statutes, G.S. 87-43 shall not apply to a licensee under Article 2 of this Chapter of the General Statutes, and G.S. 87-21(a)(5) shall not apply to a licensee under Article 4 of this Chapter of the General Statutes when the licensee is bidding and contracting directly with the owner of a building project if all of the following apply:

(1) A licensed general contractor performs all work that falls within the classifications in G.S. 87-10(b) and the State Licensing Board of General Contractor's rules.
(2) The total amount of the general contracting work so classified does not exceed a percentage of the total bid price pursuant to rules established by the Board.
(3) A licensee with the appropriate license under Article 2 or Article 4 of this Chapter performs all work that falls within the classifications in Article 2 and Article 4 of this Chapter.

§ 87-1.2 EXCEPTION FOR SPECIFIED DEPARTMENT OF TRANSPORTATION CONTRACTORS.

The letting of contracts for the types of projects specified in G.S. 136-28.14 shall not be subject to the licensing requirement of this Article.

§ 87-2 LICENSING BOARD; ORGANIZATION.

There is created the State Licensing Board for General Contractors consisting of nine members appointed by the Governor for staggered five-year terms. Five of the members shall be general contractors, one member shall be a registered engineer who practices structural engineering, and three shall be public members. Of the general contractor members, one shall have as the larger part of his business the construction of highways; one shall have as the larger part of his business the construction of public utilities; one shall have as the larger part of his business the construction of buildings; and two shall have as a larger part of their businesses the construction of residences, one of whom shall be the holder of an unlimited general contractor's license. The public members shall have no ties with the construction industry and shall represent the interests of the public at large. Members shall serve until the expiration of their respective terms and until their successors are appointed and qualified. Vacancies occurring during a term shall be filled by appointment of the Governor for the remainder of the unexpired term. The Governor may remove any member of the Board for misconduct, incompetency, or neglect of duty. No Board member shall serve more than two complete consecutive terms.

§ 87-3 MEMBERS OF BOARD TO TAKE OATH.

Each member of the Board shall, before entering upon the discharge of the duties of his office, take and file with the Secretary of State an oath in writing to properly perform the duties of his office as a member of said Board and to uphold the Constitution of North Carolina and the Constitution of the United States.

§ 87-4 FIRST MEETING OF BOARD; OFFICERS; SECRETARY-TREASURER AND ASSISTANTS.

The said Board shall, within 30 days after its appointment by the Governor, meet in the City of Raleigh, at a time and place to be designated by the Governor, and organize by electing a chairman, a vice-chairman, and a secretary-treasurer, each to serve for one year. Said Board shall have power to make such bylaws, rules and regulations as it shall deem best, provided the same are not in conflict with the laws of North Carolina. The secretary-treasurer shall give bond in such sum as the Board shall determine, with such security as shall be approved by the Board, said bond to be conditioned for the faithful performance of the duties of his office and for the faithful accounting of all moneys and other property as shall come into his hands. The secretary-treasurer need not be a member of the Board, and the Board is hereby authorized to employ a full-time secretary-treasurer, and such other assistants and make such other expenditures as may be necessary to the proper carrying out of the provisions of this Article. Payment of compensation and reimbursement of expenses of board members shall be governed by G.S. 93B-5.

§ 87-5 SEAL OF BOARD.

The Board shall adopt a seal for its own use. The seal shall have the words "North Carolina Licensing Board for General Contractors" and the secretary shall have charge, care, and custody thereof.

§ 87-6 MEETINGS; NOTICE; QUORUM.

The Board shall meet twice each year, once in April and once in October, for the purpose of transacting such business as may properly come before it. At the April meeting in each year the Board shall elect officers. Special meetings may be held at such times as the Board may provide in the bylaws it shall adopt. Due notice of each meeting and the time and place thereof shall be given to each member in such manner as the bylaws may provide. Five members of the Board shall constitute a quorum.

§ 87-7 RECORDS OF BOARD; DISPOSITION OF FUNDS.

The secretary-treasurer shall keep a record of the proceedings of the said Board and shall receive and account for all moneys derived from the operation of this Article. Any funds remaining in the hands of the secretary-treasurer to the credit of the Board after the expenses of the Board for the current year have been paid shall be paid over to the Greater University of North Carolina for the use of the School of Engineering through the North Carolina Engineering Foundation. The Board has the right, however, to retain at least ten percent (10%) of the total expense it incurs for a year's operation to meet any emergency that may arise. As an expense of the Board, said Board is authorized to expend such funds as it deems necessary to provide retirement and disability compensation for its employees.

§ 87-8 RECORDS; ROSTER OF LICENSED CONTRACTORS; REPORT TO GOVERNOR.

The secretary-treasurer shall keep a record of the proceedings of the Board and a register of all applicants for license showing for each the date of application, name, qualifications, place of business, place of residence, and whether license was granted or refused. The books and register of this Board shall be prima facie evidence of all matters recorded therein. A roster showing the names and places of business and of residence of all licensed general contractors shall be prepared by the secretary of the Board during the month of March of each year; the roster shall be printed by the Board out of funds of the Board as provided in G.S. 87-7, with copies being made available to contractors and members of the public, at cost, upon request, or furnished without cost, as directed by the Board. On or before the last day of March of each year the Board shall submit to the Governor a report of its transactions for the preceding year and shall file with the Secretary of State a copy of the report, together with a complete statement of the receipts and expenditures of the Board, attested by the affidavits of the chairman and the secretary, and a copy of the roster of licensed general contractors.

§ 87-9 COMPLIANCE WITH FEDERAL HIGHWAY ACT, ETC.; CONTRACTS FINANCED BY FEDERAL ROAD FUNDS; CONTRACTS CONCERNING WATER OR WASTE WATER SYSTEMS.

Nothing in this Article shall operate to prevent the Department of Transportation from complying with any act of Congress and any rules and regulations promulgated pursuant thereto for carrying out the provisions of the Federal Highway Act, or shall apply to any person, firm or corporation proposing to submit a bid or enter into contract for any work to be financed in whole or in part with federal aid road funds in such manner as will conflict with any act of Congress or any such rules and regulations promulgated pursuant thereto.

Neither shall anything in this Article prevent the State of North Carolina or any of its political subdivisions or their contractors from complying with any act of Congress and any rules and regulations promulgated pursuant thereto for carrying out the provisions of any federal program to assist in the planning, financing, or construction of drinking water or waste water processing, collection, and disposal systems and facilities.

§ 87-9.1 OWNERSHIP OF REAL PROPERTY; EQUIPMENT; LIABILITY INSURANCE.

(a) The Board shall have the power to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State as to the acquisition, rental, encumbering, leasing, and sale of real property. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board.

(b) The Board may purchase or rent equipment and supplies and purchase liability insurance or other insurance to cover the activities of the Board, its operations, or its employees.

§ 87-10 APPLICATION FOR LICENSE; EXAMINATION; CERTIFICATE; RENEWAL.

(a) Anyone seeking to be licensed as a general contractor in this State shall submit an application. Before being entitled to an examination, an applicant shall:
(1) Be at least 18 years of age.
(2) Possess good moral character as determined by the Board.
(3) Provide evidence of financial responsibility as determined by the Board.
(4) Submit the appropriate application fee.
(5) Consent to a criminal background check if required by the Board.

(a1) The Board shall require an applicant to pay the Board or a provider contracted by the Board an examination fee not to exceed one hundred dollars ($100.00). In addition to the costs of any criminal background check, the Board shall also require an applicant to pay the Board a fee not to exceed one hundred twenty-five dollars ($125.00) if the application is for an unlimited license, one hundred dollars ($100.00) if the application is for an intermediate license, or seventy-five dollars ($75.00) if the application is for a limited license. The fees accompanying any application or examination shall be nonrefundable. The holder of an unlimited license shall be entitled to act as general contractor without restriction as to value of any single project; the holder of an intermediate license shall be entitled to act as general contractor for any single project with a value of up to one million five hundred thousand dollars ($1,500,000), excluding the cost of land and any ancillary costs to improve the land; the holder of a limited license shall be entitled to act as general contractor for any single project with a value of up to seven hundred fifty thousand dollars ($750,000), excluding the cost of land and any ancillary costs to improve the land. The license certificate shall be classified in accordance with this section.

(a2) In determining an applicant's qualifications for licensure, the Board may utilize a criminal background check. If the Board uses a criminal background check, the provisions of G.S. 93B-8.1 shall apply. The Board shall keep all information obtained from criminal background checks privileged in accordance with applicable State law and federal guidelines, and the information shall be confidential and not a public record under Chapter 132 of the General Statutes.

(a3) Records, papers, and other documentation containing personal information collected or compiled by the Board in connection with an application for examination, licensure, certification, or renewal or reinstatement, or the subsequent update of information shall not be considered public records within the meaning of Chapter 132 of the General Statutes.

(b) An applicant shall identify an individual who has successfully passed an examination approved by the Board who, for purposes of this section, shall be known as the "qualifier" or the "qualifying party" of the applicant. If the qualifier or the qualifying party seeks to take an examination, the examination shall establish (i) the ability of the applicant to make a practical application of the applicant's knowledge of the profession of contracting; (ii) the qualifications of the applicant in reading plans and specifications, knowledge of relevant matters contained in the North Carolina State Building Code, knowledge of estimating costs, construction, ethics, and other similar matters pertaining to the contracting business; (iii) the knowledge of the applicant as to the responsibilities of a contractor to the public and of the requirements of the laws of the State of North Carolina relating to contractors, construction, and liens; and (iv) the applicant's knowledge of requirements of the Sedimentation Pollution Control Act of 1973, Article 4 of Chapter 113A of the General Statutes, and the rules adopted pursuant to that Article. If the qualifier or qualifying party passes the examination, upon review of the application and all relevant information, the Board shall issue a license to the applicant to engage in general contracting in the State of North Carolina, which may be limited as follows:

(1) Building contractor, which shall include private, public, commercial, industrial, and residential buildings of all types.

(1a) Residential contractor, which shall include any general contractor constructing only residences which are required to conform to the residential building code adopted by the Building Code Council pursuant to G.S. 143-138.

(2) Highway contractor.

(3) Public utilities contractors, which shall include those whose operations are the performance of construction work on the following subclassifications of facilities:

a. Water and sewer mains, water service lines, and house and building sewer lines as defined in the North Carolina State Building Code, and water storage tanks, lift stations, pumping stations, and appurtenances to water storage tanks, lift stations, and pumping stations.
b. Water and wastewater treatment facilities and appurtenances thereto.
c. Electrical power transmission facilities, and primary and secondary distribution facilities ahead of the point of delivery of electric service to the customer.
d. Public communication distribution facilities.
e. Natural gas and other petroleum products distribution facilities; provided the General Contractors Licensing Board may issue license to a public utilities contractor limited to any of the above subclassifications for which the general contractor qualifies.

(4) Specialty contractor, which shall include those whose operations as such are the performance of construction work requiring special skill and involving the use of specialized building trades or crafts, but which shall not include any operations now or hereafter under the jurisdiction, for the issuance of license, by any board or commission pursuant to the laws of the State of North Carolina.

(b1) Public utilities contractors constructing house and building sewer lines as provided in sub-subdivision a. of subdivision (3) of subsection (b) of this section shall, at the junction of the public sewer line and the house or building sewer line, install as an extension of the public sewer line a cleanout at or near the property line that terminates at or above the finished grade. Public utilities contractors constructing water service lines as provided in sub-subdivision a. of subdivision (3) of subsection (b) of this section shall terminate the water service lines at a valve, box, or meter at which the facilities from the building may be connected. Public utilities contractors constructing fire service mains for connection to fire sprinkler systems shall terminate those lines at a flange, cap, plug, or valve inside the building one foot above the finished floor. All fire service mains shall comply with the NFPA standards for fire service mains as incorporated into and made applicable by Volume V of the North Carolina Building Code.

(c) If an applicant is an individual, examination may be taken by his personal appearance for examination, or by the appearance for examination of one or more of his responsible managing employees. If an applicant is a copartnership, a corporation, or any other combination or organization, the examination may be taken by one or more of the responsible managing officers or members of the personnel of the applicant.

(c1) If the qualifier or qualifying party shall cease to be connected with the licensee, then the license shall remain in full force and effect for a period of 90 days. After 90 days, the license shall be invalidated, however the licensee shall be entitled to return to active status pursuant to all relevant statutes and rules promulgated by the Board. However, during the 90-day period described in this subsection, the licensee shall not bid on or undertake any additional contracts from the time such qualifier or qualifying party ceased to be connected with the licensee until the license is reinstated as provided in this Article.

(d) Repealed by Session Laws 2017-10, s. 2.13(a), effective October 1, 2017, and applicable to applications for licensure submitted on or after that date.

(d1) The Board may require a new application if a qualifier or qualifying party requests to take an examination a third or subsequent time.

(e) A license shall expire on the first day of January following its issuance or renewal and shall become invalid 60 days from that date unless renewed, subject to the approval of the Board. Renewal applications shall be submitted with a fee not to exceed one hundred twenty-five dollars ($125.00) for an unlimited license, one hundred dollars ($100.00) for an intermediate license, and seventy-five dollars ($75.00) for a limited license. Renewal applications shall be accompanied by evidence of continued financial responsibility and evidence of satisfactory completion of continuing education as required by G.S. 87-10.2. Renewal applications received by the Board on or after the first day of January shall be accompanied by a late payment of ten dollars ($10.00) for each month or part after January.

(f) After a license has been invalid for four years, a licensee shall not be permitted to renew the license, and the license shall be deemed archived. If a licensee wishes to be relicensed subsequent to the archival of the license, the licensee shall fulfill all requirements of a new applicant as set forth in this section. Archived licensed numbers shall not be renewed.

§ 87-10.1 LICENSING OF NONRESIDENTS.

(a) Definitions. - The following definitions apply in this section:
  (1) Delinquent income tax debt. - The amount of income tax due as stated in a final notice of assessment issued to a taxpayer by the Secretary of Revenue when the taxpayer no longer has the right to contest the amount.
  (2) Foreign corporation. - Defined in G.S. 55-1-40.
  (3) Foreign entity. - A foreign corporation, a foreign limited liability company, or a foreign partnership.
  (4) Foreign limited liability company. - Has the same meaning as the term "foreign LLC" in G.S. 57D-1-03.
  (5) Foreign partnership. - Either of the following that does not have a permanent place of business in this State:
    a. A foreign limited partnership as defined in G.S. 59-102.
    b. A general partnership formed under the laws of a jurisdiction other than this State.

(b) Licensing. - The Board shall not issue a certificate of license for a foreign corporation unless the corporation has obtained a certificate of authority from the Secretary of State pursuant to Article 15 of Chapter 55 of the General Statutes. The Board shall not issue a certificate of license for a foreign limited liability company unless the company has obtained a certificate of authority from the Secretary of State pursuant to Article 7 of Chapter 57D of the General Statutes.

(c) Information. - Upon request, the Board shall provide the Secretary of Revenue on an annual basis the name, address, and tax identification number of every nonresident individual and foreign entity licensed by the Board. The information shall be provided in the format required by the Secretary of Revenue.

(d) Delinquents. - If the Secretary of Revenue determines that any nonresident individual or foreign corporation licensed by the board, a member of any foreign limited liability company licensed by the Board, or a partner in any foreign partnership licensed by the Board, owes a

delinquent income tax debt, the Secretary of Revenue may notify the Board of these nonresident individuals and foreign entities and instruct the Board not to renew their certificates of license. The Board shall not renew the certificate of license of such a nonresident individual or foreign entity identified by the Secretary of Revenue unless the Board receives a written statement from the Secretary that the debt either has been paid or is being paid pursuant to an installment agreement.

§ 87-10.2 CONTINUING EDUCATION.

(a) As a condition of license renewal, at least one qualifier or qualifying party of a licensee holding a building contractor, residential contractor, or unclassified contractor license classification shall complete, on an annual basis, eight hours of continuing education approved in accordance with this section. Where an entity holding a building contractor, residential contractor, or unclassified contractor license classification has multiple qualifiers or qualifying parties, at least one qualifier or qualifying party of the licensee shall complete this requirement for the license to remain valid.

(b) Of the eight hours of annual continuing education required by this section, two hours shall be a mandatory course approved by the Board and the remaining six hours shall be elective courses approved by the Board. Each qualifier or qualifying party shall complete the mandatory course each year. Each qualifier or qualifying party may accumulate and carry forward up to four hours of elective course credit to the next calendar year. The Board shall evaluate and approve:
    (1) The content of continuing education courses.
    (2) Accreditation of continuing education sponsors and programs.
    (3) Computation of credit.
    (4) General compliance procedures.
    (5) Providers and instructors of continuing education courses.

(c) All Board-approved providers of the mandatory course shall register Board-approved instructors affiliated with the provider to attend a training program established, approved, and administered by the Board to ensure the quality and consistency of mandatory course information. All prospective providers of elective courses shall submit course materials and instructor qualifications for Board evaluation, approval, and accreditation.

(d) Continuing education credit hours may only be given for courses that are taught live by an instructor approved by the Board. To receive credit, a qualifier or qualifying party shall attend and view the live teaching of the course and shall certify this requirement in the manner required by the Board. Only the period of live instruction shall apply to the satisfaction of the continuing education requirement established by this section. Continuing education providers shall certify the attendance of course attendees and shall transmit the qualifier or qualifying party's certification to the Board. For the purposes of this subsection, "live instruction" includes credit hours presented by video or by Internet transmission of a live or previously recorded and approved presentation by an approved instructor or instructors provided the presentation is either proctored by the approved provider or contains safeguards as approved by the Board that allow the approved provider to certify that the qualifier or qualifying party has viewed the presentation. The Board shall implement procedures to ensure that qualifiers and qualifying parties may satisfy all of the continuing education requirements of this section through approved Internet-based e-learning courses offered by approved providers by Internet transmission.

(e) False certification of attendance shall be grounds for the suspension or revocation of the course provider's privilege to provide courses in this State. The Board may take disciplinary action against any licensee, qualifier, or qualifying party for false certification of attendance by that licensee's qualifier or qualifying party at any continuing education course.

(f) The Board shall maintain and distribute to licensees and qualifiers, as appropriate, records of the required educational coursework successfully completed by each qualifier or qualifying party, including the subject matter and the number of hours of each course.

(g) Continuing education requirements shall begin on January 1 of any calendar year and shall be completed by November 30 of that calendar year. The Board shall establish a 90-day grace period following November 30 of each calendar year for any qualifier or qualifying party who has failed to complete the continuing education requirement. Failure of the qualifier or

qualifying party of the entity holding a building contractor, residential contractor, or unclassified contractor license classification to satisfy the annual continuing education requirement by the expiration of the grace period shall result in the license of the entity being invalidated until such time that continuing education and all other licensing requirements have been met.

(h) Any licensee who chooses not to complete the annual continuing education as required by this section may annually request that the Board place the licensee's license in an inactive status and the license shall become invalid for that license year. However, in order for the license to be maintained as inactive, the licensee shall pay the same annual renewal fee paid by active licensees. Should the licensee desire to return to active status, the qualifier or qualifying party of the licensee shall satisfactorily complete the following continuing education requirements prior to seeking reinstatement:
  (1) If the licensee seeks reinstatement during the first two years after the license becomes inactive, the qualifier or qualifying party shall complete eight hours of continuing education, including the mandatory course offered during the year of reinstatement.
  (2) If the licensee seeks reinstatement more than two years after the license becomes inactive, the qualifier or qualifying party shall complete 16 hours of continuing education, including the mandatory course offered during the year of reinstatement.

(i) The Board shall establish nonrefundable fees for the purpose of administering the continuing education program. The Board may charge the provider of a proposed course a nonrefundable fee not to exceed twenty-five dollars ($25.00) per credit hour for the initial review of the course and a nonrefundable fee of twelve dollars and fifty cents ($12.50) per credit hour for the annual renewal of a course previously approved. The Board shall require an approved course provider to pay a fee, not to exceed five dollars ($5.00) per credit hour per qualifier or qualifying party, for each qualifier or qualifying party completing an approved continuing education course conducted by that provider.

(j) The Board may modify the continuing education requirements set forth in this Article in cases of certified illness or undue hardship as provided for in the rules of the Board.

(k) The Board may adopt rules to implement the requirements of this section.

§ 87-11 REVOCATION OF LICENSE; CHARGES OF FRAUD, NEGLIGENCE, INCOMPETENCY, ETC.; HEARING THEREON; REISSUANCE OF CERTIFICATE.

(a) The Board shall have the power to refuse to issue or renew or revoke, suspend, or restrict a certificate of license or to issue a reprimand or take other disciplinary action if a general contractor licensed under this Article is found guilty of any fraud or deceit in obtaining a license, or gross negligence, incompetency, or misconduct in the practice of his or her profession, or willful violation of any provision of this Article. The Board shall also have the power to revoke, suspend, or otherwise restrict the ability of any person to act as a qualifying party for a license to practice general contracting, as provided in G.S. 87-10(c), for any copartnership, corporation or any other organization or combination, if that person committed any act in violation of the provisions of this section and the Board may take disciplinary action against the individual license held by that person.

(a1) Any person may prefer charges of fraud, deceit, negligence, or misconduct against any general contractor licensed under this Article. The charges shall be in writing and sworn to by the complainant and submitted to the Board. The charges, unless dismissed without hearing by the Board as unfounded or trivial, shall be heard and determined by the Board in accordance with the provisions of Chapter 150B of the General Statutes.

(b) The Board shall adopt and publish guidelines, consistent with the provisions of this Article, governing the suspension and revocation of licenses.

(c) The Board shall establish and maintain a system whereby detailed records are kept regarding complaints against each licensee. This record shall include, for each licensee, the date and nature of each complaint, investigatory action taken by the Board, any findings by the Board, and the disposition of the matter.

(d) The Board may reissue a license to any person, firm or corporation whose license has been revoked: Provided,

five or more members of the Board vote in favor of such reissuance for reasons the Board may deem sufficient.

(e) The Board shall immediately notify the Secretary of State of its findings in the case of the revocation of a license or of the reissuance of a revoked license.

(f) A certificate of license to replace any certificate lost, destroyed or mutilated may be issued subject to the rules and regulations of the Board.

(g) The Board shall be entitled to recover its reasonable administrative costs associated with the investigation and prosecution of a violation of this Article or rules or regulations of the Board up to a maximum of five thousand dollars ($5,000) for any licensee or qualifying party found to have committed any of the following:
   (1) Fraud or deceit in obtaining a license.
   (2) Gross negligence, incompetency, or misconduct in the practice of general contracting.
   (3) Willful violation of any provision of this Article.

§ 87-12 CERTIFICATE EVIDENCE OF LICENSE.

The issuance of a certificate of license or limited license by this Board shall be evidence that the person, firm, or corporation named therein is entitled to all the rights and privileges of a licensed or limited licensed general contractor while said license remains unrevoked or unexpired. A licensed general contractor holding a license which qualifies him for work as described in G.S. 87-10 shall be authorized to perform the said work without any additional occupational license, notwithstanding the provisions of any other occupational licensing statute. A license issued by any other occupational licensing board having jurisdiction over any work described in G.S. 87-10 shall qualify such licensee to perform the work for which the license qualifies him without obtaining the license from the General Contractors Licensing Board. Nothing contained herein shall operate to relieve any general contractor from the necessity of compliance with other provisions of the law requiring building permits and construction in accordance with appropriate provisions of the North Carolina State Building Code.

§ 87-13 UNAUTHORIZED PRACTICE OF CONTRACTING; IMPERSONATING CONTRACTOR; FALSE CERTIFICATE; GIVING FALSE EVIDENCE TO BOARD; PENALTIES.

Any person, firm, or corporation not being duly authorized who shall contract for or bid upon the construction of any of the projects or works enumerated in G.S. 87-1, without having first complied with the provisions hereof, or who shall attempt to practice general contracting in the State, except as provided for in this Article, and any person, firm, or corporation presenting or attempting to file as his own the licensed certificate of another or who shall give false or forged evidence of any kind to the Board or to any member thereof in maintaining a certificate of license or who falsely shall impersonate another or who shall use an expired or revoked certificate of license, or who falsely claims or suggests in connection with any business activities regulated by the Board that a person, firm, or corporation is licensed under this Chapter, and any architect or engineer who recommends to any project owner the award of a contract to anyone not properly licensed under this Article, shall be deemed guilty of a Class 2 misdemeanor. And the Board may, in its discretion, use its funds to defray the expense, legal or otherwise, in the prosecution of any violations of this Article. No architect or engineer shall be guilty of a violation of this section if his recommendation to award a contract is made in reliance upon current written information received by him from the appropriate Contractor Licensing Board of this State which information erroneously indicates that the contractor being recommended for contract award is properly licensed.

§ 87-13.1 BOARD MAY SEEK INJUNCTIVE RELIEF; ATTORNEY'S FEE.

Whenever the Board determines that any person, firm or corporation has violated or is violating any of the provisions of this Article or rules and regulations of the Board promulgated under this Article, the Board may apply to the superior court for a restraining order and injunction to restrain the violation; and the superior courts have jurisdiction to grant the requested relief, irrespective of whether or not criminal prosecution has been instituted or administrative sanctions imposed by reason of the violation. When the Board prevails in actions brought under this section, the court shall award the Board its reasonable attorney's fee not to exceed five thousand dollars ($5,000) plus the costs associated with obtaining the relief and the investigation and prosecution of the violation.

§ 87-14 REGULATIONS AS TO ISSUE OF BUILDING PERMITS.

(a) Any person, firm, or corporation, upon making application to the building inspector or other authority of any incorporated city, town, or county in North Carolina charged with the duty of issuing building or other permits for the construction of any building, highway, sewer, grading, or any improvement or structure where the cost is to be thirty thousand dollars ($30,000) or more, shall, before being entitled to a permit, satisfy the following:

(1) Furnish satisfactory proof to the inspector or authority that the applicant seeking the permit, or another person contracting to superintend or manage the construction is licensed under this Article to carry out or superintend the construction or is exempt from licensure under G.S. 87-1(b). If an applicant claims an exemption from licensure pursuant to G.S. 87-1(b)(2), the applicant for the building permit shall execute a verified affidavit attesting to the following:

a. That the applicant is the owner of the property on which the building is being constructed and, if the applicant is a firm or corporation, that the person submitting the application is an owner, officer, or member of the firm or corporation that owns the property.

b. That the applicant will personally superintend and manage all aspects of the construction of the building and that the duty will not be delegated to any other person not licensed under this article.

c. That the applicant will be personally present for all inspections required by the North Carolina State Building Code, unless the plans for the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes.

The building inspector or other authority shall transmit a copy of the affidavit to the Board, which shall verify that the applicant was validly entitled to claim the exemption under G.S. 87-1(b)(2). If the Board determines that the applicant was not entitled to claim the exemption under G.S. 87-1(b)(2), the building permit shall be revoked pursuant to G.S. 160D-1115.

(2) Furnish proof that the applicant has in effect Workers' Compensation insurance as required by Chapter 97 of the General Statutes.

(a1) Any person, firm, or corporation, upon making application to the building inspector or such other authority of any incorporated city, town, or county in North Carolina charged with the duty of issuing building permits pursuant to G.S. 160D-1110 for any improvements for which the combined cost is to be thirty thousand dollars ($30,000) or more, other than for improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that the owner occupies as a residence, or for the addition of an accessory building or accessory structure as defined in the North Carolina Uniform Residential Building Code, the use of which is incidental to that residential dwelling unit, shall be required to provide to the building inspector or other authority the name, physical and mailing address, telephone number, facsimile number, and email address of the lien agent designated by the owner pursuant to G.S. 44A-11.1(a).

(b) It is unlawful for the building inspector or other authority to issue or allow the issuance of a building permit pursuant to this section unless and until the applicant has furnished evidence that the applicant has complied with subsection (a) of this section. Any building inspector or other authority that is subject to and violates this is guilty of a Class 3 misdemeanor and subject only to a fine of not more than fifty dollars ($50.00).

§ 87-15 COPY OF ARTICLE INCLUDED IN SPECIFICATIONS; BID NOT CONSIDERED UNLESS CONTRACTOR LICENSED.

All architects and engineers preparing plans and specifications for work to be contracted in the State of North Carolina shall include in their invitations to bidders and in their specifications a copy of this Article or such portions thereof as are deemed necessary to convey to the invited bidder, whether he be a resident or nonresident of this State and whether a license has been issued to him or not, the information that it will be necessary for him to show evidence of a license before his bid is considered.

§ 87-15.1 RECIPROCITY OF LICENSING.

To the extent that other states which provide for the licensing of general contractors provide for similar action, the Board in its discretion may grant licenses of the same or equivalent classification to general contractors licensed by other states, without written examination upon satisfactory proof furnished to the Board that the qualifications of such applicants are equal to the qualifications of holders of similar licenses in North Carolina and upon payment of the required fee.

§ 87-15.2 PUBLIC AWARENESS PROGRAM.

The Board shall establish and implement a public awareness program to inform the general public of the purpose and function of the Board.

§ 87-15.3 IDENTITY OF COMPLAINING PARTY CONFIDENTIAL.

Once a complaint has been filed with the Board against a licensee or an unlicensed general contractor, the Board may, in its discretion, keep the identity of a complaining party confidential and not a public record within the meaning of Chapter 132 of the General Statutes until a time no later than the receipt of the complaint by the full Board for a disciplinary hearing or injunctive action.

§ 87-15.4 BUILDER DESIGNATIONS CREATED.

(a) A licensee who successfully completes the educational requirements for accredited builder or accredited master builder, as established by the North Carolina Builders Institute (Institute), shall be designated by the Board as a "North Carolina Certified Accredited Residential Builder" or "North Carolina Certified Accredited Master Residential Builder," respectively. The Institute shall provide to the Board written certification of those licensees who have successfully completed the requirements for the designations. The certification shall remain in effect as long as: (i) the licensee's license is in effect pursuant to G.S. 87-10; and (ii) the licensee completes at least eight hours of continuing education each calendar year as certified by the Institute.

(b) The Board shall approve for designation a licensee who has successfully completed a course of study, deemed by the Board to be equivalent to the educational requirements under subsection (a) of this section, offered by a community college or by another provider, and who completes the requisite number of hours of continuing education required by the Board.

(c) The Board may use all powers granted to it under this Article to enforce the provisions of this section and ensure that the designations created by this section are conferred upon and used only by a licensee who complies with the provisions of this section and any rules adopted by the Board.

Article 1A

Homeowners Recovery Fund

§ 87-15.6 HOMEOWNERS RECOVERY FUND.

(a) The Homeowners Recovery Fund is established as a special account of the Board. The Board shall administer the Fund. The purpose of the Fund is to reimburse homeowners who have suffered a reimbursable loss in constructing or altering a single-family residential dwelling unit.

(b) Whenever a general contractor applies for the issuance of a permit for the construction of any single-family residential dwelling unit or for the alteration of an existing single-family residential dwelling unit, a city or county building inspector shall collect from the general contractor a fee in the amount of ten dollars ($10.00) for each dwelling unit to be constructed or altered under the permit. The city or county inspector shall forward nine dollars ($9.00) of each fee collected to the Board on a quarterly basis and the city or county may retain one dollar ($1.00) of each fee collected. The Board shall deposit the fees received into the Fund. The Board may accept donations and appropriations to the Fund. G.S. 87-7 shall not apply to the Fund.

The Board may suspend collection of this fee for any year upon a determination that the amount in the Fund is sufficient to meet likely disbursements from the Fund for that year. The Board shall notify city and county building inspectors when it suspends collection of the fee.

(c) The Board may adopt rules to implement this Article.

Article 2

Plumbing, Heating & Fire Sprinkler Contractors

§ 87-21 DEFINITIONS; CONTRACTORS LICENSED BY BOARD; EXAMINATION; POSTING LICENSE, ETC.

(a) Definitions. - For the purpose of this Article:

(1) The word "plumbing" is hereby defined to be the system of pipes, fixtures, apparatus and appurtenances, installed upon the premises, or in a building, to supply water thereto and to convey sewage or other waste therefrom.

(2) The phrase "heating, group number one" shall be deemed and held to be the heating system of a building, which requires the use of high or low pressure steam, vapor or hot water, including all piping, ducts, and mechanical equipment appurtenant thereto, within, adjacent to or connected with a building, for comfort heating.

(3) The phrase "heating, group number two" means an integral system for heating or cooling a building consisting of an assemblage of interacting components producing conditioned air to raise or lower the temperature, and having a mechanical refrigeration capacity in excess of fifteen tons, and which circulates air. Systems installed in single-family residences are included under heating group number three, regardless of size. Holders of a heating group number three license who have heretofore installed systems classified as heating group number two systems may nevertheless service, replace, or make alterations to those installed systems until June 30, 2004.

(4) The phrase "heating, group number three" shall be deemed and held to be a direct heating or cooling system of a building that raises or lowers the temperature of the space within the building for the purpose of comfort in which electric heating elements or products of combustion exchange heat either directly with the building supply air or indirectly through a heat exchanger using an air distribution system of ducts and having a mechanical refrigeration capacity of 15 tons or less. A heating system requiring air distribution ducts and supplied by ground water or utilizing a coil supplied by water from a domestic hot water heater not exceeding 150 degrees Fahrenheit requires either plumbing or heating group number one license to extend piping from valved connections in the domestic hot water system to the heating coil and requires either heating group number one or heating group number three license for installation of coil, duct work, controls, drains and related appurtenances.

(5) Any person, firm or corporation, who for a valuable consideration, (i) installs, alters or restores, or offers to install, alter or restore, either plumbing, heating group number one, or heating group number two, or heating group number three, or (ii) lays out, fabricates, installs, alters or restores, or offers to lay out, fabricate, install, alter or restore fire sprinklers, or any combination thereof, as defined in this Article, shall be deemed and held to be engaged in the business of plumbing, heating, or fire sprinkler contracting; provided, however, that nothing herein shall be deemed to restrict the practice of qualified registered professional engineers. Any person who installs a plumbing, heating, or fire sprinkler system on property which at the time of installation was intended for sale or to be used primarily for rental is deemed to be engaged in the business of plumbing, heating, or fire sprinkler contracting without regard to receipt of consideration, unless exempted elsewhere in this Article.

(6) The word "contractor" is hereby defined to be a person, firm or corporation engaged in the business of plumbing, heating, or fire sprinkler contracting.

(7) The word "heating" shall be deemed and held to mean heating group number one, heating group number two, heating group number three, or any combination thereof.

(8) Repealed by Session Laws 1997-298, s. 1.

(9) The word "Board" means the State Board of Examiners of Plumbing, Heating, and Fire Sprinkler Contractors.

(10) The word "experience" means actual and practical work directly related to the category of plumbing, heating group number one, heating group number two, heating group number three, or fire sprinkler contracting, and includes related work for which a license is not required.

(11) The phrase "fire sprinkler" means an automatic or manual sprinkler system designed to protect the interior or exterior of a building or structure from fire, and where the primary extinguishing agent is water. These systems include wet pipe and dry pipe systems, preaction systems, water spray systems, foam water sprinkler systems, foam water spray systems, nonfreeze systems, and circulating closed-loop systems. These systems also include the overhead piping, combination standpipes, inside hose connections, thermal systems used in connection with the sprinklers, tanks, and pumps connected to the sprinklers, and controlling valves and devices for actuating an alarm when the system is in operation. This subsection shall not apply to owners of property who are building or improving farm outbuildings. This subsection shall not include water and standpipe systems having no connection with a fire sprinkler system. Nothing herein shall prevent licensed plumbing contractors, utility contractors, or fire sprinkler contractors from installing underground water supplies for fire sprinkler systems.

(b) Classes of Licenses; Eligibility and Examination of Applicant; Necessity for License. -

(1) In order to protect the public health, comfort and safety, the Board shall establish two classes of licenses: Class I covering all plumbing, heating, and fire sprinkler systems for all structures, and Class II covering plumbing and heating systems in single-family detached residential dwellings.

(2) Restricted licenses or classifications. -

a. The Board shall establish and issue a fuel piping license for use by persons who do not possess the required Class I or Class II plumbing or heating license, but desire to engage in the contracting or installing of fuel piping extending from an approved fuel source at or near the premises, which piping is used or may be used to supply fuel to any systems, equipment, or appliances located inside the premises.

b. The Board shall establish and issue a limited plumbing contractor license for use by persons who do not possess the required Class I or Class II plumbing license but desire to engage in the contracting or installation, repair, or replacement of either of the following:

1. Exterior potable water service lines or backflow preventers serving irrigation systems or domestic water service systems of two-inch diameter or smaller.

2. Exterior building sewer or water service piping of two-inch diameter or smaller.

c. The Board shall establish and issue:

1. A State and local government plumbing, heating group number one, heating group number two, or heating group number three technician license for use by persons who do not possess the required plumbing, heating group number one, heating group number two, or heating group number three contractor license but desire to engage in the installation, repair, or replacement of plumbing, heating group number one, heating group number two, or heating group number three solely as an employee of a State or local government agency.

2. A State and local government plumbing, heating group number one, heating group number two, or heating group number three technician license for use by persons who do possess the required plumbing, heating group number one, heating group number two, or heating group number three contractor license but also desire to engage in the installation, repair, or replacement of plumbing, heating group number one, heating group number two, or heating group number three as an employee of a State or local government agency without

listing their contractor license in the name of the State or local government agency. Licensed contractors who obtain the State and local government technician license shall be allowed to contract and perform work under their contractor license only during hours such contractor is not actively employed with the State or local government as a technician and is on-site carrying out the contracting activity personally. No work can be performed by the State or local government agency in reliance upon the technician license when the licensee is not present.

d. The Board may also establish additional restricted classifications to provide for:

1. The licensing of any person, partnership, firm, or corporation desiring to engage in a specific phase of heating, plumbing, or fire sprinkling contracting.

2. The licensing of any person, partnership, firm, or corporation desiring to engage in a specific phase of heating, plumbing, or fire sprinkling contracting that is an incidental part of their primary business, which is a lawful business other than heating, plumbing, or fire sprinkling contracting.

3. The licensing of persons desiring to engage in contracting and installing fuel piping from an approved fuel source on the premises to a point inside the residence.

e. The Board shall establish and issue a Residential Fire Sprinkler Design license for use by persons who hold the appropriate Residential Fire Sprinkler Contractor license to design and install the proper multipurpose fire sprinkler system required by the North Carolina Building Code.

(3) The Board shall prescribe the standard of competence, experience and efficiency to be required of an applicant for license of each class, and shall give an examination designed to ascertain the technical and practical knowledge of the applicant concerning the analysis of plans and specifications, estimating costs, fundamentals of installation and design, codes, fire hazards, and related subjects as these subjects pertain to plumbing, heating, or fire sprinkler systems. The examination for a fire sprinkler contractor's license shall include such materials as would test the competency of the applicant and which may include the minimum requirements of certification for Level III, subfield of Automatic Sprinkler System Layout, National Institute for Certification of Engineering Technologies (NICET). As a result of the examination, the Board shall issue a certificate of license of the appropriate class in plumbing, heating, or fire sprinkler contracting, and a license shall be obtained, in accordance with the provisions of this Article, before any person, firm or corporation shall engage in, or offer to engage in, the business of plumbing, heating, or fire sprinkler contracting, or any combination thereof. The obtaining of a license, as required by this Article, shall not of itself authorize the practice of another profession or trade for which a State qualification license is required. Prior to taking the examination, the applicant may be required by the Board to establish that the applicant is at least 18 years of age and is of good moral character. The Board may require experience as a condition of examination, provided that (i) the experience required may not exceed two years, (ii) that up to one-half the experience may be in the form of academic or technical courses of study, and (iii) that registration is not required at the commencement of the period of experience.

(4) Conditions of examination set by the Board shall be uniformly applied to each applicant within each license classification. It is the purpose and intent of this section that the Board shall provide an examination for plumbing, heating group number one, or heating group number two, or heating group number three, or each restricted classification, and may provide an examination for fire sprinkler contracting or may accept a current certification of the National Institute for Certification in Engineering Technologies for Fire Protection Engineering Technician, Level III, subfield of Automatic Sprinkler System Layout.

(5) The Board is authorized to issue a certificate of license limited to either plumbing or heating group number one, or heating group number two, or

heating group number three, or fire sprinkler contracting, or any combination thereof. The Board is also authorized to issue a certificate of license limited to one or more restricted classifications that are established pursuant to this section.

(6) Examinations shall be given at least twice each year, and additional examinations may be given as the Board deems wise and necessary. The examination shall be conducted in two parts to include a business and law portion and a technical portion. Requests for examination applications and information shall be made available online without charge and supplied at no cost to the potential examinee. The Board may offer written examinations or administer examinations by computer within 30 days after approving an application. Applicants shall be permitted to obtain the test score from each part of computerized examinations immediately upon completion of the examination. Upon passing the examination and paying the annual license fee, the applicant shall be issued a license. A person who fails to pass any examination shall not be reexamined until after 90 days from the date the person was last examined. An applicant who fails to pass any examination may take the failed portion within six months of the date approved to take the examination without retaking the portion passed. The Board may require applicants who fail any part of the examination three times to receive additional education before the applicant is allowed to retake the examination or wait one year before retaking any portion of the examination.

(c) To Whom Article Applies. - The provisions of this Article shall apply to all persons, firms, or corporations who engage in, or attempt to engage in, the business of plumbing, heating, or fire sprinkler contracting, or any combination thereof as defined in this Article, which includes the installation of replacement of condensing units, air handlers, gas furnaces, package units, boilers, water heaters, heat exchangers, or whole-house water purification or treatment systems, as well as the connection, repair, or alteration to the plumbing drainage, waste, or venting system or the potable water system. The provisions of this Article shall not apply to those who clean plumbing drains or those who make minor repairs or minor replacements to an already installed system of plumbing, heating or air conditioning, but shall apply to those who make repairs, replacements, or modifications to an already installed fire sprinkler system. Minor repairs or minor replacements within the meaning of this subsection shall include the replacement of parts in an installed system which do not require any change in energy source, fuel type, or routing or sizing of venting or piping. Parts shall include a compressor, coil, contactor, motor, or capacitor.

(c1) Exemption. - The provisions of this Article shall not apply to a person who performs the on-site assembly of a factory designed drain line system for a manufactured home, as defined in G.S. 143-143.9(6), if the person (i) is a licensed manufactured home retailer, a licensed manufactured home set-up contractor, or a full-time employee of either, (ii) obtains an inspection by the local inspections department and (iii) performs the assembly according to the State Plumbing Code.

(c2) Exemption. - The provisions of this Article shall not apply to electric generating facilities that are subject to G.S. 62-110.1 or that provide power sold at wholesale that is regulated by the Federal Energy Regulatory Commission.

(d) Repealed by Session Laws 1979, c. 834, s. 7.

(d1) Expired December 31, 1991.

(e) Posting License; License Number on Contracts, etc. - The current license issued in accordance with the provisions of this Article shall be posted in the business location of the licensee, and its number shall appear on all proposals or contracts and requests for permits issued by municipalities. The initial qualified licensee on a license is the permanent possessor of the license number under which that license is issued, except that a licensee, or the licensee's legal agent, personal representative, heirs or assigns, may designate in writing to the Board a qualified licensee to whom the Board shall assign the license number upon the payment of a ten dollar ($10.00) assignment fee. Upon such assignment, the qualified licensee becomes the permanent possessor of the assigned license number. Notwithstanding the foregoing, the license number may be assigned only to a qualified licensee who has been

employed by the initial licensee's plumbing and heating company for at least 10 years or is a lineal relative, sibling, first cousin, nephew, niece, daughter-in-law, son-in-law, brother-in-law, or sister-in-law of the initial licensee. Each successive licensee to whom a license number is assigned under this subsection may assign the license number in the same manner as provided in this subsection.

(f) Repealed by Session Laws 1971, c. 768, s. 4.

(g) The Board may, in its discretion, grant to plumbing, heating, or fire sprinkler contractors licensed by other states license of the same or equivalent classification without written examination upon receipt of satisfactory proof that the qualifications of such applicants are substantially equivalent to the qualifications of holders of similar licenses in North Carolina and upon payment of the usual license fee.

(h) Expired December 31, 1993.

(i) The provisions of this Article shall not apply to a retailer, as defined in G.S. 105-164.3(229), who, in the ordinary course of business, enters into a transaction with a buyer in which the retailer of a water heater sold for installation in a one- or two-family residential dwelling contracts with a licensee under this Article to provide the installation services for the water heater if the retail sales and installation contract with the buyer is signed by the buyer and the retailer and identifies the licensee and provides the licensee's license number and telephone number. All installation services rendered by the licensee in connection with any such contract must be performed in compliance with all building code, permit, and inspection requirements.

(j) The provisions of this Article shall not apply to a person primarily engaged in the retail sale of goods and services who contracts for or arranges financing for the sale and installation of a single-family residential heating or cooling system for which a license to install such system is required under this Article, provided all of the following requirements are met:

(1) No contract or proposal for sale or installation may be presented to or signed by the buyer unless either (i) the specifications for and design of the system have been first reviewed and approved by an employee of the retail seller who is licensed under this Article or (ii) the specifications for and design of the system have been first reviewed and approved by the person licensed under this Article who will install the system, if the installer is not an employee of the retail seller. This subdivision does not prohibit the retailer from providing a written estimate to a potential buyer so long as no contract or proposal for contract is presented or signed prior to the review and approval required by this subsection.

(2) The person installing the system is licensed under this Article.

(3) The contract for sale and for installation is signed by the buyer, by an authorized representative of the retail seller, and by the licensed contractor and contains the contractor's name, license number, and telephone number and the license number of the person approving the system design specifications.

(4) Installation services are performed in compliance with all applicable building codes, manufacturer's installation instructions, and permit and inspection requirements.

(5) The retailer provides, in addition to any other warranties it may offer with respect to the system itself, a warranty for a period of at least one year for any defects in installation.

(k) The provisions of subsections (i) and (j) of this section shall not apply to a system meeting the definition of subdivision (a)(11) of this section.

Article 4

Electrical Contractors

§ 87-43 ELECTRICAL CONTRACTING DEFINED; LICENSES.

Electrical contracting shall be defined as engaging or offering to engage in the business of installing, maintaining, altering or repairing any electric work, wiring, devices, appliances or equipment. No person, partnership, firm or corporation shall engage, or offer to engage, in the business of electrical contracting within the State of North Carolina without having received a license in the applicable classification described in G.S. 87-43.3 from the State Board of Examiners of Electrical Contractors in compliance

with the provisions of this Article, regardless of whether the offer was made or the work was performed by a qualified individual as defined in G.S. 87-41.1. In each separate place of business operated by an electrical contractor at least one listed qualified individual shall be regularly on active duty and shall have the specific duty and authority to supervise and direct all electrical wiring or electrical installation work done or made by such separate place of business. Every person, partnership, firm or corporation engaging in the business of electrical contracting shall display a current certificate of license in his principal place of business and in each branch place of business which he operates. Licenses issued hereunder shall be signed by the chairman and the secretary-treasurer of the Board, under the seal of the Board. A registry of all licenses issued to electrical contractors shall be kept by the secretary-treasurer of the Board, and said registry shall be open for public inspection during ordinary business hours.

§ 87-43.1 EXCEPTIONS.

The provisions of this Article shall not apply:

(1) To the installation, construction or maintenance of facilities for providing electric service to the public ahead of the point of delivery of electric service to the customer;

(2) To the installation, construction, maintenance, or repair of telephone, telegraph, or signal systems, by public utilities, or their corporate affiliates, when said work pertains to the services furnished by said public utilities;

(3) To any person in the course of his work as a bona fide employee of a licensee of this Board;

(4) To the installation, construction or maintenance of electrical equipment and wiring for temporary use by contractors in connection with the work of construction;

(5) To the installation, construction, maintenance or repair of electrical wiring, devices, appliances or equipment by persons, firms or corporations, upon their own property when such property is not intended at the time for rent, lease, sale or gift, who regularly employ one or more electricians or mechanics for the purpose of installing, maintaining, altering or repairing of electrical wiring, devices or equipment used for the conducting of the business of said persons, firms or corporations;

(5a) To any person who is himself and for himself installing, maintaining, altering or repairing electric work, wiring, devices, appliances or equipment upon his own property when such property is not intended at the time for rent, lease, or sale;

(6) To the installation, construction, maintenance or repair of electrical wiring, devices, appliances or equipment by State institutions and private educational institutions which maintain a private electrical department;

(7) To the replacement of lamps and fuses and to the installation and servicing of cord-connected appliances and equipment connected by means of attachment plug-in devices to suitable receptacles which have been permanently installed or to the servicing of appliances connected to a permanently installed junction box. This exception does not apply to permanently installed receptacles or to the installation of the junction box.

(8) To the bonding of corrugated stainless steel tubing (CSST) gas piping systems as required under Section 310.1.1 of the 2012 N.C. Fuel Gas Code.

(9) To the installation, maintenance, or replacement of any load control device or equipment by an electric power supplier, as defined in G.S. 62-133.8, or an electrical contractor contracted by the electric power supplier, so long as the work is subject to supervision by an electrical contractor licensed under this Article. The electric power supplier shall provide such installation, maintenance, or replacement in accordance with (i) an activity or program ordered, authorized, or approved by the North Carolina Utilities Commission pursuant to G.S. 62-133.8 or G.S. 62-133.9 or (ii) a similar program undertaken by a municipal electric service provider, whether the installation, modification, or replacement is made before or after the point of delivery of electric service to the customer. The exemption under this subdivision applies to all existing installations.

(10) To the installation, construction, maintenance, or repair of electrical wiring, devices, appliances, or

equipment by a person certified as a well contractor under Article 7A of this Chapter when running electrical wires from the well pump to the pressure switch.

§ 87-43.2 ISSUANCE OF LICENSE.

(a) A person, partnership, firm, or corporation shall be eligible to be licensed as an electrical contractor and to have such license renewed, subject to the provisions of this Article, provided:

(1) At least one listed qualified individual shall be regularly employed by the applicant at each separate place of business to have the specific duty and authority to supervise and direct electrical contracting done by or in the name of the licensee;

(2) An application is filed with the Board which contains a statement of ownership, states the names and official positions of all employees who are listed qualified individuals and provides such other information as the Board may reasonably require;

(3) The applicant, through an authorized officer or owner, shall agree in writing to report to the Board within five days any additions to or loss of the employment of listed qualified individuals; and

(4) The applicant furnishes, upon the initial application for a license, a bonding ability statement completed by a bonding company licensed to do business in North Carolina, verifying the applicant's ability to furnish performance bonds for electrical contracting projects having a value in excess of the project value limit for a limited license established pursuant to G.S. 87-43.3 for the intermediate license classification and in excess of the project value limit for an intermediate license established pursuant to G.S. 87-43.3 for the unlimited license classification. In lieu of furnishing the bonding ability statement, the applicant may submit for evaluation and specific approval of the Board other information certifying the adequacy of the applicant's financial ability to engage in projects of the license classification applied for. The bonding ability statement or other financial information must be submitted in the same name as the license to be issued. If the firm for which a license application is filed is owned by a sole proprietor, the bonding ability statement or other financial information may be furnished in either the firm name or the name of the proprietor. However, if the application is submitted in the name of a sole proprietor, the applicant shall submit information verifying that the person in whose name the application is made is in fact the sole proprietor of the firm.

(5) Repealed by Session Laws 1989, c. 709, s. 5.

(b) A license shall indicate the names and classifications of all listed qualified individuals employed by the applicant. A license shall be cancelled if at any time no listed qualified individual is regularly employed by the applicant; provided, that work begun prior to such cancellation may be completed under such conditions as the Board shall direct; and provided further that no work for which a license is required under this Article may be bid for, contracted for or initiated subsequent to such cancellation until said license is reinstated by the Board.

(c) Nothing in this Article shall be deemed to limit the ability of a licensee under this Article who is regularly employed by a local board of education, a hospital as defined in G.S. 131E-76, or a nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)) to maintain an individual license or to contract or perform work at the direction of the local board of education, hospital, or nonprofit organization for any building or facility owned or in possession of that local board of education, hospital, or nonprofit organization, regardless of whether all or a portion of that building or facility is being leased or otherwise provided for another entity or event.

§87-43.3 CLASSIFICATION OF LICENSES.

(a) An electrical contracting license shall be issued in one of the following classifications:

(1) Limited, under which a licensee shall be permitted to engage in a single electrical contracting project of a value, as established by the Board, not in excess of one hundred thousand dollars ($100,000) and on which the equipment or installation in the

contract is rated at not more than 600 volts. The limited classification and any special restricted classifications shall require no more than 3,000 hours of experience, of which, no less than 2,000 hours shall consist of primary experience gained by direct installation of electrical wiring and equipment governed by the National Electric Code.

(2) Intermediate, under which a licensee shall be permitted to engage in a single electrical contracting project of a value, as established by the Board, not in excess of two hundred thousand dollars ($200,000). The intermediate classification shall require no more than 5,750 hours of experience, of which, no less than 5,000 hours shall consist of primary experience gained by direct installation of electrical wiring and equipment governed by the National Electric Code.

(3) Unlimited, under which a licensee shall be permitted to engage in any electrical contracting project regardless of value. The unlimited classification shall require no more than 9,000 hours of experience, of which, no less than 8,000 hours shall consist of primary experience gained by direct installation of electrical wiring and equipment governed by the National Electric Code.

(b) An electrical contracting license shall be issued in such other special Restricted classifications as the Board may establish from time to time to provide, (i) for the licensing of persons, partnerships, firms or corporations wishing to engage in special restricted electrical contracting, under which license a licensee shall be permitted to engage only in a specific phase of electrical contracting of a special, limited nature, and (ii) for the licensing of persons, partnerships, firms or corporations wishing to engage in electrical contracting work as an incidental part of their primary business, which is a lawful business other than electrical contracting, under which license a licensee shall be permitted to engage only in a specific phase of electrical contracting of a special, limited nature directly in connection with said primary business.

(c) The Board may establish appropriate standards for each classification, such standards not to be inconsistent with the provisions of G.S. 87-42. The Board may, by rule, modify the project value limitations up to the maximum amounts set forth in this section for limited and intermediate licenses no more than once every three years based upon an increase or decrease in the project cost index for electrical projects in this State.

SECTION 1.(b) This section becomes effective October 1, 2022, and applies to applicants for licensure on or after that date.

Article 5

Refrigeration Contractors

§ 87-57 LICENSE REQUIRED OF PERSONS, FIRMS OR CORPORATIONS ENGAGED IN THE REFRIGERATION TRADE.

In order to protect the public health, safety, morals, order and general welfare of the people of this State, all persons, firms or corporations, whether resident or nonresident of the State of North Carolina, before engaging in refrigeration business or contracting, as defined in this Article, shall first apply to the Board and shall procure a license.

§ 87-58 DEFINITIONS; CONTRACTORS LICENSED BY BOARD; EXAMINATIONS.

(a) The provisions of this Article shall not repeal any wording, phrase, or paragraph as set forth in Article 2 of this Chapter. The following definitions apply in this Article:

(1) Commercial refrigeration contractor. – All persons, firms, or corporations engaged in the installation, maintenance, servicing and repairing of refrigerating machinery, equipment, devices and components relating thereto.

(2) Industrial refrigeration contractor. – All persons, firms, or corporations engaged in commercial refrigeration contracting with the use of ammonia as a refrigerant gas.

(3) Refrigeration service contractor. – All persons, firms, or corporations engaged in the maintenance, servicing, and repairing of refrigerating machinery, equipment, devices, and components relating thereto.

(4) Transport refrigeration contractor. – All persons, firms, or corporations engaged in the business of

installation, maintenance, repairing, and servicing of transport refrigeration.

(a1) This Article shall not apply to any of the following:

(1) The installation of self-contained commercial refrigeration units equipped with an Original Equipment Manufacturer (OEM) molded plug that does not require the opening of service valves.
(2) The installation and servicing of domestic household self-contained refrigeration appliances equipped with an OEM molded plug connected to suitable receptacles which have been permanently installed and do not require the opening of service valves.
(3) Employees of persons, firms, or corporations or persons, firms or corporations, not engaged in refrigeration contracting as herein defined, that install, maintain and service their own refrigerating machinery, equipment and devices.
(4) Any person, firm or corporation engaged in the business of selling, repairing and installing any comfort cooling devices or systems.
(5) The replacement of lamps, fuses, and door gaskets.

(b) The Board shall establish and issue the following licenses:

(1) A Class I license shall be required for any person engaged in the business of commercial refrigeration contracting.
(2) A Class II license shall be required for any person engaged in the business of industrial refrigeration contracting.
(3) A Class III license shall be required for any person engaged in the business of refrigeration service contracting.
(4) A Class IV license shall be required for any person engaged in the business of transport refrigeration contracting.

(b1) Repealed by Session Laws 2017-10, s. 2.7(a), effective January 1, 2018, and applicable to applications submitted and Board membership appointments on or after that date.

(c) Any person, firm or corporation who for valuable consideration engages in the refrigeration business or trade as herein defined shall be deemed and held to be in the business of refrigeration contracting.

(d) In order to protect the public health, comfort and safety, the Board shall prescribe the standard of experience to be required of an applicant for license and shall give an examination designed to ascertain the technical and practical knowledge of the applicant concerning the analysis of plans and specifications, estimating cost, fundamentals of installation and design as they pertain to refrigeration; and as a result of the examination, the Board shall issue a certificate of license in refrigeration to applicants who pass the required examination and a license shall be obtained in accordance with the provisions of this Article, before any person, firm or corporation shall engage in, or offer to engage in the business of refrigeration contracting. The Board shall prescribe standards for all license classifications. Each application for examination shall be accompanied by a check, post-office money order or cash in the amount of the annual license fee required by this Article. Regular examinations shall be given in the Board's office by appointment.

(e) Repealed by Session Laws 1979, c. 843, s. 1.

(f) Licenses Granted without an Examination. – Persons who had an established place of business prior to July 1, 1979, and who produce satisfactory evidence that they are engaged in the refrigeration business as herein defined in any city, town or other area in which Article 5 of Chapter 87 of the General Statutes did not previously apply shall be granted a certificate of license, without examination, upon application to the Board and payment of the license fee, provided completed applications shall be made prior to June 30, 1981.

(g) The current license issued in accordance with the provisions of this Article shall be posted in the business location of the licensee, and its number shall appear on all proposals or contracts and requests for permits issued by municipalities.

(h) A transport refrigeration contractor having an established place of business doing transport refrigeration contracting prior to October 1, 1995, shall be granted a transport refrigeration contracting specialty license, without examination, if the person produces satisfactory evidence the person is engaged in transport refrigeration contracting, pays the required license fee, and applies to the Board prior to January 1, 1997. The current specialty license shall be posted in accordance with subsection (g) of this section.

(i) Nothing in this Article shall relieve the holder of a license issued under this section from complying with

the building or electrical codes, statutes, or ordinances of the State or of any county or municipality or from responsibility or liability for negligent acts in connection with refrigeration contracting work. The Board shall not be liable in damages, or otherwise, for the negligent acts of licensees.

(j) The Board in its discretion upon application may grant a reciprocal license to a person holding a valid, active substantially comparable license from another jurisdiction, but only to the extent the other jurisdiction grants reciprocal privileges to North Carolina licensees.

(k) Upon application and payment of the fee for license renewal provided in G.S. 87-64, the Board shall issue a certificate of license to any licensee whose business activities require a Class I or Class II license if that licensee had an established place of business and was licensed pursuant to this Article prior to January 1, 2018.

CHAPTER 89C - ENGINEERING AND LAND SURVEYING

Engineering and Land Surveying

§ 89C-3 DEFINITIONS.

The following definitions apply in this Chapter:

(1) Board. - The North Carolina State Board of Examiners for Engineers and Surveyors provided for by this Chapter.

(1a) Business firm. - A partnership, firm, association, or another organization or group that is not a corporation and is acting as a unit.

(2) Engineer. - A person who, by reason of special knowledge and use of the mathematical, physical and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience, is qualified to practice engineering.

(3) Engineer intern. - A person who complies with the requirements for education, experience and character, and has passed an examination on the fundamentals of engineering as provided in this Chapter.

(3a) Inactive licensee. - A licensee who is not engaged in the practice of engineering or land surveying in this State but renews his or her license as "inactive" as provided in this Chapter.

(4) Land surveyor intern. - A person who complies with the requirements for education, experience, and character and has passed an examination on the fundamentals of land surveying as provided in this Chapter.

(5) Person. - Any natural person, firm, partnership, corporation or other legal entity.

(6) Practice of engineering. -

a. Any service or creative work, the adequate performance of which requires engineering education, training, and experience, in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning, and design of engineering works and systems, planning the use of land and water, engineering surveys, and the observation of construction for the purposes of assuring compliance with drawings and specifications, including the consultation, investigation, evaluation, planning, and design for either private or public use, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic or thermal nature, insofar as they involve safeguarding life, health or property, and including such other professional services as may be necessary to the planning, progress and completion of any engineering services.

A person shall be construed to practice or offer to practice engineering, within the meaning and intent of this Chapter, who practices any branch of the profession of engineering; or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents the person to be a professional engineer, or through the use of some other title implies that

the person is a professional engineer or that the person is licensed under this Chapter; or who holds the person out as able to perform, or who does perform any engineering service or work not exempted by this Chapter, or any other service designated by the practitioner which is recognized as engineering.

b. The term "practice of engineering" shall not be construed to permit the location, description, establishment or reestablishment of property lines or descriptions of land boundaries for conveyance. The term does not include the assessment of an underground storage tank required by applicable rules at closure or change in service unless there has been a discharge or release of the product from the tank.

(7) Practice of land surveying. -

a. Providing professional services such as consultation, investigation, testimony, evaluation, planning, mapping, assembling, and interpreting reliable scientific measurements and information relative to the location, size, shape, or physical features of the earth, improvements on the earth, the space above the earth, or any part of the earth, whether the gathering of information for the providing of these services is accomplished by conventional ground measurements, by aerial photography, by global positioning via satellites, or by a combination of any of these methods, and the utilization and development of these facts and interpretations into an orderly survey map, plan, report, description, or project. The practice of land surveying includes the following:

1. Locating, relocating, establishing, laying out, or retracing any property line, easement, or boundary of any tract of land;

2. Locating, relocating, establishing, or laying out the alignment or elevation of any of the fixed works embraced within the practice of professional engineering;

3. Making any survey for the subdivision of any tract of land, including the topography, alignment and grades of streets and incidental drainage within the subdivision, and the preparation and perpetuation of maps, record plats, field note records, and property descriptions that represent these surveys;

4. Determining, by the use of the principles of land surveying, the position for any survey monument or reference point, or setting, resetting, or replacing any survey monument or reference point;

5. Determining the configuration or contour of the earth's surface or the position of fixed objects on the earth's surface by measuring lines and angles and applying the principles of mathematics or photogrammetry;

6. Providing geodetic surveying which includes surveying for determination of the size and shape of the earth both horizontally and vertically and the precise positioning of points on the earth utilizing angular and linear measurements through spatially oriented spherical geometry; and

7. Creating, preparing, or modifying electronic or computerized data, including land information systems and geographic information systems relative to the performance of the practice of land surveying.

b. The term "practice of land surveying" shall not be construed to permit the design or preparation of specifications for (i) major highways; (ii) wastewater systems; (iii) wastewater or industrial waste treatment works; (iv) pumping or lift stations; (v) water supply, treatment, or distribution systems; (vi) streets or storm sewer systems except as incidental to a subdivision.

(8) Professional engineer. - A person who has been duly licensed as a professional engineer by the Board established by this Chapter.

(8a) Professional engineer, retired. - A person who has been duly licensed as a professional engineer by the Board and who chooses to relinquish or not to renew a license and who applies to and is approved by the Board after review of record, including any disciplinary action, to be granted the use of the honorific title "Professional Engineer, Retired".

(9) Professional land surveyor. - A person who, by reason of special knowledge of mathematics, surveying principles and methods, and legal requirements which are acquired by education and/or practical experience, is qualified to engage in the practice of land surveying, as attested by the person's licensure as a professional land surveyor by the Board.

(9a) Professional land surveyor, retired. - A person who has been duly licensed as a professional land surveyor by the Board and who chooses to relinquish or not to renew a license and who applies to and is approved by the Board after review of record, including any disciplinary action, to be granted the use of the honorific title "Professional Land Surveyor, Retired".

(10) Responsible charge. - Direct control and personal supervision, either of engineering work or of land surveying, as the case may be.

§ 89C-23 UNLAWFUL TO PRACTICE ENGINEERING OR LAND SURVEYING WITHOUT LICENSURE; UNLAWFUL USE OF TITLE OR TERMS; PENALTIES; ATTORNEY GENERAL TO BE LEGAL ADVISER.

Any person who shall practice, or offer to practice, engineering or land surveying in this State without first being licensed in accordance with the provisions of this Chapter, or any person, firm, partnership, organization, association, corporation, or other entity using or employing the words "engineer" or "engineering" or "professional engineer" or "professional engineering" or "land surveyor" or "land surveying," or any modification or derivative of those words in its name or form of business or activity except as licensed under this Chapter or in pursuit of activities exempted by this Chapter, or any person presenting or attempting to use the certificate of licensure or the seal of another, or any person who shall give any false or forged evidence of any kind to the Board or to any member of the Board in obtaining or attempting to obtain a certificate of licensure, or any person who shall falsely impersonate any other licensee of like or different name, or any person who shall attempt to use an expired or revoked or nonexistent certificate of licensure, or who shall practice or offer to practice when not qualified, or any person who falsely claims that the person is registered under this Chapter, or any person who shall violate any of the provisions of this Chapter, in addition to injunctive procedures set out hereinbefore, shall be guilty of a Class 2 misdemeanor. In no event shall there be representation of or holding out to the public of any engineering expertise by unlicensed persons. It shall be the duty of all duly constituted officers of the State and all political subdivisions of the State to enforce the provisions of this Chapter and to prosecute any persons violating them.

The Attorney General of the State or an assistant shall act as legal adviser to the Board and render any legal assistance necessary to carry out the provisions of this Chapter. The Board may employ counsel and necessary assistance to aid in the enforcement of this Chapter, and the compensation and expenses for the assistance shall be paid from funds of the Board.

CHAPTER 95 - DEPARTMENT OF LABOR AND LABOR REGULATIONS

Article 7A
Uniform Boiler and Pressure Vessel Act

§ 95-69.8 SHORT TITLE.

This Article shall be known as the Uniform Boiler and Pressure Vessel Act of North Carolina.

§ 95-69.9 DEFINITIONS.

(a) The term "board" shall mean the North Carolina Board of Boiler and Pressure Vessel Rules.

(b) The term "boiler" shall mean a closed vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum by the direct or indirect application of heat. The term "boiler" shall also include fired units

for heating or vaporizing liquids other than water where these units are complete within themselves.

(b1) The term "Chief Inspector" shall mean the individual appointed by the Commissioner to hold the office of Chief of the Boiler Safety Bureau within the Department of Labor. The Chief Inspector serves as the North Carolina member on the National Board of Boiler and Pressure Vessel Inspectors.

(c) The term "Commissioner" shall mean the North Carolina Commissioner of Labor.

(d) Repealed by Session Laws 2005-453, s. 1.

(d1) The term "Deputy Inspector" shall mean any Boiler and Pressure Vessel Inspector who is employed by the Department of Labor and is subordinate to the Chief Inspector.

(e) The term "inspection certificate" or "certificate of inspection" shall mean certification by the Chief Inspector that a boiler or pressure vessel is in compliance with the rules and regulations adopted under this Article.

(f) The term "inspector's commission" shall mean a written authorization by the Commissioner for a person who has met the qualifications set out in this Article to conduct inspections of boilers and pressure vessels.

(f1) The term "National Board" shall mean the National Board of Boiler and Pressure Vessel Inspectors.

(f2) The term "person" shall mean any individual, association, partnership, firm, corporation, private organization, or the State of North Carolina or any political subdivision of the State or any unit of local government.

(g) The term "pressure vessel" shall mean a vessel in which the pressure is obtained from an indirect source or by the application of heat from an indirect source or a direct source, other than those included within the term "boiler".

§ 95-69.10 APPLICATION OF ARTICLE; EXEMPTIONS.

(a) This Article shall apply to all boilers and pressure vessels constructed, used, or designed for operation in this State including all new and existing installations unless specifically excluded by subsection (b) of this section.

(b) This Article shall not apply to:

(1) Boilers and pressure vessels owned or operated by the federal government, unless the agency in question has asked for coverage by this Article.

(2) Pressure vessels used for transportation or storage of compressed gases when constructed in compliance with the specifications of the United States Department of Transportation and when charged with gas marked, maintained, and periodically requalified for use, as required by appropriate regulations of the United States Department of Transportation.

(3) Portable pressure vessels used for agricultural purposes only or for pumping or drilling in an open field for water, gas or coal, gold, talc, or other minerals and metals.

(4) Boilers and pressure vessels which are located in private residences or in apartment houses of less than six families.

(5) Repealed by Session Laws 2007-231, s. 1, effective July 18, 2007.

(6) Air tanks located on vehicles licensed under the rules and regulations of other state authorities operating under rules and regulations substantially similar to those of this State and used for carrying passengers or freight within interstate commerce.

(7) Air tanks installed on right-of-way of railroads and used directly in the operation of trains.

(8) Any of the following pressure vessels that do not exceed the listed limitations if the vessel is not equipped with a quick actuating closure:

a. Five cubic feet in volume and 250 psig.
b. Three cubic feet in volume and 350 psig.
c. One and one-half cubic feet in volume and 600 psig.
d. An inside diameter of six inches with no limitation on pressure.
e. Five cubic feet in volume when the pressure vessel is constructed and operated on the same real property zoned industrial and where its operation is undertaken using commercially acceptable safety precautions for the application.

(9) Pressure vessels operating at a working pressure not exceeding 15 psig.

(10) Pressure vessels with a nominal water capacity not exceeding 120 gallons and containing water under pressure at temperatures not exceeding 120°F, including those containing air, the compression of which serves as a cushion.

(11) Boilers and pressure vessels on railroad steam locomotives that are subject to federal railway safety regulations pursuant to 49 C.F.R. § 230.

(12) Repealed by Session Laws 1985, c. 620, s. 2.

(13) Coil-type hot water supply boilers, generally referred to as steam jennies, where the water can flash into steam when released directly to the atmosphere through a manually operated nozzle and where adequate safety relief valves and controls are installed on them, provided none of the following limitations are exceeded:

a. There is no drum, header, or other steam space.
b. No steam is generated within the coil.
c. Maximum 1 inch tube size.
d. Maximum 3/4 inch nominal pipe size.
e. Maximum 6 gallon nominal water storage capacity.
f. Water temperature of 350°F.

(14) Pressure vessels containing water at a temperature not exceeding 110 degrees fahrenheit except that this provision shall not exclude hydropneumatic pressure vessels from regulation.

(15) An air tank that does not exceed eight cubic feet in volume that is installed on a service vehicle.

(16) Autoclaves in medical offices and hospitals that are less than five cubic feet in volume, even if they are equipped with a quick actuating closure.

(17) Coil-type hot water supply boilers of the instantaneous type where adequate safety relief valves and controls are installed if none of the following limitations are exceeded:

a. There is no drum or header.
b. No steam is generated within the coil.
c. Maximum one-inch tube size.
d. Maximum three-quarter-inch nominal pipe size.
e. Maximum six-gallon nominal water storage capacity.
f. Water temperature not to exceed 250°F.
g. Maximum heat input does not exceed 400,000 Btu/hr or 110 kW.
h. Maximum pressure of 260 psig.

(18) Toy boilers, if all of the following apply:

a. The water containing volume of the boiler is less than one quart.
b. The operating pressure does not exceed 15 psig.
c. The maximum outside diameter of the shell is no greater than six inches.
d. The boiler is manually fired by solid fuels.

(19) Pressure vessels associated with electrical apparatus in electrical switchyards if the pressure vessels have proper pressure relief devices.

(20) Carbon dioxide tanks used in beverage dispensing service.

(c) The construction and inspection requirements established by the Department of Labor shall not apply to hot water supply boilers or water heaters which are directly fired with oil, gas, or electricity, or to hot water storage tanks heated by steam or any other indirect means, if they are equipped with ASME Code and National Board certified safety relief valves and do not exceed any of the following limitations:

(1) Heat input of 200,000 Btu/hr or 58.6 kW.
(2) Repealed by Session Laws 2005-453, s.
(3) Nominal water capacity of 120 gallons.

(d) The construction requirements established by the Department of Labor shall not apply to pressure vessels installed in this State prior to December 31, 1981, if they are equipped with ASME Code and National Board certified safety relief valves and:

(1) Are of one-piece, unwelded, forged construction;
(2) Are constructed before January 1, 1981, and operating or could be operated, under the laws of any state or Canadian Province that has adopted one or more sections of the ASME Code;
(3) Are transferred into this State without a change of ownership; and

(4) Are determined by the Chief Inspector to be constructed under standards substantially equivalent to those established by the department at the time of transfer.

(e) The construction requirements established by the Department of Labor shall not apply to pressure vessels installed in this State prior to December 31, 1984, if they are equipped with ASME Code and National Board certified safety relief valves and:

(1) Are manufactured from gray iron casting material, as specified by the American Society for Testing and Materials, (ASTM) 48-60T/30;
(2) Are constructed before December 31, 1967, and operating or could be operated, under the laws of any state or Canadian Province that has adopted one or more sections of the ASME Boiler and Pressure Vessel Code;
(3) Are transferred into this State without a change of ownership; and
(4) Are determined by the Chief Inspector to be constructed under standards substantially equivalent to those established by the department at the time of transfer.

(f) The construction requirements established by the Department of Labor shall not apply to hydropneumatic tanks installed or operated by a community water system prior to January 1, 1986.

(g) The inspection requirements established by the Department of Labor shall not apply to pressure vessels used for transportation or storage of liquefied petroleum gas that are subject to inspection in accordance with the requirements established by the Department of Agriculture and Consumer Services.

CHAPTER 105 – TAXATION

Article 4

Income Tax – [Accessibility Tax Credit]

§ 105-130.22 Tax credit for construction of dwelling units for handicapped persons. (Repealed effective for taxable years beginning on or after January 1, 2014)

There is allowed to corporate owners of multifamily rental units located in this State as a credit against the tax imposed by this Part, an amount equal to five hundred fifty dollars ($550.00) for each dwelling unit constructed by the corporate owner that conforms to Volume I-C of the North Carolina Building Code for the taxable year within which the construction of the dwelling unit is completed. The credit is allowed only for dwelling units completed during the taxable year that were required to be built in compliance with Volume I-C of the North Carolina Building Code. If the credit allowed by this section exceeds the tax imposed by this Part reduced by all other credits allowed, the excess may be carried forward for the next succeeding year. In order to secure the credit allowed by this section the corporation shall file with its income tax return a copy of the occupancy permit on the face of which is recorded by the building inspector the number of units completed during the taxable year that conform to Volume I-C of the North Carolina Building Code. After recording the number of these units on the face of the occupancy permit, the building inspector shall promptly forward a copy of the permit to the Building Accessibility Section of the Department of Insurance.

§ 105-151.1 (Repealed effective for taxable years beginning on or after January 1, 2014 - see note) Credit for construction of dwelling units for handicapped persons.

An owner of multifamily rental units located in this State is allowed a credit against the tax imposed by this Part equal to five hundred fifty dollars ($550.00) for each dwelling unit constructed by the owner that conforms to Volume I-C of the North Carolina Building Code for the taxable year within which the construction of the dwelling unit is completed. The credit is allowed only for dwelling units completed during the taxable year that were required to be built in compliance with Volume I-C of the North Carolina Building Code. If the credit allowed by this section exceeds the tax imposed by this Part reduced by all other credits allowed, the excess may be carried forward for the next succeeding year. In order to claim the credit allowed by this section, the taxpayer must file with the income tax return a copy of the occupancy permit on the face of which is recorded by the building inspector the number of units completed during the taxable year that conform to Volume I-C of the North Carolina Building Code. After recording the number of these units on the face of the occupancy

permit, the building inspector shall promptly forward a copy of the permit to the Building Accessibility Section of the Department of Insurance.

CHAPTER 106 – AGRICULTURE

Article 52
Agricultural Development

§ 106-581.1 AGRICULTURE DEFINED.

For purposes of this Article, the terms "agriculture", "agricultural", and "farming" refer to all of the following:

(1) The cultivation of soil for production and harvesting of crops, including but not limited to fruits, vegetables, sod, flowers and ornamental plants.

(2) The planting and production of trees and timber.

(3) Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, and other animals for individual and public use, consumption, and marketing.

(4) Aquaculture as defined in G.S. 106-758.

(5) The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation.

(6) When performed on the farm, "agriculture", "agricultural", and "farming" also include the marketing and selling of agricultural products, agritourism, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on a farm, and similar activities incident to the operation of a farm.

(7) A public or private grain warehouse or warehouse operation where grain is held 10 days or longer and includes, but is not limited to, all buildings, elevators, equipment, and warehouses consisting of one or more warehouse sections and considered a single delivery point with the capability to receive, load out, weigh, dry, and store grain.

CHAPTER 115C - ELEMENTARY AND SECONDARY EDUCATION

Article 37
School Sites and Property

§ 115C-525 FIRE PREVENTION.

(a) Duty of Principal Regarding Fire Hazards. - The principal of every public school in the State shall have the following duties regarding fire hazards during periods when he is in control of a school:

(1) Every principal shall make certain that all corridors, halls, and tower stairways which are used for exits shall always be kept clear and that nothing shall be permitted to be stored or kept in corridors or halls, or in, on or under stairways that could in any way interfere with the orderly exodus of occupants. The principal shall make certain that all doors used for exits shall be kept in good working condition. During the occupancy of the building or any portion thereof by the public or for school purposes, the principal shall make certain that all doors necessary for prompt and orderly exodus of the occupants are kept unlocked.

(2) Every principal shall make certain that no electrical wiring shall be installed within any school building or structure or upon the premises and that no alteration or addition shall be made in any existing wiring, except with the authorization of the superintendent. Any such work shall be performed by a licensed electrical contractor, or by a maintenance electrician regularly employed by the board of education and approved by the Commissioner of Insurance.

(3) Every principal shall make certain that combustible materials necessary to the curriculum and for the operation of the school shall be stored in a safe and orderly manner.

(4) Every principal shall make certain that all supplies, such as oily rags, mops, etc., which may cause spontaneous combustion, shall be stored in an orderly manner in a well-ventilated place.

(5) Every principal shall make certain that all trash and rubbish shall be removed from the school building daily. No trash or rubbish shall be permitted to accumulate in a school attic, basement or other place on the premises.

(6) Every principal shall cooperate in every way with the authorized building inspector, electrical inspector, county fire marshal or other designated person making the inspections required by G.S. 115C-525(b).

It shall further be the duty of the principal to bring to the attention of the local superintendent of schools the failure of the building inspector, electrical inspector, county fire marshal, or other person to make the inspections required by G.S. 115C-525(b). It shall further be the duty of the principal to call to the attention of the superintendent of schools all recommendations growing out of the inspections, in order that the proper authorities can take steps to bring about the necessary corrections.

(b) Inspection of Schools for Fire Hazards; Removal of Hazards. - Every public-school building in the State shall be inspected a minimum of two times during the year in accordance with the following plan: Provided, that the periodic inspections herein required shall be at least 120 days apart:

(1) Each school building shall be inspected to make certain that none of the fire hazards enumerated in G.S. 115C-525(a)(1) through (5) exist, and to ensure that the building and all heating, mechanical, electrical, gas, and other equipment and appliances are properly installed and maintained in a safe and serviceable manner as prescribed by the North Carolina Building Code. Following each inspection, the persons making the inspection shall furnish to the principal of the school a written report of conditions found during inspection, upon forms furnished by the Commissioner of Insurance, and the persons making the inspection shall also furnish a copy of the report to the superintendent of schools; the superintendent shall keep such copy on file for a period of three years. In addition to the periodic inspections herein required, any alterations or additions to existing school buildings or to school building utilities or appliances shall be inspected immediately following completion.

(2) The board of county commissioners of each county shall designate the persons to make the inspections and reports required by subdivision (1) of this subsection. The board may designate any city or county building inspector, any city or county fire prevention bureau, any city or county electrical inspector, the county fire marshal, or any other qualified persons, but no person shall make any inspection unless qualified as required by G.S. 160D-1103 and Section 7 of Chapter 531 of the 1977 Session Laws. Nothing in this section shall be construed as prohibiting two or more counties from designating the same persons to make the inspections and reports required by subdivision (1) of this subsection. The board of county commissioners shall compensate or provide for the compensation of the persons designated to make all such inspections and reports. The board of county commissioners may make appropriations in the general fund of the county to meet the costs of such inspections, or in the alternative the board may add appropriations to the school current expense fund to meet the costs thereof: Provided, that if appropriations are added to the school current expense fund, such appropriations shall be in addition to and not in substitution of existing school current expense appropriations.

(3) It shall be the duty of the Commissioner of Insurance, the Superintendent of Public Instruction, and the State Board of Education to prescribe any additional rules and regulations which they may deem necessary in connection with such inspections and reports for the reduction of fire hazards and protection of life and property in public schools.

(4) It shall be the duty of each principal to make certain that all fire hazards called to his attention in the course of the inspections and reports required by subdivision (1) of this subsection are immediately removed or corrected, if such removal or correction can be accomplished by the principal. If such removal or correction cannot be accomplished by the principal, it shall be the duty

of the principal to bring the matter to the attention of the superintendent.

(5) It shall be the duty of each superintendent of schools to make certain that all fire hazards called to his attention in the course of the inspections and reports required by subdivision (1) of this subsection and not removed or corrected by the principals as required by subdivision (4) of this subsection are removed or corrected, if such removal or correction can be brought about within the current appropriations available to the superintendent. Where any removal or correction of a hazard will require the expenditure of funds in excess of current appropriations, it shall be the duty of the superintendent to bring the matter to the attention of the appropriate board of education, and the board of education in turn shall bring the same to the attention of the board of county commissioners, in order that immediate steps be taken, within the framework of existing law, to remove or correct the hazard.

(c) Liability for Failure to Perform Duties Imposed by G.S. 115C-288(d) and 115C-525(a) or 115C-525(b). - Any person willfully failing to perform any of the duties imposed by G.S. 115C-288(d), 115C-525(a) or 115C-525(b) shall be guilty of a Class 3 misdemeanor and shall only be fined not more than five hundred dollars ($500.00) in the discretion of the court.

CHAPTER 119 - GASOLINE AND OIL INSPECTION AND REGULATION

Article 5

Liquefied Petroleum Gases

§ 119-54 PURPOSE: DEFINITIONS; SCOPE OF ARTICLE.

(a) It is the purpose of this Article to provide for the adoption and promulgation of a code of safety, and such rules and regulations setting forth minimum general standards of safety for the design, construction, location, installation, and operation of the equipment used in handling, storing, measuring, transporting, distributing, and utilizing liquefied petroleum gases and to provide for the administration and enforcement of the code and such rules and regulations thereby adopted. Words used in this Article shall be defined as follows:

(1) "Board" means the North Carolina Board of Agriculture.

(2) "Commissioner" means the Commissioner of Agriculture or his designated agent.

(3) "Dealer" means any person, firm, or corporation who is engaged in or desires to engage in:

a. The business of selling or otherwise dealing in liquefied petroleum gases which require handling, storing, measuring, transporting, or distributing liquefied petroleum gas; or

b. The business of installing, servicing, repairing, adjusting, connecting, or disconnecting containers, equipment, or appliances which use liquefied gas. A person who engages in any of the aforementioned activities only in connection with his or his employer's use of liquefied petroleum gas and not as a business shall not be deemed to be a "dealer" for the purposes of this Article.

(4) "Liquefied petroleum gas" means any material which is composed predominantly of any of the following hydrocarbons, or mixtures of the same: propane, propylene, butanes (normal butanes or isobutane), butylenes.

(b) This Article does not apply to the design, construction, location, installation, or operation of equipment or facilities covered by the Building Code pursuant to Article 9 of Chapter 143 of the General Statutes.

CHAPTER 130A - PUBLIC HEALTH

Article 11

Wastewater Systems

§ 130A-336 IMPROVEMENT PERMIT AND CONSTRUCTION AUTHORIZATION REQUIRED.

(a) Any proposed site for a residence, place of business, or place of public assembly in an area not served by an approved wastewater system shall be evaluated by either (i) the local health department in accordance with rules adopted pursuant to this Article or (ii) by a professional engineer, licensed soil scientist, or licensed geologist acting within the engineer's, soil scientist's, or geologist's scope of work, as applicable, and pursuant to the conditions of the engineered option permit in G.S. 130A-336.1 or the Authorized On-Site Wastewater Evaluator permit option in G.S. 130A-336.2. An improvement permit issued by a local health department shall include:

(1) For permits that are valid without expiration, a plat or, for permits that are valid for five years, a site plan.

(2) A description of the facility the proposed site is to serve.

(3) The proposed wastewater system and its location.

(4) The design wastewater flow and characteristics.

(5) The conditions for any site modifications.

(6) Any other information required by the rules of the Commission.

Neither the improvement permit nor the construction authorization shall be affected by change of ownership of the site for the wastewater system provided both the site for the wastewater system and the facility the system serves are unchanged and remain under the ownership or control of the person owning the facility. No person shall commence or assist in the construction, location, or relocation of a residence, place of business, or place of public assembly in an area not served by an approved wastewater system unless an improvement permit and a construction authorization are obtained from the local health department unless that person is acting in accordance with the conditions and criteria of an engineered option permit pursuant to G.S. 130A-336.1 or the Authorized On-Site Wastewater Evaluator permit option pursuant to G.S. 130A-336.2. This requirement shall not apply to a manufactured residence exhibited for sale or stored for later sale and intended to be located at another site after sale.

(b) The local health department shall issue a construction authorization authorizing work to proceed and the installation or repair of a wastewater system when it has determined after a field investigation that the system can be installed and operated in compliance with this Article and rules adopted pursuant to this Article. This construction authorization shall be valid for a period equal to the period of validity of the improvement permit and may be issued at the same time the improvement permit is issued. No person shall commence or assist in the installation, construction, or repair of a wastewater system unless an improvement permit and a construction authorization have been obtained from the Department or the local health department unless that person is acting in accordance with the conditions and criteria of an engineered option permit pursuant to G.S. 130A-336.1 or the Authorized On-Site Wastewater Evaluator permit option pursuant to G.S. 130A-336.2. No improvement permit or construction authorization shall be required for maintenance of a wastewater system. The Department and the local health department may impose conditions on the issuance of an improvement permit and a construction authorization.

(b1) An improvement permit or construction authorization issued by a local health department from January 1, 2000, to January 1, 2015, which has not been acted on and would have otherwise expired, shall remain valid until January 1, 2020, without penalty, unless there are changes in the hydraulic flows or wastewater characteristics from the original local health department evaluation. Permits are transferrable with ownership of the property. Permits shall retain the site, soil evaluations, and construction conditions of the original permit. Site activities begun or completed pursuant to requirements from the local health department under the original permit, however, shall not be construed to be altered conditions and shall not constitute a basis for refusal of the permit extension. The property owner may contract with

a person licensed pursuant to Chapter 89F of the General Statutes as a licensed soil scientist to conduct a site verification to determine whether the conditions of the original permit are unchanged. Written verification by the licensed soil scientist shall be accepted by the local health department, used in lieu of verification by the local health department, and be attached to the permit.

(c) Unless the Commission otherwise provides by rule, plans, and specifications for all wastewater systems designed for the collection, treatment, and disposal of industrial process wastewater shall be reviewed and approved by the Department prior to the issuance of a construction authorization by the local health department.

(d) If a local health department repeatedly fails to issue or deny improvement permits for conventional septic tank systems within 60 days of receiving completed applications for the permits, then the Department of Environment and Natural Resources may withhold public health funding from that local health department.

§ 130A-337 INSPECTION; OPERATION PERMIT REQUIRED.

(a) No system of wastewater collection, treatment and disposal shall be covered or placed into use by any person until an inspection by the local health department has determined that the system has been installed or repaired in accordance with any conditions of the improvement permit, the rules, and this Article.

(b) Upon determining that the system is properly installed or repaired and that the system is capable of being operated in accordance with the conditions of the improvement permit, the rules, this Article and any conditions to be imposed in the operation permit, as applicable, the local health department shall issue an operation permit authorizing the residence, place of business or place of public assembly to be occupied and for the system to be placed into use or reuse.

(c) Upon determination that an existing wastewater system has a valid operation permit and is operating properly in a manufactured home park, the local health department shall issue authorization in writing for a manufactured home to be connected to the existing system and to be occupied. Notwithstanding G.S. 130A-336, an improvement permit is not required for the connection of a manufactured home to an existing system with a valid operation permit in a manufactured home park.

(d) No person shall occupy a residence, place of business or place of public assembly, or place a wastewater system into use or reuse for a residence, place of business or place of public assembly until an operation permit has been issued or authorization has been obtained pursuant to G.S. 130A-337(c).

§ 130A-338 CONSTRUCTION AUTHORIZATION REQUIRED BEFORE OTHER PERMITS TO BE ISSUED.

Where construction, location or relocation is proposed to be done upon a residence, place of business or place of public assembly, no permit required for electrical, plumbing, heating, air conditioning or other construction, location or relocation activity under any provision of general or special law shall be issued until a construction authorization has been issued under G.S. 130A-336 or authorization has been obtained under G.S. 130A-337(c), or a decision on the completeness of the notice of intent to construct is made by the local health department pursuant to G.S. 130A-336.1(c) or G.S. 130A-336.2(c).

§ 130A-339 LIMITATION ON ELECTRICAL SERVICE.

No person shall allow permanent electrical service to a residence, place of business or place of public assembly upon construction, location or relocation until the official electrical inspector with jurisdiction as provided in G.S. 143-143.2 certifies to the electrical supplier that the required improvement permit, construction authorization, and an operation permit or authorization under G.S. 130A-337(c) or the letter of confirmation authorizing wastewater system operation under G.S. 130A-336.1(m) has been obtained. Temporary electrical service necessary for constructing a residence, place of business or place of public assembly can be provided upon compliance with G.S. 130A-338.

CHAPTER 133 - PUBLIC WORKS

Article 1

Public Works – General Provisions

§ 133-1 EMPLOYMENT OF ARCHITECTS, ETC., ON PUBLIC WORKS WHEN INTERESTED IN USE OF MATERIALS PROHIBITED.

It shall be unlawful for any architect, engineer, or other individual, firm, or corporation providing design services for any city, county or State work supported wholly or in part with public funds, knowingly to specify any building materials, equipment or other items which are manufactured, sold or distributed by any firm or corporation in which such designer or specifier has a financial interest by reason of being a partner, officer, employee, agent or substantial stockholder.

§ 133-1.1 CERTAIN BUILDINGS INVOLVING PUBLIC FUNDS TO BE DESIGNED, ETC., BY ARCHITECT OR ENGINEER.

(a) In the interest of public health, safety and economy, every officer, board, department, or commission charged with the duty of approving plans and specifications or awarding or entering into contracts involving the expenditure of public funds in excess of:

(1) Three hundred thousand dollars ($300,000) for the repair of public buildings where such repair does not include major structural change in framing or foundation support systems, or five hundred thousand dollars ($500,000) for the repair of public buildings by The University of North Carolina or its constituent institutions where such repair does not include major structural change in framing or foundation support systems,

(1a) One hundred thousand dollars ($100,000) for the repair of public buildings affecting life safety systems,

(2) One hundred thirty-five thousand dollars ($135,000) for the repair of public buildings where such repair includes major structural change in framing or foundation support systems, or

(3) One hundred thirty-five thousand dollars ($135,000) for the construction of, or additions to, public buildings or State-owned and operated utilities, shall require that such plans and specifications be prepared by a registered architect, in accordance with the provisions of Chapter 83A of the General Statutes, or by a registered engineer, in accordance with the provisions of Chapter 89C of the General Statutes, or by both architect and engineer, particularly qualified by training and experience for the type of work involved, and that the North Carolina seal of such architect or engineer together with the name and address of such architect or engineer, or both, be placed on all these plans and specifications.

(b1) On all projects requiring the services of an architect, an architect shall conduct frequent and regular inspections or such inspections as required by contract and shall issue a signed and sealed certificate of compliance to the awarding authority that:

a. The inspections of the construction, repairs or installations have been conducted with the degree of care and professional skill and judgment ordinarily exercised by a member of that profession; and

b. To the best of his knowledge and in the professional opinion of the architect, the contractor has fulfilled the obligations of such plans, specifications, and contract.

(2) On all projects requiring the services of an engineer, an engineer shall conduct frequent and regular inspections or such inspections as required by contract and shall issue a signed and sealed certificate of compliance to the awarding authority that:

a. The inspections of the construction, repairs, or installations have been conducted with the degree of care and professional skill and judgment ordinarily exercised by a member of that profession; and

b. To the best of his knowledge and in the professional opinion of the engineer, the contractor has fulfilled the obligations of such plans, specifications, and contract.

(3) No certificate of compliance shall be issued until the architect and/or engineer is satisfied that the contractor

has fulfilled the obligations of such plans, specifications, and contract.

(c) The following shall be excepted from the requirements of subsection (a) of this section:

(1) Dwellings and outbuildings in connection therewith, such as barns and private garages.
(2) Apartment buildings used exclusively as the residence of not more than two families.
(3) Buildings used for agricultural purposes other than schools or assembly halls which are not within the limits of a city or an incorporated village.
(4) Temporary buildings or sheds used exclusively for construction purposes, not exceeding 20 feet in any direction, and not used for living quarters.
(5) Pre-engineered garages, sheds, and workshops up to 5,000 square feet used exclusively by city, county, public school, or State employees for purposes related to their employment. For pre-engineered garages, sheds, and workshops constructed pursuant to this subdivision, there shall be a minimum separation of these structures from other buildings or property lines of 30 feet.

(d) On projects on which no registered architect or engineer is required pursuant to the provisions of this section, the governing board or awarding authority shall require a certificate of compliance with the State Building Code from the city or county inspector for the specific trade or trades involved or from a registered architect or engineer, except that the provisions of this subsection shall not apply to projects where any of the following apply:

(1) The plans and specifications are approved by the Department of Administration, Division of State Construction, and the completed project is inspected by the Division of State Construction and the State Electrical Inspector.

(2) The project is exempt from the State Building Code.

(3) The project has a total projected cost of less than $100,000 and does not alter life safety systems.

(e) All plans and specifications for public buildings of any kind shall be identified by the name and address of the author thereof.

(f) Neither the designer nor the contractor involved shall receive his final payment until the required certificate of compliance shall have been received by the awarding authority.

(g) On all facilities which are covered by this Article, other than those listed in subsection (c) of this section and which require any job-installed finishes, the plans and specifications shall include the color schedule.

§ 133-2 DRAWING OF PLANS BY MATERIAL FURNISHER PROHIBITED.

It shall be unlawful for any architect, engineer, designer or draftsman, employed on county, State, or city works, to employ or allow any manufacturer, his representatives or agents, to write, plan, draw, or make specifications for such works or any part thereof.

§ 133-3 SPECIFICATIONS TO CARRY COMPETITIVE ITEMS; SUBSTITUTION OF MATERIALS.

All architects, engineers, designers, or draftsmen, when providing design services, or writing specifications, directly or indirectly, for materials to be used in any city, county or State work, shall specify in their plans the required performance and design characteristics of such materials. However, when it is impossible or impractical to specify the required performance and design characteristics for such materials, then the architect, engineer, designer or draftsman may use a brand name specification so long as they cite three or more examples of items of equal design or equivalent design, which would establish an acceptable range for items of equal or equivalent design. The specifications shall state clearly that the cited examples are used only to denote the quality standard of product desired and that they do not restrict bidders to a specific brand, make, manufacturer or specific name; that they are used only to set forth and convey to bidders the general style, type, character and quality of product desired; and that equivalent product will be acceptable. Where it is impossible to specify performance and design characteristics for such materials and impossible to cite three or more items due to the fact that there are not that many items of similar or equivalent design in competition, then as many items as are available shall be cited. On all city, county or State works, the maximum

interchangeability and compatibility of cited items shall be required. The brand of product used on a city, county or State work shall not limit competitive bidding on future works. Specifications may list one or more preferred brands as an alternate to the base bid in limited circumstances. Specifications containing a preferred brand alternate under this section must identify the performance standards that support the preference. Performance standards for the preference must be approved in advance by the owner in an open meeting. Any alternate approved by the owner shall be approved only where (i) the preferred alternate will provide cost savings, maintain or improve the functioning of any process or system affected by the preferred item or items, or both, and (ii) a justification identifying these criteria is made available in writing to the public. Substitution of materials, items, or equipment of equal or equivalent design shall be submitted to the architect or engineer for approval or disapproval; such approval or disapproval shall be made by the architect or engineer prior to the opening of bids. The purpose of this statute is to mandate and encourage free and open competition on public contracts.

§ 133-4 VIOLATION OF CHAPTER MADE MISDEMEANOR.

Any person, firm, or corporation violating the provisions of this Chapter shall be guilty of a Class 3 misdemeanor and upon conviction, license to practice his profession in this State shall be withdrawn for a period of one year and he shall only be subject to a fine of not more than five hundred dollars ($500.00).

CHAPTER 143 - STATE DEPARTMENTS, INSTITUTIONS, AND COMMISSIONS

Article 8

Public Contracts

Inspection of State-Owned Buildings

§ 143-135.1 STATE BUILDINGS EXEMPT FROM COUNTY AND MUNICIPAL BUILDING REQUIREMENTS; CONSIDERATION OF RECOMMENDATIONS BY COUNTIES AND MUNICIPALITIES.

(a) Buildings constructed by the State of North Carolina or by any agency or institution of the State in accordance with plans and specifications approved by the Department of Administration or by The University of North Carolina or one of its affiliated or constituent institutions pursuant to G.S. 116-31.11 shall not be subject to inspection by any county or municipal authorities and shall not be subject to county or municipal building codes and requirements.

(b) Inspection fees fixed by counties and municipalities shall not be applicable to such construction by the State of North Carolina. County and municipal authorities may inspect any plans or specifications upon their request to the Department of Administration or, with respect to projects under G.S. 116-31.11, The University of North Carolina, and any and all recommendations made by them shall be given consideration. Requests by county and municipal authorities to inspect plans and specifications for State projects shall be on the basis of a specific project. Should any agency or institution of the State require the services of county or municipal authorities, notice shall be given for the need of such services, and appropriate fees for such services shall be paid to the county or municipality; provided, however, that the application for such services to be rendered by any county or municipality shall have prior written approval of the Department of Administration, or with respect to projects under G.S. 116-31.11, The University of North Carolina.

(c) Notwithstanding any law to the contrary, including any local act, no county or municipality may impose requirements that exceed the North Carolina State Building Code regarding the design or construction of buildings constructed by the State of North Carolina.

Article 9

Building Code Council and Building Code

§ 143-136 BUILDING CODE COUNCIL CREATED; MEMBERSHIP, COMMITTEES.

(a) Creation; Membership; Terms. – There is hereby created a Building Code Council, which shall be composed of 17 members appointed by the Governor, consisting of the following:

(1) Two licensed architects.

(2) One licensed general contractor.

(3) One licensed general contractor specializing in residential construction.

(4) One licensed general contractor specializing in coastal residential construction.

(5) One licensed engineer practicing structural engineering.

(6) One licensed engineer practicing mechanical engineering.

(7) One licensed engineer practicing electrical engineering.

(8) One licensed plumbing and heating contractor.

(9) One municipal or county building inspector.

(10) One licensed liquid petroleum gas dealer/contractor involved in the design of natural and liquid petroleum gas systems who has expertise and experience in natural and liquid petroleum gas piping, venting and appliances.

(11) One representative of the public who is not a member of the building construction industry.

(12) One licensed electrical contractor.

(13) One licensed engineer on the engineering staff of a State agency charged with approval of plans of State-owned buildings.

(14) One municipal elected official or city manager.

(15) One county commissioner or county manager.

(16) One active member of the North Carolina fire service with expertise in fire safety, as recommended by the North Carolina State Firefighters' Association.

In selecting the municipal and county members, preference should be given to members who qualify as either a licensed architect, licensed engineer, or licensed general contractor. Of the members initially appointed by the Governor, three shall serve for terms of two years each, three shall serve for terms of four years each, and three shall serve for terms of six years each. Thereafter, all appointments shall be for terms of six years. The Governor may remove appointive members at any time. Neither the architect nor any of the above-named engineers shall be engaged in the manufacture, promotion or sale of any building material, and any member who shall, during his term, cease to meet the qualifications for original appointment (through ceasing to be a practicing member of the profession indicated or otherwise) shall there by forfeit his membership on the Council. In making new appointments or filling vacancies, the Governor shall ensure that minorities and women are represented on the Council.

The Governor may make appointments to fill the unexpired portions of any terms vacated by reason of death, resignation, or removal from office. In making such appointment, he shall preserve the composition of the Council required above.

(b) Compensation. – Members of the Building Code Council other than any who are employees of the State shall receive seven dollars ($7.00) per day, including necessary time spent in traveling to and from their place of residence within the State to any place of meeting or while traveling on official business of the Council. In addition, all members shall receive mileage and subsistence according to State practice while going to and from any place of meeting, or when on official business of the Council.

(c) Residential Code Committee Created; Duties. – Within the Building Code Council, there is hereby created a Residential Code for One- and Two-Family Dwellings Committee composed of seven members of the Building Code Council, specifically the licensed general contractor specializing in residential construction who shall serve as chairman of this committee; the licensed general contractor specializing in coastal residential construction; the licensed engineer practicing structural engineering; the licensed plumbing and heating contractor; the fire service representative; the municipal or county building inspector; and the licensed electrical contractor. This committee shall meet upon the call of its chairman to review any proposal for revision or amendment to the North Carolina State Building Code: Residential Code for One- and Two-Family Dwellings, including provisions applicable to One- and Two-Family Dwellings from the NC Energy Code, NC Electrical Code, NC Fuel Gas Code, NC Plumbing Code, the NC Mechanical Code, the NC Existing Building Code, and any other code applicable to residential construction, and no revision or amendment to any of these codes applicable to residential construction may be considered by the Building Code Council unless recommended by this committee. This committee shall also oversee the process

by which the Council conducts its revision pursuant to G.S. 143-138(d). This committee shall also consider any appeal or interpretation arising under G.S. 143-141 pertaining to North Carolina State Building Code: Residential Code for One- and Two-Family Dwellings and make a recommendation to the Building Code Council for disposition of the appeal or interpretation. In considering the recommendations of the committee related to revisions and amendments of the Building Code, nothing in this subsection shall prevent the Building Code Council from accepting, rejecting, or amending the recommendation, provided that any amendment to the recommendation must be germane.

(d) Building Code Committee Created; Duties. – Within the Building Code Council, there is hereby created a Building Code Committee for all structures except those subject to the North Carolina State Building Code: Residential Code for One- and Two-Family Dwellings. The committee shall be composed of the following nine members of the Building Code Council:

(1) One of the licensed architects appointed by the chairman of the Building Code Council.
(2) The licensed engineer practicing mechanical engineering.
(3) The licensed engineer practicing electrical engineering.
(4) The licensed engineer practicing structural engineering.
(5) The municipal elected official.
(6) The fire service representative.
(7) The municipal or county building inspector.
(8) The State agency engineer.
(9) The licensed general contractor.

The chairman of the Building Code Council shall call the first meeting of the Committee, at which meeting the Committee shall elect a chairman from among the members of the Committee as the first order of business. Thereafter, the Committee shall meet upon the call of the chairman to review any proposal for revision or amendment to the North Carolina State Building Code, including provisions applicable to the North Carolina Energy Code, the North Carolina Electrical Code, the North Carolina Fuel Gas Code, the North Carolina Plumbing Code, the North Carolina Mechanical Code, the North Carolina Existing Building Code, and any other code applicable to commercial or multi-family construction, and no revision or amendment to any of these codes applicable to commercial or multi-family construction may be considered by the Building Code Council unless recommended by this committee. This committee shall also oversee the process by which the Council conducts its revision of the codes applicable to commercial or multi-family construction pursuant to G.S. 143-138(d). This committee shall also consider any appeal or interpretation arising under G.S. 143-141 pertaining to codes applicable to commercial or multi-family construction and make a recommendation to the Building Code Council for disposition of the appeal or interpretation. In considering the recommendations of the committee related to revisions and amendments of the Building Code, nothing in this subsection shall prevent the Building Code Council from accepting, rejecting, or amending the recommendation, provided that any amendment to the recommendation must be germane.

§ 143-137 ORGANIZATION OF COUNCIL; RULES; MEETINGS; STAFF; FISCAL AFFAIRS.

(a) **First Meeting;** Organization; Rules. - Within 30 days after its appointment, the Building Code Council shall meet on call of the Commissioner of Insurance. The Council shall elect from its appointive members a chairman and such other officers as it may choose, for such terms as it may designate in its rules. The Council shall adopt such rules not inconsistent herewith as it may deem necessary for the proper discharge of its duties. The chairman may appoint members to such committees as the work of the Council may require. In addition, the chairman shall establish and appoint ad hoc code revision committees to consider and prepare revisions and amendments to the Code volumes. Each ad hoc committee shall consist of members of the Council, licensed contractors, and design professionals most affected by the Code volume for which the ad hoc committee is responsible, and members of the public. The subcommittees shall meet upon the call of their respective chairs and shall report their recommendations to the Council.

(b) **Meetings.** - The Council shall meet regularly, at least once every six months, at places and dates to be determined by the Council. Special meetings may be called by the chairman on his own initiative and must be called by him at the request of two or more members of the Council. All members shall be notified by the chairman in writing of the time and place of regular and special meetings at least seven days in advance of such meeting. Seven members shall constitute a quorum. All meetings shall be open to the public.

(c) **Staff.** - Personnel of the Division of Engineering of the Department of Insurance shall serve as a staff for the Council. Such staff shall have the duties of

(1) Keeping an accurate and complete record of all meetings, hearings, correspondence, laboratory studies, and technical work performed by or for the Council, and making these records available for public inspection at all reasonable times;

(2) Handling correspondence for the Council.

(d) **Fiscal Affairs of the Council.** - All funds for the operations of the Council and its staff shall be appropriated to the Department of Insurance for the use of the Council. All such funds shall be held in a separate or special account on the books of the Department of Insurance, with a separate financial designation or code number to be assigned by the Department of Administration or its agent. Expenditures for staff salaries and operating expenses shall be made in the same manner as the expenditure of any other Department of Insurance funds. The Department of Insurance may hire such additional personnel as may be necessary to handle the work of the Building Code Council, within the limits of funds appropriated for the Council and with the approval of the Council.

§ 143-138 NORTH CAROLINA STATE BUILDING CODE.

(a) **Preparation and Adoption.** - The Building Code Council may prepare and adopt, in accordance with the provisions of this Article, a North Carolina State Building Code. Before the adoption of the Code, or any part of the Code, the Council shall hold at least one public hearing. A notice of the public hearing shall be published in the North Carolina Register at least 15 days before the date of the hearing. Notwithstanding G.S. 150B-2(8a) h., the North Carolina State Building Code as adopted by the Building Code Council is a rule within the meaning of G.S. 150B-2(8a) and shall be adopted in accordance with the procedural requirements of Article 2A of Chapter 150B of the General Statutes.

(a1) **Additional Adoption Requirements.**

(1) The Council shall request the Office of State Budget and Management to prepare a fiscal note for a proposed Code change that has a substantial economic impact, as defined in G.S. 150B-21.4(b1), or that increases the cost of residential housing by eighty dollars ($80.00) or more per housing unit. The change can become effective only in accordance with G.S. 143-138(d). Neither the Department of Insurance nor the Council shall be required to expend any monies to pay for the preparation of any fiscal note under this section by any person outside of the Department or Council unless the Department or Council contracts with a third-party vendor to prepare the fiscal note.

(2) The Council shall conduct a cost-benefit analysis for all proposed changes considered after January 1, 2018, to the North Carolina Energy Conservation Code.

(b) **Contents of the Code**. - The North Carolina State Building Code, as adopted by the Building Code Council, may include reasonable and suitable classifications of buildings and structures, both as to use and occupancy; general building restrictions as to location, height, and floor areas; rules for the lighting and ventilation of buildings and structures; requirements concerning means of egress from buildings and structures; requirements concerning means of ingress in buildings and structures; rules governing construction and precautions to be taken during construction; rules as to permissible materials, loads, and stresses; rules governing chimneys, heating appliances, elevators, and other facilities connected with the buildings and structures; rules governing plumbing, heating, air conditioning for the purpose of comfort cooling by the lowering of temperature, and electrical systems; and such other reasonable rules pertaining to the construction of buildings and structures and the installation of particular facilities

therein as may be found reasonably necessary for the protection of the occupants of the building or structure, its neighbors, and members of the public at large.

(b1) **Fire Protection; Smoke Detectors**. - The Code may regulate activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion, or related hazards. Such fire prevention code provisions shall be considered the minimum standards necessary to preserve and protect public health and safety, subject to approval by the Council of more stringent provisions proposed by a municipality or county as provided in G.S. 143-138(e). These provisions may include regulations requiring the installation of either battery-operated or electrical smoke detectors in every dwelling unit used as rental property, regardless of the date of construction of the rental property. For dwelling units used as rental property constructed prior to 1975, smoke detectors shall have an Underwriters' Laboratories, Inc., listing or other equivalent national testing laboratory approval, and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance.

(b2) **Carbon Monoxide Alarms**. – The Code (i) may contain provisions requiring the installation of either battery-operated or electrical carbon monoxide alarms in every dwelling unit having a combustion heater, appliance, or fireplace, and in any dwelling unit having an attached garage and (ii) shall contain provisions requiring the installation of electrical carbon monoxide alarms at a lodging establishment. Violations of this subsection and rules adopted pursuant to this subsection shall be punishable in accordance with subsection (h) of this section and G.S. 143-139. In particular, the rules shall provide:

(1) For dwelling units, carbon monoxide alarms shall be those listed by a nationally recognized testing laboratory that is approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075 and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance. A carbon monoxide alarm may be combined with smoke detectors if the combined alarm does both of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke detectors; and (ii) emits an alarm in a manner that clearly differentiates between detecting the presence of carbon monoxide and the presence of smoke.

(2) For lodging establishments, including tourist homes that provide accommodations for seven or more continuous days (extended-stay establishments), and bed and breakfast inns and bed and breakfast homes as defined in G.S. 130A-247, carbon monoxide alarms shall be installed in every dwelling unit or sleeping unit having a combustion heater, appliance, or fireplace and in every dwelling unit or sleeping unit that shares a common wall, floor, or ceiling with a room having a combustion heater, appliance, or fireplace. Carbon monoxide alarms shall be (i) listed by a nationally recognized testing laboratory that is approved to test and certify to American National Standards Institute/Underwriters Laboratories (ANSI/UL) Standards ANSI/UL2034 or ANSI/UL2075, (ii) installed in accordance with either the standard of the National Fire Protection Association (NFPA) or the minimum protection designated in the manufacturer's instructions, which the lodging establishment shall retain or provide as proof of compliance, (iii) receive primary power from the building's wiring, where such wiring is served from a commercial source, and (iv) receive power from a battery when primary power is interrupted. A carbon monoxide alarm may be combined with smoke detectors if the combined alarm complies with the requirements of this subdivision for carbon monoxide alarms and ANSI/UL217 for smoke alarms. In lieu of the carbon monoxide alarms required by this subsection, a carbon monoxide detection system, which includes carbon monoxide detectors and audible notification appliances installed and maintained in accordance with NFPA

720, shall be permitted. The carbon monoxide detectors shall be listed as complying with ANSI/UL2075. For purposes of this subsection, "lodging establishment" means any hotel, motel, tourist home, or other establishment permitted under authority of G.S. 130A-248 to provide lodging accommodations for pay to the public, and "combustion heater, appliance, or fireplace" means any heater, appliance, or fireplace that burns combustion fuels, including, but not limited to, natural or liquefied petroleum gas, fuel oil, kerosene, wood, or coal for heating, cooking, drying, or decorative purposes, including, but not limited to, space heaters, wall and ceiling heaters, ranges, ovens, stoves, furnaces, fireplaces, water heaters, and clothes dryers. For purposes of this subsection, candles and canned fuels are not considered to be combustion appliances.

(3) The Building Code Council shall modify the NC State Building Code (Fire Prevention) to regulate the provisions of this subsection in new and existing lodging establishments, including hotels, motels, tourist homes that provide accommodations for seven or more continuous days (extended-stay establishments), and bed and breakfast inns and bed and breakfast homes as defined in G.S. 130A-247; provided nothing in this subsection shall prevent the Building Code Council from establishing more stringent rules regulating carbon monoxide alarms or detectors for new lodging establishments, including hotels, motels, tourist homes that provide accommodations for seven or more continuous days (extended-stay establishments), and bed and breakfast inns and bed and breakfast homes as defined in G.S. 130A-247. The Building Code Council shall modify the NC State Building Code (Fire Prevention) minimum inspection schedule to include annual inspections of new and existing lodging establishments, including hotels, motels, and tourist homes that provide accommodations for seven or more continuous days (extended-stay establishments), and bed and breakfast inns and bed and breakfast homes as defined in G.S. 130A-247 for the purpose of compliance with this subsection.

(4) Upon discovery of a violation of this subsection that poses an imminent hazard and that is not corrected during an inspection of a lodging establishment subject to the provisions of G.S. 130A-248, the code official responsible for enforcing the NC State Building Code (Fire Prevention) shall immediately notify the local health director for the county in which the violation was discovered, or the local health director's designee, by verbal contact and shall also submit a written report documenting the violation of this subsection to the local health director for the county in which the violation was discovered, or the local health director's designee, on the next working day following the discovery of the violation. Within one working day of receipt of the written report documenting a violation of this subsection, the local health director for the county in which the violation was discovered, or the local health director's designee, shall investigate and take appropriate action regarding the permit for the lodging establishment, as provided in G.S. 130A-248. Lodging establishments having five or more rooms that are exempted from the requirements of G.S. 130A-248 by G.S. 130A-250 shall be subject to the penalties set forth in the NC State Building Code (Fire Prevention).

(5) Upon discovery of a violation of this subsection that does not pose an imminent hazard and that is not corrected during an inspection of a lodging establishment subject to the provisions of G.S. 130A-248, the owner or operator of the lodging establishment shall have a correction period of three working days following the discovery of the violation to notify the code official responsible for enforcing the NC State Building Code (Fire Prevention) verbally or in writing that the violation has been corrected. If the code official receives such notification, the code official may reinspect the portions of the lodging establishment that contained violations, but any fees for reinspection shall not exceed the fee charged for the initial inspection. If the code official receives no such notification, or if a reinspection discovers that previous violations were not corrected, the code official shall submit a written report documenting the violation of this subsection to the local health

director for the county in which the violation was discovered, or the local health director's designee, within three working days following the termination of the correction period or the reinspection, whichever is later. The local health director shall investigate and may take appropriate action regarding the permit for the lodging establishment, as provided in G.S. 130A-248. Lodging establishments having five or more rooms that are exempted from the requirements of G.S. 130A-248 by G.S. 130A-250 shall be subject to the penalties set forth in the NC State Building Code (Fire Prevention).

(6) The requirements of subdivisions (2) through (5) of this subsection shall not apply to properties subject to the provisions of either G.S. 42-42 or G.S. 42A-31.

(b3) Applicability of the Code. - Except as provided by subsections (b4) and (c1) of this section, the Code may contain provisions regulating every type of building or structure, wherever it might be situated in the State.

(b4) **Exclusion for Certain Farm Buildings.** – Building rules do not apply to (i) farm buildings that are located outside the building-rules jurisdiction of any municipality, (ii) farm buildings that are located inside the building-rules jurisdiction of any municipality if the farm buildings are greenhouses or therapeutic equine facilities, (iii) a primitive camp, or (iv) a primitive farm building. For the purposes of this subsection:

(1) A "farm building" means any nonresidential building or structure that is used for a bona fide farm purpose as provided in G.S. 160D-903(a). A "farm building" shall include:

a. Any structure used or associated with equine activities, including, but not limited to, the care, management, boarding, or training of horses and the instruction and training of riders. Structures that are associated with equine activities include, but are not limited to, free standing or attached sheds, barns, or other structures that are utilized to store any equipment, tools, commodities, or other items that are maintained or used in conjunction with equine activities. The specific types of equine activities, structures, and uses set forth in this subdivision are for illustrative purposes, and should not be construed to limit, in any manner, the types of activities, structures, or uses that may be considered under this subsection as exempted from building rules. A farm building that might otherwise qualify for exemption from building rules shall remain subject only to an annual safety inspection by the applicable city or county building inspection department of any grandstand, bleachers, or other spectator-seating structures in the farm building. An annual safety inspection shall include an evaluation of the overall safety of spectator-seating structures as well as ensuring the spectator-seating structure's compliance with any building codes related to the construction of spectator-seating structures in effect at the time of the construction of the spectator-seating.

b. Any structure used for the display and sale of produce, no more than 1,000 square feet in size, open to the public for no more than 180 days per year and certified by the Department of Agriculture and Consumer Services as a Certified Roadside Farm Market.

c. Any unoccupied structure built upon land owned by the State of North Carolina and administratively allocated to the North Carolina Department of Agriculture and Consumer Services or North Carolina State University which is used primarily for forestry production and research or agriculture production and research. The term "agriculture" has the same meaning as in G.S. 106-581.1. The term "unoccupied" does not exclude the keeping of livestock.

d. A building used primarily for the storage of agricultural commodities or products or storage and use of materials for agricultural purposes, whether or not the building is located on the same property where the agricultural commodities or products were produced, provided the building is surrounded and adjoined by public ways and yards, as those terms are defined in the 2018 North Carolina Building Code, of not less than 60 feet in width. The owner of a qualifying building under this sub-subdivision shall post a placard on the front of the building. The placard shall be not less than 24 inches by 24 inches in size with a red background, white reflective stripes, and a white reflective border. The placard shall display the

words "Ag. Exempt" in white reflective letters not less than 12 inches tall.

(1a) A "farm building" shall not lose its status as a farm building because it is used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting.

(2) A "greenhouse" is a structure that has a glass or plastic roof, has one or more glass or plastic walls, has an area over ninety-five percent (95%) of which is used to grow or cultivate plants, is built in accordance with the National Greenhouse Manufacturers Association Structural Design manual, and is not used for retail sales. Additional provisions addressing distinct life safety hazards shall be approved by the local building-rules jurisdiction.

(2a) A "therapeutic equine facility" is an equine facility as described in sub-subdivision (1)a. of this subsection operated by an organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code that provides therapeutic equine-related activities for persons who are physically, intellectually, or emotionally challenged.

(3) Repealed by Session Laws 2015-263, s. 34, effective September 30, 2015.

(4) A "primitive camp" shall include any structure primarily used or associated with outdoor camping activities, including structures used for educational, instructional, or recreational purposes for campers and for management training, that are (i) not greater than 4,000 square feet in size and (ii) are not intended to be occupied for more than 24 hours consecutively. "Structures primarily used or associated with outdoor camping activities" include, but are not limited to, shelters, tree stands, outhouses, sheds, rustic cabins, campfire shelters, picnic shelters, tents, tepees or other indigenous huts, support buildings used only for administrative functions and not for activities involving campers or program participants, and any other structures that are utilized to store any equipment, tools, commodities, or other items that are maintained or used in conjunction with outdoor camping activities such as hiking, fishing, hunting, or nature appreciation, regardless of material used for construction. The specific types of primitive camping activities, structures, and uses set forth in this subdivision are for illustrative purposes and should not be construed to limit, in any manner, the types of activities, structures, or uses that are exempted from building rules.

(5) A "primitive farm building" shall include any structure used for activities, instruction, training, or reenactment of traditional or heritage farming practices. "Primitive farm buildings" include, but are not limited to, sheds, barns, outhouses, doghouses, or other structures that are utilized to store any equipment, tools, commodities, livestock, or other items supporting farm management. These specific types of farming activities, structures, and uses set forth by this subdivision are for illustrative purposes and should not be construed to limit in any manner the types of activities, structures, or uses that are exempted from building rules.

(6) Repealed by Session Laws 2015-263, s. 34, effective September 30, 2015.

(b5) **Permit Exclusion for Certain Minor Activities**. – No permit shall be required under the Code or any local variance thereof approved under subsection (e) for any construction, installation, repair, replacement, or alteration performed in accordance with the current edition of the North Carolina State Building Code and costing twenty thousand dollars ($20,000) or less in any single family residence, building, or commercial building unless the work involves any of the following:

(1) The addition, repair, or replacement of load bearing structures. However, no permit is required for replacements of windows, doors, exterior siding, or the pickets, railings, stair treads, and decking of porches and exterior decks that otherwise meet the requirements of this subsection.

(2) The addition or change in the design of plumbing. However, no permit is required for replacements otherwise meeting the requirements of this subsection that do not change size or capacity.

(3) The addition, replacement or change in the design of heating, air conditioning, or electrical wiring, appliances, or equipment, other than a like-kind replacement of electrical devices and lighting fixtures.

(4) The use of materials not permitted by the North Carolina State Building Code.

(5) The addition (excluding replacement) of roofing.

(6) Any changes to which the North Carolina Fire Prevention Code applies.

(b6) **No State Agency Permit.** - No building permit shall be required under such Code from any State agency for the construction of any building or structure, the total cost of which is less than twenty thousand dollars ($20,000), except public or institutional buildings.

(b7) **Appendices.** - For the information of users thereof, the Code shall include as appendices the following:

(1) Any rules governing boilers adopted by the Board of Boiler and Pressure Vessels Rules,

(2) Any rules relating to the safe operation of elevators adopted by the Commissioner of Labor, and

(3) Any rules relating to sanitation adopted by the Commission for Public Health which the Building Code Council believes pertinent.

The Code may include references to such other rules of special types, such as those of the Medical Care Commission and the Department of Public Instruction as may be useful to persons using the Code. No rule issued by any agency other than the Building Code Council shall be construed as a part of the Code, nor supersede that Code, it being intended that they be presented with the Code for information only.

(b8) **Exclusion for Certain Utilities.** - Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of (1) equipment for storing, handling, transporting, and utilizing liquefied petroleum gases for fuel purposes or anhydrous ammonia or other liquid fertilizers, except for liquefied petroleum gas from the outlet of the first stage pressure regulator to and including each liquefied petroleum gas utilization device within a building or structure covered by the Code, or (2) equipment or facilities, other than buildings, of a public utility, as defined in G.S. 62-3, a cable television company, or an electric or telephone membership corporation, including without limitation poles, towers, and other structures supporting electric, cable television, or communication lines.

(b9) **Exclusion for Industrial Machinery**. - Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of industrial machinery. However, if during the building code inspection process, an electrical inspector has any concerns about the electrical safety of a piece of industrial machinery, the electrical inspector may refer that concern to the Occupational Safety and Health Division in the North Carolina Department of Labor but shall not withhold the certificate of occupancy nor mandate third-party testing of the industrial machinery based solely on this concern. For the purposes of this paragraph, "industrial machinery" means equipment and machinery used in a system of operations for the explicit purpose of producing a product or acquired by a State-supported center providing testing, research, and development services to manufacturing clients. The term does not include equipment that is permanently attached to or a component part of a building and related to general building services such as ventilation, heating and cooling, plumbing, fire suppression or prevention, and general electrical transmission.

(b10) **Replacement Water Heaters.** –

(1) **Exclusion.** – No permit shall be required under the Code or any local variant approved under subsection (e) of this section for replacement of water heaters in one- or two-family dwellings, provided (i) the energy use rate or thermal input is not greater than that of the water heater which is being replaced, and there is no change in fuel, energy source, location, or routing or sizing of venting and piping, (ii) the work is performed by a person or employee of a company licensed under G.S. 87-21 or pursuant to G.S. 87-21(i), and (iii) the replacement is installed in accordance with the current edition of the North Carolina State Building Code.

(2) **Energy efficiency.** – The Code may contain rules concerning minimum efficiency requirements for replacement water heaters, which shall consider reasonable availability from manufacturers to meet installation space requirements and may contain rules concerning energy efficiency that require all hot water plumbing pipes that are larger than one-fourth of an inch to be insulated.

(b11) **School Seclusion Rooms**. - No State, county, or local building code or regulation shall prohibit the use of special locking mechanisms for seclusion rooms in the public schools approved under G.S. 115C-391.1(e)(1)e., provided that the special locking mechanism shall be constructed so that it will engage only when a key, knob, handle, button, or other similar device is being held in position by a person, and provided further that, if the mechanism is electrically or electronically controlled, it automatically disengages when the building's fire alarm is activated. Upon release of the locking mechanism by a supervising adult, the door must be able to be opened readily.

(b12) **Cisterns.** - The Code may include rules pertaining to the construction or renovation of residential or commercial buildings and structures that permit the use of cisterns to provide water for flushing toilets and for outdoor irrigation. No State, county, or local building code or regulation shall prohibit the use of cisterns to provide water for flushing toilets and for outdoor irrigation. As used in this subsection, "cistern" means a storage tank that is watertight; has smooth interior surfaces and enclosed lids; is fabricated from nonreactive materials such as reinforced concrete, galvanized steel, or plastic; is designed to collect rainfall from a catchment area; may be installed indoors or outdoors; and is located underground, at ground level, or on elevated stands.

(b13) **Migrant Housing.** - The Council shall provide for an exemption from any requirements in the fire prevention code for installation of an automatic sprinkler system applicable to buildings meeting all of the following:

(1) Has one floor.

(2) Meets all requirements of 29 C.F.R. § 1910.142, as amended.

(3) Meets all requirements of Article 19 of Chapter 95 of the General Statutes and rules implementing that Article.

For purposes of this subsection, "migrant housing" and "migrant" shall be defined as in G.S. 95-223.

(b14) **[Exclusion for Routine Maintenance.** -] No building permit shall be required under the Code for routine maintenance on fuel dispensing pumps and other dispensing devices. For purposes of this subsection, "routine maintenance" includes repair or replacement of hoses, O-rings, nozzles, or emergency breakaways.

(b15) **Exclusion from Energy Code Requirements for Existing Commercial Buildings.** – The alteration of commercial buildings and structures that received a certificate of occupancy prior to January 1, 2012, may be subject to the rules pertaining to energy efficiency and energy conservation that were in effect on December 31, 2011. The addition to commercial buildings and structures that received a certificate of occupancy prior to January 1, 2012, may be subject to the rules pertaining to energy efficiency and energy conservation that were in effect on December 31, 2011, so long as the addition does not increase the building area of the existing commercial building or structure to more than one hundred fifty percent (150%) of the building area of the commercial building or structure as it was in existence on December 31, 2011. For the purpose of this subsection, the term "commercial buildings and structures" shall include all structures and buildings that are not classified as a Group R occupancy by the Building Code Council.

(b16) **Exclusion for Electrical Devices and Lighting**

Fixtures. – No permit shall be required under the Code, or any local variant approved under subsection (e) of this section for the repair or replacement of dishwashers, disposals, water heaters, electrical devices, or lighting fixtures in residential or commercial structures, provided that all of the following apply:

(1) The repair or replacement does not require the addition or relocation of electrical wiring.

(2) The work is performed by a person or employee of a company licensed under G.S.87-43.

(3) The repair or replacement is performed in
(4) accordance with the current edition of the North
(5) Carolina State Building Code.

(b17) **Exclusion for Private Drinking Water Well**

Installation, Construction, Maintenance, and Repair. – No permit shall be required under the Code, or any local variant approved under subsection (e) of

this section for the electrical and plumbing activities associated with the installation, construction, maintenance, or repair of a private drinking water well when all the following apply:

(1) The work is performed by a contractor certified under Article 7A of Chapter 87 of the General Statutes under the terms of a permit issued by the local health department pursuant to G.S. 87-97.

(2) The scope of work includes only the connection or disconnection of a well system to either the plumbing served by the well system or the electrical service that serves the well system. For purposes of this subsection, a well system includes the well, the pressure tank, the pressure switch, and all plumbing and electrical equipment in the well and between the well, pressure tank, and pressure switch.

(b18) **Exclusion from Energy Efficiency Code**

Requirements for Certain Use and Occupancy Classifications. – The Council shall provide for an exemption from any requirements in the energy efficiency standards pursuant to Chapter 13 of the 2012 North Carolina Building Code and the 2012 Energy Conservation Code, and any subsequent amendments to the Building Code and Energy Conservation Code, for the following use and occupancy classifications pursuant to Chapter 3 of the 2012 North Carolina Building Code: Section 306, Factory Group F; Section 311, Storage Group S; and Section 312, Utility and Miscellaneous Group U. This exclusion shall apply to the entire floor area of any structure for which the primary use or occupancy is listed herein.

(b19) **Exclusion from Energy Efficiency Code**

Requirements for Residential Garages. – The Council shall provide for an exemption for detached and attached garages located on the same lot as a dwelling from any requirements in the energy efficiency standards pursuant to Chapter 11 of the North Carolina Residential Code for One- and Two-Family Dwellings and Chapter 4 of the North Carolina Energy Conservation Code.

(b20) **Exclusion for Temporary Motion Picture,**

Television, and Theater Stage Sets and Scenery. – No permit shall be required under the North Carolina State Building Code, or any local variant approved under subsection (e) of this section for any construction, installation, repair, replacement, or alteration of temporary motion picture, television, and theater stage sets and scenery that are being used for less than one year in one location and are inspected by the assigned fire code inspector. The Building Code Council shall create a fire code inspection checklist that shall be used for inspections under this subsection.

(b21) **Exclusion for Certain Minor Activities in Commercial Buildings and Structures.** – No permit shall be required under the Code or any local variance thereof approved under subsection (e) of this section for any construction, installation, repair, replacement, or alteration performed in accordance with the current edition of the North Carolina State Building Code costing twenty thousand dollars ($20,000) or less in any commercial building or structure unless the work involves any of the activities described in subdivisions (1) through (6) of subsection (b5) of this section. For the purpose of determining applicability of permit exclusions for a commercial building or structure under this subsection, subsection (b5) of this section, and G.S. 160D-1110(c), cost is the total cost of work, including all building addition, demolition, alteration, and repair work, occurring on the property within 12 consecutive months.

(b22) **Limit Requirement for Certain Plans to be Under Professional Seal.** – The North Carolina State Building Code shall not require that plans and specifications for any alteration, remodeling, renovation, or repair of a commercial building or structure be prepared by and under the seal of a registered architect licensed under Chapter 83A of the General Statutes, or a registered engineer licensed under Chapter 89C of the General Statutes, if the alteration, remodeling, renovation, or repair costs less than three hundred thousand dollars ($300,000) or if the total building area does not exceed 3,000 square feet in gross floor area and all of the following apply:

(1) The alteration, remodeling, renovation, or repair does not include the addition, repair, or replacement of load-bearing structures.

(2) The alteration, remodeling, renovation, or repair is not subject to the requirements of G.S. 133-1.1(a).

(3) The alteration, remodeling, renovation, or repair is performed in accordance with the current edition of the North Carolina Fire Prevention Code.

(c) **Standards to Be Followed in Adopting the Code.** - All regulations contained in the North Carolina State Building Code shall have a reasonable and substantial connection with the public health, safety, morals, or general welfare, and their provisions shall be construed reasonably to those ends. Requirements of the Code shall conform to good engineering practice. The Council may use as guidance, but is not required to adopt, the requirements of the International Building Code of the International Code Council, the Standard Building Code of the Southern Building Code Congress International, Inc., the Uniform Building Code of the International Conference of Building Officials, the National Building Code of the Building Officials and Code Administrators, Inc., the National Electric Code, the Life Safety Code, the National Fuel Gas Code, the Fire Prevention Code of the National Fire Protection Association, the Safety Code for Elevators and Escalators, and the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers, and standards promulgated by the American National Standards Institute, Standards Underwriters' Laboratories, Inc., and similar national or international agencies engaged in research concerning strength of materials, safe design, and other factors bearing upon health and safety.

(c1) **Exemptions for Private Clubs and Religious Organizations.** - The North Carolina State Building Code and the standards for the installation and maintenance of limited-use or limited-access hydraulic elevators under this Article shall not apply to private clubs or establishments exempted from coverage under Title II of the Civil Rights Act of 1964, 42 U.S.C. § 2000a, et seq., or to religious organizations or entities controlled by religious organizations, including places of worship. A nonreligious organization or entity that leases space from a religious organization or entity is not exempt under this subsection.

(d) **Amendments of the Code.** - The Building Code Council may periodically revise and amend the North Carolina State Building Code, either on its own motion or upon application from any citizen, State agency, or political subdivision of the State. In addition to the periodic revisions or amendments made by the Council, the Council shall revise the North Carolina State Building Code: Residential Code for One- and Two-Family Dwellings, including provisions applicable to One- and Two-Family Dwellings from the NC Energy Code, NC Electrical Code, NC Fuel Gas Code, NC Plumbing Code, and NC Mechanical Code only every six years, to become effective the first day of January of the following year, with at least six months between adoption and effective date. The first six-year revision under this subsection shall be adopted to become effective January 1, 2019, and every six years thereafter. In adopting any amendment, the Council shall comply with the same procedural requirements and the same standards set forth above for adoption of the Code. The Council, through the Department of Insurance, shall publish in the North Carolina Register and shall post on the Council's Web site all appeal decisions made by the Council and all formal opinions at least semiannually. The Council, through the Department of Insurance, shall also publish at least semiannually in the North Carolina Register a statement providing the accurate Web site address and information on how to find additional commentary and interpretation of the Code.

(d1) Cost-Benefit Analysis. – When the Building Code Council revises or amends the North Carolina State Building Code as provided in subsection (d) of this section and considers an economic analysis or cost-benefit analysis of the proposed revision or amendment, the Council shall not limit its review to an economic analysis or cost-benefit analysis submitted by the proponent of the proposed revision or amendment but shall either conduct its own economic analysis or cost-benefit analysis or consider an economic analysis or cost-benefit analysis submitted other than by the proponent of the proposed revision or amendment. This section shall not apply to a proposal for revision or amendment made upon motion of the Council or submitted by a State agency or political subdivision of the State.

(e) **Effect upon Local Codes**. - Except as otherwise provided in this section, the North Carolina State Building Code shall apply throughout the State, from the time of its adoption. Approved rules shall become effective in accordance with G.S. 150B-21.3. However,

any political subdivision of the State may adopt a fire prevention code and floodplain management regulations within its jurisdiction. The territorial jurisdiction of any municipality or county for this purpose, unless otherwise specified by the General Assembly, shall be as follows: Municipal jurisdiction shall include all areas within the corporate limits of the municipality and extraterritorial jurisdiction areas established as provided in G.S. 160D-202 or a local act; county jurisdiction shall include all other areas of the county. No such code or regulations, other than floodplain management regulations and those permitted by G.S. 160D-1128, shall be effective until they have been officially approved by the Building Code Council as providing adequate minimum standards to preserve and protect health and safety, in accordance with the provisions of subsection (c) above. Local floodplain regulations may regulate all types and uses of buildings or structures located in flood hazard areas identified by local, State, and federal agencies, and include provisions governing substantial improvements, substantial damage, cumulative substantial improvements, lowest floor elevation, protection of mechanical and electrical systems, foundation construction, anchorage, acceptable flood resistant materials, and other measures the political subdivision deems necessary considering the characteristics of its flood hazards and vulnerability. In the absence of approval by the Building Code Council, or in the event that approval is withdrawn, local fire prevention codes and regulations shall have no force and effect. Provided any local regulations approved by the local governing body which are found by the Council to be more stringent than the adopted statewide fire prevention code and which are found to regulate only activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion or related hazards, and are not matters in conflict with the State Building Code, may be approved. Local governments may enforce the fire prevention code of the State Building Code using civil remedies authorized under G.S. 143-139, 153A-123, and 160A-175. If the Commissioner of Insurance or other State official with responsibility for enforcement of the Code institutes a civil action pursuant to G.S. 143-139, a local government may not institute a civil action under G.S. 143-139, 153A-123, or 160A-175 based upon the same violation. Appeals from the assessment or imposition of such civil remedies shall be as provided in G.S. 160D-1127.

A local government may not adopt any ordinance in conflict with the exemption provided by subsection (c1) of this section. No local ordinance or regulation shall be construed to limit the exemption provided by subsection (c1) of this section.

(f) **Repealed by Session Laws 1989, c. 681, s. 3.**

(g) **Publication and Distribution of Code.** - The Building Code Council shall cause to be printed, after adoption by the Council, the North Carolina State Building Code and each amendment thereto. It shall, at the State's expense, distribute copies of the Code and each amendment to State and local governmental officials, departments, agencies, and educational institutions, as is set out in the table below. (Those marked by an asterisk will receive copies only on written request to the Council.)

OFFICIAL OR AGENCY NUMBER OF COPIES

State Departments and Officials	
Governor	1
Lieutenant Governor	1
Auditor	1
Treasurer	1
Secretary of State	1
Superintendent of Public Instruction	1
Attorney General (Library)	1
Commissioner of Agriculture	1
Commissioner of Labor	1
Commissioner of Insurance	1
Department of Environment & Natural Resources	1
Department of Health and Human Services	2
Division of Prisons of the Department of Adult Correction	1
Division of Juvenile Justice of the Department of Public Safety	1
Board of Transportation	1
Utilities Commission	1
Department of Administration	1

Clerk of the Supreme Court	1
Clerk of the Court of Appeals	1
Department of Cultural Resources [State Library]	1
Supreme Court Library	1
Legislative Library	1
Office of Administrative Hearings	1
Rules Review Commission	1
Schools	
All state-supported colleges and universities in the State of North Carolina	*1
Local Officials	
Clerks of the Superior Courts	1ea.
Chief Building Inspector of each incorporated municipality or county	1

In addition, the Building Code Council shall make additional copies available at such price as it shall deem reasonable to members of the general public. The proceeds from sales of the Building Code shall be credited to the Insurance Regulatory Fund under G.S. 58-6-25.

(h) **Violations.** - Any person who shall be adjudged to have violated this Article or the North Carolina State Building Code, except for violations of occupancy limits established by either, shall be guilty of a Class 3 misdemeanor and shall upon conviction only be liable to a fine, not to exceed fifty dollars ($50.00), for each offense. Each 30 days that such violation continues shall constitute a separate and distinct offense. Violation of occupancy limits established pursuant to the North Carolina State Building Code shall be a Class 3 misdemeanor. Any violation incurred more than one year after another conviction for violation of the occupancy limits shall be treated as a first offense for purposes of establishing and imposing penalties.

(i) **Section 1008 of Chapter X of Volume 1 of the North Carolina State Building Code**, Title "Special Safety to Life Requirements Applicable to Existing High-Rise Buildings" as adopted by the North Carolina State Building Code Council on March 9, 1976, as ratified and adopted as follows:

SECTION 1008-SPECIAL SAFETY TO LIFE REQUIREMENTS APPLICABLE TO EXISTING HIGH-RISE BUILDINGS

1008 - GENERAL.

(a) Applicability. - Within a reasonable time, as fixed by "written order" of the building official, and except as otherwise provided in subsection (j) of this section every building the [then] existing, that qualifies for classification under Table 1008.1 shall be considered to be a high-rise building and shall be provided with safety to life facilities as hereinafter specified. All other buildings shall be considered as low-rise. NOTE: The requirements of Section 1008 shall be considered as minimum requirements to provide for reasonable safety to life requirements for existing buildings and where possible, the owner and designer should consider the provisions of Section 506 applicable to new high-rise buildings.

(b) Notification of Building Owner. - The Department of Insurance will send copies of amendments adopted to all local building officials with the suggestion that all local building officials transmit to applicable building owners in their jurisdiction copies of adopted amendments, within six months from the date the amendments are adopted, with the request that each building owner respond to the local building official how he plans to comply with these requirements within a reasonable time.

NOTE: Suggested reasonable time and procedures for owners to respond to the building official's request is as follows:

(1) The building owner shall, upon receipt of written request from the building official on compliance procedures within a reasonable time, submit an overall plan required by 1008(c) below within one year and within the time period specified in the approved overall plan, but not to exceed five years after the overall plan is approved, accomplish compliance with this section, as evidenced by completion of the work in accordance with approved working drawings and specifications and by issuance of a new Certificate of Compliance by the building official covering the work. Upon approval of building owner's overall plan, the building official shall issue a "written order", as

per 1008(a) above, to comply with Section 1008 in accordance with the approved overall plan.

(2) The building official may permit time extensions beyond five years to accomplish compliance in accordance with the overall plan when the owner can show just cause for such extension of time at the time the overall plan is approved.

(3) The local building official shall send second request notices as per 1008(b) to building owners who have made no response to the request at the end of six months and a third request notice to no response building owners at the end of nine months.

(4) If the building owner makes no response to any of the three requests for information on how the owner plans to comply with Section 1008 within 12 months from the first request, the building official shall issue a "written order" to the building owner to provide his building with the safety to life facilities as required by this section and to submit an overall plan specified by (1) above within six months with the five-year time period starting on the date of the "written order".

(5) For purposes of this section, the Construction Section of the Division of Health Service Regulation, Department of Health and Human Services, will notify all non-State owned I-Institutional buildings requiring licensure by the Division of Health Service Regulation and coordinate compliance requirements with the Department of Insurance and the local building official.

(c) Submission of Plans and Time Schedule for Completing Work. - Plans and specifications, but not necessarily working drawings covering the work necessary to bring the building into compliance with this section shall be submitted to the building official within a reasonable time. (See suggested time in NOTE of Section 1008(b) above). A time schedule for accomplishing the work, including the preparation of working drawings and specifications shall be included. Some of the work may require longer periods of time to accomplish than others, and this shall be reflected in the plan and schedule.

NOTE: Suggested Time Period for Compliance:

SUGGESTED TIME PERIOD FOR COMPLIANCE

Item	Class I Section	Class II Section	Class III Section	Time for Completion
Signs in Elevator Lobbies and Elevator Cabs	1008.2(h)	1008.3(h)	1008.4(h)	180 days
Emergency Evacuation Plan	1008(b)	NOTE:		180 days
Corridor Smoke Detectors (Includes alternative door closers)	1008.2(c)	1008.3(c)	1008.4(c)	1 year
Manual Fire Alarm	1008.2(a)	1008.3(a)	1008.4(a)	1 years
Smoke Detectors Required	1008.2(c)	1008.3(c)	1008.4(c)	1 year
Protection and Fire Stopping for Vertical Shafts	1008.2(f)	1008.3(f)	1008.4(f)	3 years
Special Exit Requirements- Number, Location and Illumination to be in accordance with Section 1007	1008.2(e)	1008.2(e)	1008.2(e)	3 years
Emergency Electrical Power Supply	1008.2(d	1008.3(d)	1008.4(d)	4 years
Special Exit Facilities Required	1008.2(e)	1008.3(e)	1008.4(e)	5 years
Compartmentation for Institutional Buildings	1008.2(f)	1008.3(f)	1008.4(f)	5 years
Emergency Elevator Requirements	1008.2(h)	1008.3(h)	1008.4(h)	5 years

Central Alarm Facility Required	1008.3(i)	1008.4(i)	5 years
Areas of Refuge Required on Every Eighth Floor		1008.4(j)	5 years
Smoke Venting		1008.4(k)	5 years
Fire Protection of Electrical Conductors		1008.4(l)	5 years
Sprinkler System Required		1008.4(m)	5 years

(d) Building Official Notification of Department of Insurance. - The building official shall send copies of written notices he sends to building owners to the Engineering and Building Codes Division for their files and also shall file an annual report by August 15th of each year covering the past fiscal year setting forth the work accomplished under the provisions of this section.

(e) Construction Changes and Design of Life Safety Equipment. - Plans and specifications which contain construction changes and design of life safety equipment requirements to comply with provisions of this section shall be prepared by a registered architect in accordance with provisions of Chapter 83A of the General Statutes or by a registered engineer in accordance with provisions of Chapter 89C of the General Statutes or by both an architect and engineer particularly qualified by training and experience for the type of work involved. Such plans and specifications shall be submitted to the Engineering and Building Codes Division of the Department of Insurance for approval. Plans and specifications for I-Institutional buildings licensed by the Division of Health Service Regulation as noted in (b) above shall be submitted to the Construction Section of that Division for review and approval.

(f) Filing of Test Reports and Maintenance on Life Safety Equipment. - The engineer performing the design for the electrical and mechanical equipment, including sprinkler systems, must file the test results with the Engineering and Building Codes Division of the Department of Insurance, or to the agency designated by the Department of Insurance, that such systems have been tested to indicate that they function in accordance with the standards specified in this section and according to design criteria. These test results shall be a prerequisite for the Certificate of Compliance required by (b) above. Test results for I-Institutional shall be filed with the Construction Section, Division of Health Service Regulation. It shall be the duty and responsibility of the owners of Class I, II and III buildings to maintain smoke detection, fire detection, fire control, smoke removal and venting as required by this section and similar emergency systems in proper operating condition at all times. Certification of full tests and inspections of all emergency systems shall be provided by the owner annually to the fire department.

(g) Applicability of Chapter X and Conflicts with Other Sections. - The requirements of this section shall be in addition to those of Sections 1001 through 1007; and in case of conflict, the requirements affording the higher degree of safety to life shall apply, as determined by the building official.

(h) Classes of Buildings and Occupancy Classifications. - Buildings shall be classified as Class I, II or III according to Table 1008.1. In the case of mixed occupancies, for this purpose, the classification shall be the most restrictive one resulting from the application of the most prevalent occupancies to Table 1008.1.

FOOTNOTE: Emergency Plan. - Owners, operators, tenants, administrators or managers of high-rise buildings should consult with the fire authority having jurisdiction and establish procedures which shall include but not necessarily be limited to the following:

(1) Assignment of a responsible person to work with the fire authority in the establishment, implementation and maintenance of the emergency pre-fire plan.

(2) Emergency plan procedures shall be supplied to all tenants and shall be posted conspicuously in each hotel guest room, each office area, and each schoolroom.

(3) Submission to the local fire authority of an annual renewal or amended emergency plan.

(4) Plan should be completed as soon as possible.

1008.1 - ALL EXISTING BUILDINGS SHALL BE CLASSIFIED AS CLASS I, II AND III ACCORDING TO TABLE 1008.1.

TABLE 1008.1 - SCOPE

Class	**Occupancy Group (3)(4)**	**Occupied Floor Above Average Grade Exceeding Height (2)**
Class I	Group R-Residential Group B-Business Group E-Educational	60' but less than 120' above average grade or 6 but less than 12 stories above average grade
	Group A-Assembly Group H-Hazardous Group I-Institutional-Restrained	60' but less than 120' above average grade or 6 but less than 12 stories above average grade
	Group I-Institutional-Unrestrained	36' but less than 60' above average grade or 3 but less than 6 stories above average grade
	Group R-Residential	120' but less than 250' above average grade or 12 but less than 25 stories above average grade.
Class II	Group B-Business Group E-Educational	120' but less than 250' above average grade or 12 but less than 25 stories above average grade.
	Group A-Assembly Group H-Hazardous Group I-Institutional-Restrained	120' but less than 250' above average grade or 12 but less than 25 stories above average grade.
	Group I-Institutional-Unrestrained	60' but less than 250' above average grade or 6 but less than 25 stories above average grade.
Class III	Group R-Residential Group B-Business Group E-Educational Group A-Assembly Group H-Hazardous Group I-Institutional	250' or 25 stories above average grade.

NOTE 1: The entire building shall comply with this section when the building has an occupied floor above the height specified, except those portions of the buildings which do not exceed the height specified are exempt from this section, subject to the following provisions:

(a) Low-rise portions of Class I buildings must be separated from high-rise portions by one-hour construction.

(b) Low-rise portions of Class II and III buildings must be separated from high-rise portions by two-hour construction.

(c) Any required exit from the high-rise portion which passes through the low-rise portions must be separated from the low-rise portion by the two-hour construction.

NOTE 2: The height described in Table 1008.1 shall be measured between the average grade outside the building and the finished floor of the top occupied story.

NOTE 3: Public parking decks meeting the requirements of Section 412.7 and less than 75 feet in height are exempt from the requirements of this section when there is no other occupancy above or below such deck.

NOTE 4: Special purpose equipment buildings, such as telephone equipment buildings housing the equipment only, with personnel occupant load limited to persons required to maintain the equipment may be exempt from any or all of these requirements at the discretion of the Engineering and Building Codes Division provided such special purpose equipment building is separated from other portions of the building by two-hour fire rated construction.

1008.2-REQUIREMENTS FOR EXISTING CLASS I BUILDINGS.

All Class I buildings shall be provided with the following:

(a) An approved manual fire alarm system, meeting the requirements of Section 1125 and applicable portions of NFPA 71, 72A, 72B, 72C or 72D, shall be provided unless the building is fully sprinklered or equipped with an approved automatic fire detection system connected to the fire department.

(b) All Class I buildings shall meet the requirements of Sections 1001-1007.

(c) Smoke Detectors Required. - At least one approved listed smoke detector tested in accordance with UL-167, capable of detecting visible and invisible particles of combustion shall be installed as follows:

(1) All buildings classified as institutional, residential and assembly occupancies shall be provided with listed smoke detectors in all required exit corridors spaced no further than 60' on center or more than 15' from any wall. Exterior corridors open to the outside are not required to comply with this requirement. If the corridor walls have one-hour fire resistance rating with all openings protected with 1-3/4-inch solid wood core or hollow metal door or equivalent and all corridor doors are equipped with approved self-closing devices, the smoke detectors in the corridor may be omitted. Detectors in corridors may be omitted when each dwelling unit is equipped with smoke detectors which activate the alarm system.

(2) In every mechanical equipment, boiler, electrical equipment, elevator equipment or similar room unless the room is sprinklered or the room is separated from other areas by two-hour fire resistance construction with all openings therein protected with approved fire dampers and Class B fire doors. (Approved listed fire (heat) detectors may be submitted for these rooms.)

(3) In the return air portion of every air conditioning and mechanical ventilation system that serves more than one floor.

(4) The activation of any detector shall activate the alarm system and shall cause such other operations as required by this Code.

(5) The annunciator shall be located near the main entrance or in a central alarm and control facility.

NOTE 1: Limited area sprinklers may be supplied from the domestic water system provided the domestic water system is designed to support the design flow of the largest number of sprinklers in any one of the enclosed areas. When supplied by the domestic water system, the maximum number of sprinklers in any one enclosed room or area shall not exceed 20 sprinklers which must totally protect the room or area.

(d) **Emergency Electrical Power Supply.** - An emergency electrical power supply shall be provided to supply the following for a period of not less than two hours. An emergency electrical power supply may consist of generators, batteries, a minimum of two remote connections to the public utility grid supplied by multiple generating stations, a combination of the above.

(1) Emergency, exit and elevator cab lighting.

(2) Emergency illumination for corridors, stairs, etc.

(3) Emergency Alarms and Detection Systems. - Power supply for fire alarm and fire detection. Emergency power does not need to be connected to fire alarm or detection systems when they are equipped with their own emergency power supply from float or trickle charge battery in accordance with NFPA standards.

(e) **Special Exit Requirements.** - Exits and exitways shall meet the following requirements:

(1) Protection of Stairways Required. - All required exit stairways shall be enclosed with noncombustible one-hour fire rated construction with a minimum of 1¾ inch solid core wood door or hollow metal door or 20-minute UL listed doors as entrance thereto. (See Section 1007.5).

(2) Number and Location of Exits. - All required exit stairways shall meet the requirements of Section 1007 to provide for proper number and location and proper fire rated enclosures and illumination of and designation for means of egress.

(3) Exit Outlets. - Each required exit stair shall exit directly outside or through a separate one-hour fire rated corridor with no openings except the necessary openings to exit into the fire rated corridor and from the fire rated corridor and such

openings shall be protected with 1¾ inch solid wood core or hollow metal door or equivalent unless the exit floor level and all floors below are equipped with an approved automatic sprinkler system meeting the requirements of NFPA No. 13.

(f) **Smoke Compartments Required for I-Institutional Buildings.** - Each occupied floor shall be divided into at least two compartments with each compartment containing not more than 30 institutional occupants. Such compartments shall be subdivided with one-half hour fire rated partitions which shall extend from outside wall to outside wall and from floor to and through any concealed space to the floor slab or roof above and meet the following requirements:

(1) Maximum area of any smoke compartment shall be not more than 22,500 square feet in area with both length and width limited to 150 feet.

(2) At least one smoke partition per floor regardless of building size forming two smoke zones of approximately equal size.

(3) All doors located in smoke partitions shall be properly gasketed to insure a substantial barrier to the passage of smoke and gases.

(4) All doors located in smoke partitions shall be no less than 1¾ inch thick solid core wood doors with UL, ¼ inch wire glass panel in metal frames. This glass panel shall be a minimum of 100 square inches and a maximum of 720 square inches.

(5) Every door located in a smoke partition shall be equipped with an automatic closer. Doors that are normally held in the open position shall be equipped with an electrical device that shall, upon actuation of the fire alarm or smoke detection system in an adjacent zone, close the doors in that smoke partition.

(6) Glass in all corridor walls shall be ¼", UL approved, wire glass in metal frames in pieces not to exceed 1296 square inches.

(7) Doors to all patient rooms and treatment areas shall be a minimum of 1¾ inch solid core wood door except in fully sprinklered buildings.

(g) **Protection and Fire Stopping for Vertical Shafts**. - All vertical shafts extending more than one floor including elevator shafts, plumbing shafts, electrical shafts and other vertical openings shall be protected with noncombustible one-hour fire rated construction with shaft wall openings protected with 1¾ inch solid core wood door or hollow metal door. Vertical shafts (such as electrical wiring shafts) which have openings such as ventilated doors on each floor must be fire stopped at the floor slab level with noncombustible materials having a fire resistance rating not less than one hour to provide an effective barrier to the passage of smoke, heat and gases from floor to floor through such shafts.

EXCEPTION: Shaft wall openings protected in accordance with NFPA No. 90A and openings connected to metal ducts equipped with approved fire dampers within the shaft wall openings do not need any additional protection.

(h) **Signs in Elevator Lobbies and Elevator Cabs**. - Each elevator lobby call station on each floor shall have an emergency sign located adjacent to the call button and each elevator cab shall have an emergency sign located adjacent to the floor status indicator. The required emergency sign shall be readable at all times and shall be a minimum of 1/2" high block letters with the words: "IN CASE OF FIRE DO NOT USE ELEVATOR - USE THE EXIT STAIRS" or other words to this effect.

1008.3 - REQUIREMENTS FOR EXISTING CLASS II BUILDINGS.

All Class II buildings must meet the following requirements:

(a) **Manual Fire Alarm**. - Provide manual fire alarm system in accordance with Section 1008.2(a). In addition, buildings so equipped with sprinkler alarm system or automatic fire detection system must have at least one manual fire alarm station near an exit on each floor as a part of such sprinkler or automatic fire detection and alarm system. Such manual fire alarm systems shall report a fire by floor.

(b) **Voice Communication System Required.** - An approved voice communication system or systems operated from the central alarm and control facilities shall be provided and shall consist of the following:

(1) One-Way Voice Communication Public Address System Required. - A one-way voice communication system shall be established on a

selective basis which can be heard clearly by all occupants in all exit stairways, elevators, elevator lobbies, corridors, assembly rooms and tenant spaces.

NOTE 1: This system shall function so that in the event of one circuit or speaker being damaged or out of service, the remainder of the system shall continue to be operable.

NOTE 2: This system shall include provisions for silencing the fire alarm devices when the loudspeakers are in use, but only after the fire alarm devices have operated initially for not less than 15 seconds.

(c) **Smoke Detectors Required**. - Smoke detectors are required as per Section 1008.2(c). The following are additional requirements:

(1) Storage rooms larger than 24 square feet or having a maximum dimension of over eight feet shall be provided with approved fire detectors or smoke detectors installed in an approved manner unless the room is sprinklered.

(2) The actuation of any detectors shall activate the fire alarm system.

(d) **Emergency Electrical Power Supply**. - An emergency electrical power supply shall be provided to supply the following for a period of not less than two hours. An emergency electrical power supply may consist of generators, batteries, a minimum of two remote connections to the public utility grid supplied by multiple generating stations, a combination of the above. Power supply shall furnish power for items listed in Section 1008.2(d) and the following:

(1) Pressurization Fans. - Fans to provide required pressurization, smoke venting or smoke control for stairways.

(2) Elevators. - The designated emergency elevator.

(e) **Special Exit Facilities Required.** - The following exit facilities are required:

(1) The special exit facilities required in 1008.2(e) are required. All required exit stairways shall be enclosed with noncombustible two-hour fire rated construction with a minimum of 1 1/2 hour Class B-labeled doors as entrance thereto: (See Section 1007.5).

(2) Smoke-Free Stairways Required. - At least one stairway shall be a smoke free stairway in accordance with Section 1104.2 or at least one stairway shall be pressurized to between 0.15 inch and 0.35 inch water column pressure with all doors closed. Smoke-free stairs and pressurized stairs shall be identified with signs containing letters a minimum of 1/2 inch high containing the words "PRIMARY EXIT STAIRS" unless all stairs are smoke free or pressurized. Approved exterior stairways meeting the requirements of Chapter XI or approved existing fire escapes meeting the requirements of Chapter X with all openings within 10 feet protected with wire glass or other properly designed stairs protected to assure similar smoke-free vertical egress may be permitted. All required exit stairways shall also meet the requirements of Section 1008.2(e).

(3) If stairway doors are locked from the stairway side, keys shall be provided to unlock all stairway doors on every eighth floor leading into the remainder of the building and the key shall be located in a glass enclosure adjacent to the door at each floor level (which may sound an alarm when the glass is broken). When the key unlocks the door, the hardware shall be of the type that remains unlocked after the key is removed. Other means, approved by the building official may be approved to enable occupants and fire fighters to readily unlock stairway doors on every eighth floor that may be locked from the stairwell side. The requirements of this section may be eliminated in smoke-free stairs and pressurized stairs provided fire department access keys are provided in locations acceptable to the local fire authority.

(f) **Compartmentation for I-Institutional Buildings Required.** - See Section 1008.2(f).

(g) **Protection and Fire Stopping for Vertical Shafts.** - All vertical shafts extending more than one floor including elevator shafts, plumbing shafts, electrical shafts and other vertical openings shall be protected with noncombustible two-hour fire rated construction with Class B-labeled door except for elevator doors which shall be hollow metal or equivalent. All vertical

shafts which are not so enclosed must be fire stopped at each floor slab with noncombustible materials having a fire resistance rating of not less than two hours to provide an effective barrier to the passage of smoke, heat and gases from floor to floor through such shaft.

EXCEPTION: Shaft wall openings protected in accordance with NFPA No. 90A and openings connected to metal ducts equipped with approved fire dampers within the shaft wall opening do not need any additional protection.

(h) **Emergency Elevator Requirements.**

(1) Elevator Recall. - Each elevator shall be provided with an approved manual return. When actuated, all cars taking a minimum of one car at a time, in each group of elevators having common lobby, shall return directly at normal car speed to the main floor lobby, or to a smoke-free lobby leading most directly to the outside. Cars that are out of service are exempt from this requirement. The manual return shall be located at the main floor lobby.

NOTE: Manually operated cars are considered to be in compliance with this provision if each car is equipped with an audible or visual alarm to signal the operator to return to the designated level.

(2) Identification of Emergency Elevator. - At least one elevator shall be identified as the emergency elevator and shall serve all floor levels. NOTE: This elevator will have a manual control in the cab which will override all other controls including floor call buttons and door controls.

(3) Signs in Elevator Lobbies and Elevator Cabs. - Each elevator lobby call station on each floor shall have an emergency sign located adjacent to the call button and each elevator cab shall have an emergency sign located adjacent to the floor status indicator. These required emergency signs shall be readable at all times and shall be a minimum of 1/2 inch high block letters with the words: "IN CASE OF FIRE DO NOT USE ELEVATOR - USE THE EXIT STAIRS" or other words to this effect.

(i) **Central Alarm Facility Required.** - A central alarm facility accessible at all times to fire department personnel or attended 24 hours a day, shall be provided and shall contain the following:

(1) Facilities to automatically transmit manual and automatic alarm signals to the fire department either directly or through a signal monitoring service.

(2) Public service telephone.

(3) Fire detection and alarm systems annunciator panels to indicate the type of signal and the floor or zone from which the fire alarm is received. These signals shall be both audible and visual with a silence switch for the audible.

NOTE: Detectors in HVAC systems used for fan shut down need not be annunciated.

(4) Master keys for access from all stairways to all floors.

(5) One-way voice emergency communications system controls.

1008.4 - REQUIREMENTS FOR EXISTING CLASS III BUILDINGS.

All Class III Buildings shall be provided with the following:

(a) **Manual Fire Alarm System.** - A manual fire alarm system meeting the requirements of Section 1008.3(a).

(b) **Voice Communication System Required.** - An approved voice communication system or systems operated from the central alarm and control facilities shall be provided and shall consist of the following:

(1) One-Way Voice Communication Public Address System Required. - A one-way voice communication system shall be established on a selective or general basis which can be heard clearly by all occupants in all elevators, elevator lobbies, corridors, and rooms or tenant spaces exceeding 1,000 sq. ft. in area.

NOTE 1: This system shall be designed so that in the event of one circuit or speaker being damaged or out of service the remainder of the system shall continue to be operable.

NOTE 2: This system shall include provisions for silencing the fire alarm devices when the loud speakers are in use, but only after the fire alarm devices have operated initially for not less than 15 seconds.

(2) Two-way system for use by both fire fighters and occupants at every fifth level in stairways and in all elevators.

(3) Within the stairs at levels not equipped with two-way voice communications, signs indicating the location of the nearest two-way device shall be provided.

NOTE: The one-way and two-way voice communication systems may be combined.

(c) **Smoke Detectors Required**. - Approved listed smoke detectors shall be installed in accordance with Section 1008.3(c) and in addition, such detectors shall terminate at the central alarm and control facility and be so designed that it will indicate the fire floor or the zone on the fire floor.

(d) **Emergency Electrical Power Supply**. - Emergency electrical power supply meeting the requirements of Section 1008.3(d) to supply all emergency equipment required by Section 1008.3(d) shall be provided and in addition, provisions shall be made for automatic transfer to emergency power in not more than ten seconds for emergency illumination, emergency lighting and emergency communication systems. Provisions shall be provided to transfer power to a second designated elevator located in a separate shaft from the primary emergency elevator. Any standpipe or sprinkler system serving occupied floor areas 400 feet or more above grade shall be provided with on-site generated power or diesel driven pump.

(e) **Special Exit Requirements.** - All exits and exitways shall meet the requirements of Section 1008.3(e).

(f) **Compartmentation of Institutional Buildings Required.** - See Section 1008.2(f).

(g) **Protection and Fire Stopping for Vertical Shafts. - Same as Class II buildings.** See Section 1008.3(g).

(h) **Emergency Elevator Requirements.**

(1) Primary Emergency Elevator. - At least one elevator serving all floors shall be identified as the emergency elevator with identification signs both outside and inside the elevator and shall be provided with emergency power to meet the requirements of Section 1008.3(c).

NOTE: This elevator will have a manual control in the cab which will override all other controls including floor call buttons and door controls.

(2) Elevator Recall. - Each elevator shall be provided with an approved manual return. When actuated, all cars taking a minimum of one car at a time, in each group of elevators having common lobby, shall return directly at normal car speed to the main floor lobby or to a smoke-free lobby leading most directly to the outside. Cars that are out of service are exempt from this requirement. The manual return shall be located at the main floor lobby.

NOTE: Manually operated cars are considered to be in compliance with this provision if each car is equipped with an audible or visual alarm to signal the operator to return to the designated level.

(3) Signs in Elevator Lobbies and Elevator Cabs. - Each elevator lobby call station on each floor shall have an emergency sign located adjacent to the call button and each elevator cab shall have an emergency sign located adjacent to the floor status indicator. These required emergency signs shall be readable at all times and have a minimum of ½" high block letters with the words: "IN CASE OF FIRE, UNLESS OTHERWISE INSTRUCTED, DO NOT USE THE ELEVATOR - USE THE EXIT STAIRS" or other words to this effect.

(4) Machine Room Protection. - When elevator equipment located above the hoistway is subject to damage from smoke particulate matter, cable slots entering the machine room shall be sleeved beneath the machine room floor to inhibit the passage of smoke into the machine room.

(5) Secondary Emergency Elevator. - At least one elevator located in separate shaft from the Primary Emergency Elevator shall be identified as the "Secondary Emergency Elevator" with identification signs both outside and inside the elevator. It will serve all occupied floors above 250 feet and shall have all the same facilities as the primary elevator and will be capable of being transferred to the emergency power system.

NOTE: Emergency power supply can be sized for nonsimultaneous use of the primary and secondary emergency elevators.

(i) **Central Alarm and Control Facilities Required.**

(1) A central alarm facility accessible at all times to Fire Department personnel or attended 24 hours a day, shall be provided. The facility shall be located on a completely sprinklered floor or shall be enclosed

in two-hour fire resistive construction. Openings are permitted if protected by listed 1½ hour Class B-labeled closures or water curtain devices capable of a minimum discharge of three gpm per lineal foot of opening. The facility shall contain the following:

(i) Facilities to automatically transmit manual and automatic alarm signals to the fire department either directly or through a signal monitoring service.

(ii) Public service telephone.

(iii) Direct communication to the control facility.

(iv)Controls for the voice communication systems.

(v) Fire detection and alarm system annunciator panels to indicate the type of signal and the floor or zone from which the fire alarm is received, those signals, shall be both audible and visual with a silence switch for the audible.

NOTE: Detectors in HVAC systems used for fan shut down need not be annunciated.

(2) A control facility (fire department command station) shall be provided at or near the fire department response point and shall contain the following:

(i) Elevator status indicator.

NOTE: Not required in buildings where there is a status indicator at the main elevator lobby.

(ii) Master keys for access from all stairways to all floors.

(iii) Controls for the two-way communication system.

(iv) Fire detection and alarm system annunciator panels to indicate the type of signal and the floor or zone from which the fire alarm is received.

(v) Direct communication to the central alarm facility.

(3) The central alarm and control facilities may be combined in a single approved location. If combined, the duplication of facilities and the direct communication system between the two may be deleted.

(j) **Areas of Refuge Required.** - Class III buildings shall be provided with a designated "area of refuge" at the 250 ft. level and on at least every eighth floor or fraction thereof above that level to be designed so that occupants above the 250 ft. level can enter at all times and be safely accommodated in floor areas meeting the following requirements unless the building is completely sprinklered:

(1) Identification and Size. - These areas of refuge shall be identified on the plans and in the building as necessary. The area of refuge shall provide not less than 3 sq. ft. per occupant for the total number of occupants served by the area based on the occupancy content calculated by Section 1105. A minimum of two percent (2%) of the number of occupants on each floor shall be assumed to be handicapped and no less than 16 sq. ft. per handicapped occupant shall be provided. Smoke proof stairways meeting the requirements of Section 1104.2 and pressurized stairways meeting the requirements of Section 1108.3(e)(2) may be used for ambulatory occupants at the rate of 3 sq. ft. of area of treads and landings per person, but in no case shall the stairs count for more than one-third of the total occupants. Doors leading to designated areas of refuge from stairways or other areas of the building shall not have locking hardware or shall be automatically unlocked upon receipt of any manual or automatic fire alarm signal.

(2) Pressurized. - The area of refuge shall be pressurized with 100% fresh air utilizing the maximum capacity of existing mechanical building air conditioning system without recirculation from other areas or other acceptable means of providing fresh air into the area.

(3) Fire Resistive Separation. - Walls, partitions, floor assemblies and roof assemblies separating the area of refuge from the remainder of the building shall be noncombustible and have a fire resistance rating of not less than one hour. Duct penetrations shall be protected as required for penetrations of shafts. Metallic piping and metallic conduit may penetrate or pass through the separation only if the openings around the piping or conduit are sealed on each side of the penetrations with impervious noncombustible materials to prevent the transfer of smoke or combustion gases from one side of

the separation to the other. The fire door serving as a horizontal exit between compartments shall be so installed, fitted and gasketed to provide a barrier to the passage of smoke.

(4) Access Corridors. - Any corridor leading to each designated area of refuge shall be protected as required by Sections 1104 and 702. The capacity of an access corridor leading to an area of refuge shall be based on 150 persons per unit width as defined in Section 1105.2. An access corridor may not be less than 44 inches in width. The width shall be determined by the occupant content of the most densely populated floor served. Corridors with one-hour fire resistive separation may be utilized for area of refuge at the rate of three sq. ft. per ambulatory occupant provided a minimum of one cubic ft. per minute of outside air per square foot of floor area is introduced by the air conditioning system.

(5) Penetrations. - The continuity of the fire resistance at the juncture of exterior walls and floors must be maintained.

(k) **Smoke Venting.** - Smoke venting shall be accomplished by one of the following methods in nonsprinklered buildings:

(1) In a nonsprinklered building, the heating, ventilating and air conditioning system shall be arranged to exhaust the floor of alarm origin at its maximum exhausting capacity without recirculating air from the floor of alarm origin to any other floor. The system may be arranged to accomplish this either automatically or manually. If the air conditioning system is also used to pressurize the areas of refuge, this function shall not be compromised by using the system for smoke removal.

(2) Venting facilities shall be provided at the rate of 20 square feet per 100 lineal feet or 10 square feet per 50 lineal feet of exterior wall in each story and distributed around the perimeter at not more than 50 or 100 foot intervals openable from within the fire floor. Such panels and their controls shall be clearly identified.

(3) Any combination of the above two methods or other approved designs which will produce equivalent results and which is acceptable to the building official.

(l) **Fire Protection of Electrical Conductors.** - New electrical conductors furnishing power for pressurization fans for stairways, power for emergency elevators and fire pumps required by Section 1008.4(d) shall be protected by a two-hour fire rated horizontal or vertical enclosure or structural element which does not contain any combustible materials. Such protection shall begin at the source of the electrical power and extend to the floor level on which the emergency equipment is located. It shall also extend to the emergency equipment to the extent that the construction of the building components on that floor permits. New electrical conductors in metal raceways located within a two-hour fire rated assembly without any combustible therein are exempt from this requirement.

(m) **Automatic Sprinkler Systems Required.**

(1) All areas which are classified as Group M-mercantile and Group H-hazardous shall be completely protected with an automatic sprinkler system.

(2) All areas used for commercial or institutional food preparation and storage facilities adjacent thereto shall be provided with an automatic sprinkler system.

(3) An area used for storage or handling of hazardous substances shall be provided with an automatic sprinkler system.

(4) All laboratories and vocational shops in Group E, Educational shall be provided with an automatic sprinkler system.

(5) Sprinkler systems shall be in strict accordance with NFPA No. 13 and the following requirements:

The sprinkler system must be equipped with a water flow and supervisory signal system that will transmit automatically a water flow signal directly to the fire department or to an independent signal monitoring service satisfactory to the fire department.

(j) Subsection (i) of this section does not apply to business occupancy buildings as defined in the North Carolina State Building Code except that evacuation plans as required on page 8, lines 2 through 16 [Section 1008, footnote following subsection (h)], and smoke detectors as required for Class I Buildings as required by Section 1008.2, page 11, lines 5 through 21 [Section 1008.2, subdivision (c)(1)]; Class II Buildings as required by Section 1008.3, page 17, lines 17 through 28 and page 18, lines 1 through 10 [Section 1008.3, subsections (c) and (d)]; and Class III Buildings, as required by Section 1008.4, lines 21 through 25 [Section 1008.4, subsection (c)] shall not be exempted from operation of this act as applied to business occupancy buildings, except that the Council shall adopt rules that allow a business

occupancy building built prior to 1953 to have a single exit to remain if the building complies with the Building Code on or before December 31, 2006.

(j1) A nonbusiness occupancy building built prior to the adoption of the 1953 Building Code that is not in compliance with Section 402.1.3.5 of Volume IX of the Building Code or Section 3407.2.2 of Volume I of the Building Code must comply with the applicable sections by December 31, 2006.

(j2) Pursuant to Article 9G of Chapter 143 of the General Statutes, the Building Code Council is authorized to review and endorse proposals for the construction of tall buildings or structures in areas surrounding major military installations, as those terms are defined in G.S. 143-151.71.

(k) For purposes of use in the Code, the term "Family Care Home" shall mean an adult care home having two to six residents.

(l) When any question arises as to any provision of the Code, judicial notice shall be taken of that provision of the Code.

§ 143-138.1 INTRODUCTION AND INSTRUCTION OF THE NORTH CAROLINA BUILDING CODE; POSTING OF WRITTEN COMMENTARIES AND INTERPRETATIONS ON DEPARTMENT OF INSURANCE WEB SITE.

(a) Prior to the effective date of Code changes pursuant to G.S. 143-138, the State Building Code Council and Department of Insurance shall provide for instructional classes for the various trades affected by the Code. The Department of Insurance shall develop the curriculum for each class but shall consult the affected licensing boards and trade organizations. The curriculum shall include explanations of the rationale and need for each Code amendment or revision. Classes may also be conducted by, on behalf of, or in cooperation with licensing boards, trade associations, and professional societies. The Department of Insurance may charge fees sufficient to recover the costs it incurs under this section. The Council shall ensure that courses are accessible to persons throughout the State.

(b) The Department of Insurance shall post and maintain on that portion of its Web site devoted to the Building Code Council written commentaries and written interpretations made and given by staff to the Council and the Department for each section of the North Carolina Building Code within 10 business days of issuance.

§ 143-139 ENFORCEMENT OF BUILDING CODE.

(a) **Procedural Requirements**. - Subject to the provisions set forth herein, the Building Code Council shall adopt such procedural requirements in the North Carolina State Building Code as shall appear reasonably necessary for adequate enforcement of the Code while safeguarding the rights of persons subject to the Code.

(b) **General Building Regulations. –** The Insurance Commissioner shall have general authority, through the Division of Engineering of the Department of Insurance, to supervise, administer, and enforce all sections of the North Carolina State Building Code pertaining to plumbing, electrical systems, general building restrictions and regulations, heating and air conditioning, fire protection, and the construction of buildings generally, except those sections of the Code, the enforcement of which is specifically allocated to other agencies by subsections (c) through (e) below. In the exercise of the duty to supervise, administer, and enforce the North Carolina State Building Code (including local building codes which have superseded the State Building Code in a particular political subdivision pursuant to G.S. 143-138(e)), the Commissioner, through the Division of Engineering, shall:

(1) Cooperate with local officials and local inspectors duly appointed by the governing body of any local government pursuant to Article 11 of Chapter 160D of the General Statutes, or any other applicable statutory authority.

(2) In accordance with G.S. 143-139.4, timely assign a Code-enforcement official from the marketplace pool established under G.S. 143-151.12(9)a. to conduct any plumbing, electrical systems, general building restrictions and regulations, heating and air-conditioning, or general construction inspection required by the North Carolina State Building Code.

(3) Develop eligibility criteria for and procedures to conduct certain inspections required by the North Carolina State Building Code as remote inspections. For the purposes of this subdivision, a

"remote inspection" means an inspection of the manner of construction for North Carolina State Building Code compliance that an inspector conducts by (i) interactive real-time audio and video communication with a permit holder or (ii) a review of an electronic video recording submission by a permit holder.

(b1) **Remedies.** - In case any building or structure is maintained, erected, constructed, or reconstructed or its purpose altered, so that it becomes in violation of this Article or of the North Carolina State Building Code, either the local enforcement officer or the State Commissioner of Insurance or other State official with responsibility under this section may, in addition to other remedies, institute any appropriate action or proceeding to: (i) prevent the unlawful maintenance, erection, construction, or reconstruction or alteration of purpose, or overcrowding, (ii) restrain, correct, or abate the violation, or (iii) prevent the occupancy or use of the building, structure, or land until the violation is corrected. In addition to the civil remedies set out in G.S. 160A-175 and G.S. 153A-123, a county, city, or other political subdivision authorized to enforce the North Carolina State Building Code within its jurisdiction may, for the purposes stated in (i) through (iii) of this subsection, levy a civil penalty for violation of the fire prevention code of the North Carolina State Building Code, which penalty may be recovered in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after the offender has been cited for the violation. If the Commissioner or other State official institutes an action or proceeding under this section, a county, city, or other political subdivision may not institute a civil action under this section based upon the same violation. Appeals from the imposition of any remedy set forth herein, including the imposition of a civil penalty by a county, city, or other political subdivision, shall be as provided in G.S. 160D-1127.

(c) **Boilers.** - The Bureau of Boiler Inspection of the Department of Labor shall have general supervision of the administration and enforcement of those sections of the North Carolina State Building Code which pertain to boilers of the types enumerated in Article 7 of Chapter 95 of the General Statutes.

(d) **Elevators.** - The Department of Labor shall have general supervision of the administration and enforcement of those sections of the North Carolina State Building Code which pertain to elevators, moving stairways, and amusement devices such as merry-go-rounds, roller coasters, Ferris wheels, etc.

(e) **State Buildings.** - With respect to State buildings, the Department of Administration shall have general supervision, through the Office of State Construction, of the administration and enforcement of all sections of the North Carolina State Building Code pertaining to plumbing, electrical systems, general building restrictions and regulations, heating and air conditioning, fire protection, and the construction of buildings generally, except those sections of the Code the enforcement of which is specifically allocated to other agencies by subsections (c) and (d) of this section, and shall also exercise all remedies as provided in subsection (b1) of this section. The Department of Administration shall be the only agency with the authority to seek remedies pursuant to this section with respect to State buildings. Except as provided herein, nothing in this subsection shall be construed to abrogate the authority of the Commissioner of Insurance under G.S. 58-31-40 or any other provision of law. For the purposes of this subsection, "State buildings" does not include buildings, facilities, or projects located on State lands that are (i) privately owned or privately leased and (ii) located within the North Carolina Global TransPark.

§ 143-139.1 CERTIFICATION OF MANUFACTURED BUILDINGS, STRUCTURES OR COMPONENTS BY RECOGNIZED INDEPENDENT TESTING LABORATORY, MINIMUM STANDARDS FOR SINGLE-FAMILY, ON FRAME MODULAR HOMES.

(a) **Certification.** - The State Building Code may provide, in circumstances deemed appropriate by the Building Code Council, for testing, evaluation, inspection, and certification of buildings, structures or components manufactured off the site on which they are to be erected, by a recognized independent testing laboratory having follow-up inspection services approved by the Building Code Council. Approval of such buildings, structures or components shall be evidenced by labels

or seals acceptable to the Council. All building units, structures or components bearing such labels or seals shall be deemed to meet the requirements of the State Building Code and this Article without further inspection or payment of fees, except as may be required for the enforcement of the Code relative to the connection of units and components and enforcement of local ordinances governing zoning, utility connections, and foundations permits. The Building Code Council shall adopt and may amend from time to time such reasonable and appropriate rules and regulations as it deems necessary for approval of agencies offering such testing, evaluation, inspection, and certification services and for overseeing their operations. Such rules and regulations shall include provisions to ensure that such agencies are independent and free of any potential conflicts of interest which might influence their judgment in exercising their functions under the Code. Such rules and regulations may include a schedule of reasonable fees to cover administrative expenses in approving and overseeing operations of such agencies and may require the posting of a bond or other security satisfactory to the Council guaranteeing faithful performance of duties under the Code.

The Building Code Council may also adopt rules to ensure that any person that is not licensed, in accordance with G.S. 87-1, and that undertakes to erect a North Carolina labeled manufactured modular building, meets the manufacturer's installation instructions and applicable provisions of the State Building Code. Any such person, before securing a permit to erect a modular building, shall provide the code enforcement official proof that he has in force for each modular building to be erected a $5,000 surety bond insuring compliance with the regulations of the State Building Code governing installation of modular buildings.

(b) **Minimum Standards for Single-Family, On-Frame Modular Homes.** - To qualify for a label or seal under subsection (a) of this section, a single-family, on-frame modular home must meet or exceed the following construction and design standards:

(1) Roof pitch. - For homes with a single predominant roofline, the pitch of the roof shall be no less than five feet rise for every 12 feet of run.

(2) Eave projection. - The eave projections of the roof shall be no less than 10 inches, which may not include a gutter around the perimeter of the home, unless the roof pitch is 8/12 or greater.

(3) Exterior wall. - The minimum height of the exterior wall shall be at least seven feet six inches for the first story.

(4) Siding and roofing materials. - The materials and texture for the exterior materials shall be compatible in composition, appearance, and durability to the exterior materials commonly used in standard residential construction.

(5) Foundations. - The home shall be designed to require foundation supports around the perimeter. The supports may be in the form of piers, pier and curtain wall, piling foundations, a perimeter wall, or other approved perimeter supports.

§ 143-139.2 ENFORCEMENT OF INSULATION REQUIREMENTS; CERTIFICATE FOR OCCUPANCY; NO ELECTRIC SERVICE WITHOUT COMPLIANCE.

(a) In addition to other enforcement provisions set forth in this Chapter, no single family or multi-unit residential building on which construction is begun in North Carolina on or after January 1, 1978, shall be occupied until it has been certified as being in compliance with the minimum insulation standards for residential construction, as prescribed in the North Carolina State Building Code or as approved by the Building Code Council as provided in G.S. 143-138(e).

(b) No public supplier of electric service, including regulated public utilities, municipal electric service and electric membership corporations, shall connect for electric service to an occupant any residential building on which construction is begun on or after January 1, 1978, unless said building complies with the insulation requirements of the North Carolina State Building Code or of local building codes approved by the Building Codes Council as provided in G.S. 143-138(e), and has been certified for occupancy in compliance with the minimum insulation standards of the North Carolina State Building Code or of any local modification approved as provided in G.S. 143-138(e), by a person designated as an inspector pursuant to subsection (a) of this section.

(c) This section shall apply only in any county or city that elects to enforce the insulation and energy utilization standards of the State Building Code pursuant to G.S. 143-151.27.

§ 143-139.3 INSPECTION OF LIQUIFIED PETROLEUM GAS PIPING SYSTEMS FOR RESIDENTIAL STRUCTURES.

If the test required under the North Carolina State Building Code for a liquified petroleum gas piping system serving a one or two-family residential dwelling is not performed by a qualified code enforcement official, as defined in G.S. 143-151.8(a)(5), the contractor who installed the system shall verify that the system complies with the test requirements and shall certify the results, in writing, to the code official.

§ 143-139.4 CERTAIN BUILDING INSPECTIONS BY STATE

(a) When a permit holder has been informed by a local inspection department that any inspection has not been, or will not be, conducted within two business days after first requested, the permit holder may request in writing that the Commissioner assign personnel to conduct the inspection.

(b) Any written request by a permit holder to the Commissioner to assign personnel to conduct an inspection shall be submitted to the Commissioner, and such submission may be made electronically or by facsimile. The submission shall be on a form adopted by the Commissioner, which shall at a minimum contain all of the following:
  (1) The permit holder's name and contact information and, if the requestor is someone other than the permit holder, the name and contact information of the requestor.
  (2) A copy of the building permit for the property to be inspected.
  (3) Documentation of the date and time of the initial request to the local inspection department. Documentation shall include the type of inspection requested, the address of the property to be inspected, and the individual or individuals to whom this information and inspection request was directed, and the name of the requestor.
  (4) Documentation as to whether the local inspection department informed the requestor that the local inspection department would be unable to conduct the inspection within two business days, if applicable.
  (5) Documentation as to whether the local inspection department has failed to conduct the requested inspection within two business days of the initial request to the local inspection department.

(c) Local inspection departments shall maintain a record of each inspection request. The record shall include the date and time the request is received, the type of inspection requested, the address of the property to be inspected, the person to whom the request was directed, and the name of the requestor if the requestor is someone other than the permit holder. A local inspection department may, upon receipt of an inspection request, inform the requestor that it will be unable to conduct the inspection within the next two business days and such information shall be noted in the record.

(d) Inspection requests received after 12:00 noon shall be deemed to have been received on the next business day.

(e) Prior to making any assignment of Code-enforcement officials from the marketplace pool established under G.S. 143-151.12(9)a., the Commissioner shall verify all of the following to the Commissioner's satisfaction:
  (1) That the permit holder desires the inspection to be completed.
  (2) That the local inspection department received an inspection request for the property.
  (3) That the inspection has not yet been conducted and the reasons for the failure to conduct the inspection.
  (4) Any other information the Commissioner deems relevant to determining whether to assign personnel to conduct the requested inspection.

(f) If the Commissioner assigns a Code-enforcement official from the marketplace pool established under G.S. 143-151.12(9)a. to conduct the requested inspection, the Commissioner shall notify the local inspection department and the local inspection department shall, prior to the inspection, provide the Commissioner with information regarding any outstanding building permits and previously conducted inspections on those outstanding building permits for that property. The local inspection department may also

provide the Commissioner with information regarding other properties with outstanding building permits and inspections by the same permit holder or requestor.

(f1) Personnel assigned by the Commissioner to conduct inspections under this section must begin conducting an inspection within two business days after assignment by the Commissioner.

(g) Not later than one business day after the receipt of the report, the Commissioner shall provide an electronic copy of the report of any inspection conducted by a marketplace pool Code-enforcement official under G.S. 143-151.12(9)a. to all of the following:
(1) The local inspection department.
(2) The permit holder.
(3) The requestor, if not the permit holder.

(h) For the requested services performed by a Code-enforcement official under this section, the Commissioner shall charge the permit holder a fee as set by the Commissioner under G.S. 58-2-40(1a). The fee shall be paid to the Commissioner no later than 30 days after completion of the requested inspection.

(i) Any claim alleging negligence by a Code-enforcement official from the marketplace pool established under G.S. 143-151.12(9)a. arising out of and in the course of the duty to conduct an inspection under this section shall constitute a claim against this State and shall be brought under and adjudicated according to and in compliance with the terms of Article 31 of Chapter 143 of the General Statutes.

(j) Notwithstanding its issuance of a certificate of occupancy, a city or county, its inspection department, and its inspectors shall be discharged and released from any liabilities, duties, and responsibilities imposed under the General Statutes or in common law from any claim arising out of or attributed to any inspection performed pursuant to this section by a marketplace pool Code-enforcement official under G.S. 143-151.12(9)a.

(k) As used in this section, the following terms mean:
(1) Inspection. - An inspection required by the North Carolina State Building Code in any of the following categories:
a. Plumbing.
b. Electrical systems.
c. General building restrictions and regulations.
d. Heating and air-conditioning.
e. General construction inspection.
(2) Local inspection department. - Any county, city, or joint agency performing State Building Code inspections under Chapter 160D of the General Statutes.
(3) Requestor. - The permit holder, or an individual acting on behalf of the permit holder, who made an initial request for an inspection to a local inspection department.

(l) The Commissioner shall contract with any individual, corporation, or other business entity that holds one of the applicable certificates as provided in G.S. 143-151.13 to conduct inspections under this section.

§ 143-140 HEARINGS BEFORE ENFORCEMENT AGENCIES AS TO QUESTIONS UNDER BUILDING CODE.

Any person desiring to raise any question under this Article or under the North Carolina State Building Code shall be entitled to a technical interpretation from the appropriate enforcement agency, as designated in the preceding section. Upon request in writing by any such person, the enforcement agency through an appropriate official shall within a reasonable time provide a written interpretation, setting forth the facts found, the decision reached, and the reasons therefor. In the event of dissatisfaction with such decision, the person affected shall have the options of:

(1) Appealing to the Building Code Council or

(2) Appealing directly to the Superior Court, as provided in G.S. 143-141.

(b) If an interpretation under this section or under G.S. 143-141(b) changes after a building permit is issued, the permit applicant may choose which version of the interpretation will apply to the permit, unless such a choice would cause harm to life or property.

§ 143-140.1 ALTERNATIVE DESIGN CONSTRUCTION AND METHODS; APPEALS.

(a) The North Carolina Building Code Council shall, by January 1, 2023, promulgate rules, procedures, and policies for the approval of alternative designs and construction. Alternative designs and construction shall follow the State Building Code. In the event of a dispute between a local authority having jurisdiction and the

designer or owner-representative regarding alternative designs and construction, and notwithstanding any other section within this Article, appeals by the designer or owner-representative on matters pertaining to alternative design construction or methods shall be heard by the Department of Insurance Engineering Division. The Department of Insurance Engineering Division shall issue its decision regarding an appeal filed under this section within 10 business days. The Commissioner of Insurance shall adopt rules in furtherance of this section. (2007-507, s. 18.)

(b) Approved alternative designs and construction that are in effect at the time of the effective date of this act remain in effect.

§ 143-141 APPEALS TO BUILDING CODE COUNCIL.

(a) **Method of Appeal**. - Whenever any person desires to take an appeal to the Building Code Council from the decision of a State enforcement agency relating to any matter under this Article or under the North Carolina State Building Code, he shall within 30 days after such decision give written notice to the Building Code Council through the Division of Engineering of the Department of Insurance that he desires to take an appeal. A copy of such notice shall be filed at the same time with the enforcement agency from which the appeal is taken. The chairman of the Building Code Council shall fix a reasonable time and place for a hearing, giving reasonable notice to the appellant and to the enforcement agency. Such hearing shall be not later than the next regular meeting of the Council. The Building Code Council shall thereupon conduct a full and complete hearing as to the matters in controversy, after which it shall within a reasonable time give a written decision setting forth its findings of fact and its conclusions.

(b) **Interpretations of the Code**. - The Building Code Council shall have the duty, in hearing appeals, to give interpretations of such provisions of the Building Code as shall be pertinent to the matter at issue. Where the Council finds that an enforcement agency was in error in its interpretation of the Code, it shall remand the case to the agency with instructions to take such action as it directs. Interpretations by the Council and local enforcement officials shall be based on a reasonable construction of the Code provisions.

(c) **Variations of the Code.** - Where the Building Code Council finds on appeal that materials or methods of construction proposed to be used are as good as those required by the Code, it shall remand the case to the enforcement agency with instructions to permit the use of such materials or methods of construction. The Council shall thereupon immediately initiate procedures for amending the Code as necessary to permit the use of such materials or methods of construction.

(c1) **Posting on Department Web Site.** – The Department of Insurance shall post and maintain on that portion of its Web site devoted to the Building Code Council all appeal decisions, interpretations, and variations of the Code issued by the Council within 10 business days of issuance.

(d) **Further Appeals to the Courts.** - Whenever any person desires to take an appeal from a decision of the Building Code Council or from the decision of an enforcement agency (with or without an appeal to the Building Code Council), he may take an appeal either to the Wake County Superior Court or to the superior court of the county in which the proposed building is to be situated, in accordance with the provisions of Chapter 150B of the General Statutes.

§ 143-142 FURTHER DUTIES OF THE BUILDING CODE COUNCIL.

(a) Recommended Statutory Changes. - It shall be the duty of the Building Code Council to make a thorough study of the building laws of the State, including both the statutes enacted by the General Assembly and the rules and regulations adopted by State and local agencies. On the basis of such study, the Council shall recommend to the 1959 and subsequent General Assemblies desirable statutory changes to simplify and improve such laws.

(b) Recommend Changes in Enforcement Procedures. - It shall be the duty of the Building Code Council to make a thorough and continuing study of the manner in which the building laws of the State are enforced by State, local, and private agencies. On the basis of such studies, the Council may recommend to the General Assembly any statutory changes necessary to improve and

simplify the enforcement machinery. The Council may also advise State agencies as to any changes in administrative practices which could be made to improve the enforcement of building laws without statutory changes.

§ 143-143 EFFECT ON CERTAIN EXISTING LAWS.

Nothing in this Article shall be construed as abrogating or otherwise affecting the power of any State department or agency to promulgate regulations, make inspections, or approve plans in accordance with any other applicable provisions of law not in conflict with the provisions herein.

§ 143-143.2 ELECTRIC WIRING OF HOUSES, BUILDINGS, AND STRUCTURES.

(a) The electric wiring of houses or buildings for lighting or for other purposes shall conform to the requirements of the State Building Code and any other applicable State and local laws.

(b) In order to protect the property of citizens from the danger's incident to defective electric wiring of buildings, it shall be unlawful for any firm or corporation to allow any electric current for use in any newly erected building to be turned on without first having had an inspection made of the wiring by the appropriate official electrical inspector or inspection department and having received from that inspector or department a certificate approving the wiring of such building. It shall be unlawful for any person, firm, or corporation engaged in the business of selling electricity to furnish initially any electric current for use in any building, unless said building shall have first been inspected by the appropriate official electrical inspector or inspection department and a certificate given as required by this subsection.

(c) In the event that there is no legally appointed inspector or inspection department with jurisdiction over the property involved, subsections (a) and (b) of this section shall have no force or effect.

(d) As used in this section, "building" includes any structure.

§ 143-143.3 TEMPORARY TOILET FACILITIES AT CONSTRUCTION SITES.

(a) Suitable toilet facilities shall be provided and maintained in a sanitary condition during construction. An adequate number of facilities must be provided for the number of employees at the construction site. There shall be at least one facility for every two contiguous construction sites. Such facilities may be portable, enclosed, chemically treated, tank-tight units. Portable toilets shall be enclosed, screened, and weatherproofed with internal latches. Temporary toilet facilities need not be provided on-site for crews on a job site for no more than one working day and having transportation readily available to nearby toilet facilities.

(b) It shall be the duty of the Building Code Council to establish standards to carry out the provisions of subsection (a) of this section not inconsistent with the requirements for toilet facilities at construction sites established pursuant to federal occupational safety and health rules.

§ 143-143.4 DOOR LOCK EXEMPTION FOR CERTAIN BUSINESSES.

(a) Notwithstanding this Article or any other law to the contrary, any business entity licensed to sell automatic weapons as a federal firearms dealer that is in the business of selling firearms or ammunition and that operates a firing range which rents firearms and sells ammunition shall be exempt from the door lock requirements of Chapter 10 of Volume 1 of the North Carolina State Building Code when issued a permit to that effect by the Department of Insurance in accordance with this section.

(b) The Department of Insurance shall issue a permit to a business entity specified in subsection (a) of this section for an exemption from the door lock requirements of Chapter 10 of Volume 1 of the North Carolina State Building Code if all of the following conditions are met:

(1) The building or facility in which business is conducted has a sales floor and customer occupancy space that is contained on one floor and is no larger than 15,000 square feet of retail sales space. Retail sales space is that area where firearms or ammunition are displayed and merchandised for sale to the public.

(2) The building or facility in which business is conducted is equipped with an approved smoke, fire, and break-in alarm system installed and operated in accordance with rules adopted by the Department of Insurance. An approved smoke, fire, or break-in alarm system does not have to include an automatic door unlocking mechanism triggered when the smoke, fire, or break-in alarm system is triggered.

(3) The owner or operator of the business will provide to all applicable employees within 10 days of the issuance of the permit under this section or at the time the employee is hired, whichever time is later, a written facility locking plan applicable for the close of business each day.

(4) Each entrance to the building or facility in which business is conducted is posted with a sign conspicuously located that warns that the building is exempt from the door lock requirements of the State Building Code, and that after business hours the building or facility's doors will remain locked from the inside even in the case of fire.

(5) Payment of a permit fee of five hundred dollars ($500.00) to the Department of Insurance.

(c) The Department of Insurance shall file a copy of the permit issued in accordance with subsection (b) of this section with all local law enforcement and fire protection agencies that provide protection for the business entity.

(d) The Department of Insurance shall be responsible for any inspections necessary for the issuance of permits under this section and, in conjunction with local inspection departments, shall be responsible for periodic inspections to ensure compliance with the requirements of this section. The Department of Insurance may contract with local inspection departments to conduct inspections under this subsection.

(e) The Department of Insurance shall revoke a permit issued under this section upon a finding that the requirements for the original issuance of the permit are not being complied with.

(f) Appeals of decisions of the Department of Insurance regarding the issuance or revocation of permits under this section shall be in accordance with Chapter 150B of the General Statutes.

(g) For the purposes of this section, "business entity" has the same meaning as in G.S. 59-102.

(h) In addition to the provisions of G.S. 143-138(h), the owner or operator of any business entity who is issued a permit as a door lock exempt business in accordance with subsection (b) of this section who fails to comply with the permit requirements of subsection (b) of this section shall be subject to a civil penalty of five hundred dollars ($500.00) for the first offense, one thousand dollars ($1,000) for the second offense, and five thousand dollars ($5,000) for the third and subsequent offenses, except when the building or facility in which business is conducted is in compliance with the door lock requirements of Chapter 10 of Volume 1 of the North Carolina State Building Code. Penalties authorized in this subsection shall be imposed by the city or county in which the violation occurs. Each day the building or facility in which business is conducted is not in compliance with the provisions of this subsection constitutes a separate offense.

(i) The Department of Insurance shall adopt rules to implement this section.

§ 143-143.5 ACCESS TO TOILETS IN SHOPPING MALLS.

Notwithstanding any other law or rule, a horizontal travel distance of 300 feet for access to public use toilets in covered mall buildings shall be allowed.

§ 143-143.7 ELEVATOR SAFETY REQUIREMENTS FOR CERTAIN RESIDENTIAL RENTAL ACCOMMODATIONS.

(a) Notwithstanding the requirements of G.S. 143-139(d), any elevator in a private residence, cottage, or similar accommodation subject to taxation under G.S. 105-164.4F shall meet the following requirements:

(1) The gap between the hoistway face of the landing door and the hoistway face of the car door shall not exceed 4 inches.

(2) Elevator doors or gates shall meet the following requirements:

a. Horizontal sliding car doors and gates shall be designed and installed to withstand a force of 75 pounds applied horizontally on an area 4 inches by 4 inches at right angles to and at any location on the car door when fully closed without permanent deformation, without exceeding a deflection of three-quarters of an inch, and without displacing the door or gate from its guides or tracks.

b. Folding car doors shall be designed and installed to withstand a force of 75 pounds applied horizontally using a 4-inch diameter sphere at any location within the folds of the door without permanent deformation, without exceeding a deflection of three-quarters of an inch, and without displacing the door from its guides or tracks.

(b) If any property subject to this section has an elevator that does not comply with subsection (a) of this section, the landlord shall prevent the operation of the elevator until the elevator has been brought into compliance by meeting the following requirements:

(1) If the elevator does not comply with subdivision (1) of subsection (a) of this section, then the landlord shall install a hoistway door space guard, a full height door baffle, or a door baffle that is at least 31.75 inches in height, each of which shall be nonremovable and shall be designed and installed to withstand a force of 75 pounds applied horizontally using a 4-inch diameter sphere at any location without permanent deformation.

(2) If the elevator door or gate does not comply with subdivision (2) of subsection (a) of this section, then the landlord shall replace it with a door or gate that complies with subdivision (2) of subsection (a) of this section.

(c) Upon installation of a door baffle, door space guard, door, or gate meeting the requirements of subsection (b) of this section, the landlord shall provide the Commissioner of Insurance with one of the following:

(1) A statement signed by a professional elevator installer certifying installation of the door baffle, door space guard, door, or gate meeting the requirements of subsection (b) of this section.

(2) A receipt for purchase of the door baffle, door space guard, door, or gate meeting the requirements of subsection (b) of this section, a signed statement by the landlord stating the date of installation, and photographs depicting the door baffle, door space guard, door, or gate as installed.

(d) For purposes of this section, "elevator" means a hoisting and lowering mechanism equipped with a car or platform which moves in guides, and which serves two or more floors of a building or structure.

(e) Any person who violates subsection (b) of this section by permitting the continued operation of an elevator that does not comply with subsection (a) of this section shall be guilty of a Class 2 misdemeanor.

Article 9C

North Carolina Code Officials Qualification Board

§ 143-151.8 DEFINITIONS.

(a) The following definitions apply in this Article:

(1) **Board.** - The North Carolina Code Officials Qualification Board.

(2) **Code.** – Consists of all of the following:

(a) The North Carolina State Building Code adopted by the Building Code Council enacted, adopted or approved under G.S. 143-138.

(b) Local building rules approved by the Building Code Council.

(c) Any resolution adopted by a federally recognized Indian Tribe in which the Tribe adopts the North Carolina State Building Code and related local building rules.

(d) The standards adopted by the Commissioner of Insurance under G.S. 143-143.15(a).

(3) **Code enforcement.** - The examination and approval of plans and specifications, or the inspection of the manner of construction, workmanship, and materials for construction of buildings and structures and their components, or the enforcement of fire code regulations by any of the following, to assure compliance with the State Building Code and related local building rules:

(a) An employee of the State or local government, except of employee of the State Department of Labor engaged in the administration and

enforcement of sections of the Code that pertain to boilers and elevators.

(b) An employee of a federally recognized Indian Tribe employed to perform inspections on tribal lands.

(c) An individual contracting with the State, a local government, or a federally recognized Indian Tribe to perform inspections on tribal lands.

(d) An individual who is employed by a company contracting with a county or a city to conduct inspections.

(4) **Local inspection department.** - The agency or agencies of local government, or any government agency of a federally recognized Indian Tribe, with authority to make inspections of buildings and to enforce the Code and other laws, ordinances, and rules enacted by the State, a local government, or a federally recognized Indian Tribe.

(5) **Qualified Code-enforcement official. - A** person qualified under this Article to engage in the practice of Code enforcement.

(b) For purposes of this Article, the population of a city or county is determined according to the most current federal census, unless otherwise specified.

(c) For purposes of this Article, "willful misconduct, gross negligence, or gross incompetence" in addition to the meaning of those terms under other provisions of the General Statutes or at common law, includes any of the following:

(1) Enforcing a Code requirement in areas or circumstances not specified in the requirement.

(2) Refusing to accept an alternative design or construction method that has been appealed under G.S. 143-140.1 and found by the Department of Insurance to comply with the Code under the conditions or circumstances set forth in the Department's decision for that appeal.

(3) Refusing to allow an alternative construction method currently included in the Building Code under the conditions or circumstances set forth in the Code for that alternative method.

(4) Enforcing a requirement that is more stringent than or otherwise exceeds the Code requirement.

(5) Refusing to implement or adhere to an interpretation of the Building Code issued by the Building Code Council or the Department of Insurance.

(6) Habitually failing to provide requested inspections in a timely manner.

(7) Enforcing a Code official's preference in the method or manner of installation of heating ventilation and air-conditioning units, appliances, or equipment if it is not required by the State Building Code and is in contradiction of a manufacturer's installation instructions or specifications.

§ 143-151.9 NORTH CAROLINA CODE OFFICIALS QUALIFICATION BOARD ESTABLISHED; MEMBERS; TERMS; VACANCIES.

(a) There is hereby established the North Carolina Code Officials Qualification Board in the Department of Insurance. The Board shall be composed of 20 members appointed as follows:

(1) One member who is a city or county manager;
(2) Two members, one of whom is an elected official representing a city over 5,000 population and one of whom is an elected official representing a city under 5,000 population;
(3) Two members, one of whom is an elected official representing a county over 40,000 population and one of whom is an elected official representing a county under 40,000 population;
(4) Two members serving as building officials with the responsibility for administering building, plumbing, electrical and heating codes, one of whom serves a county and one of whom serves a city;
(5) One member who is a registered architect;
(6) One member who is a registered engineer;
(7) Two members who are licensed general contractors, at least one of whom specializes in residential construction;
(8) One member who is a licensed electrical contractor;
(9) One member who is a licensed plumbing or heating contractor;

(10) One member selected from the faculty of the North Carolina State University School of Engineering and one member selected from the faculty of the School of Engineering of the North Carolina Agricultural and Technical State University;
(11) One member selected from the faculty of the School of Government at the University of North Carolina at Chapel Hill;
(12) One member selected from the Community Colleges System Office;
(13) One member selected from the Division of Engineering and Building Codes in the Department of Insurance; and,
(14) One member who is a local government fire prevention inspector and one member who is a citizen of the State.

The various categories shall be appointed as follows: (1), (2), (3), and (14) by the Governor; (4), (5), and (6) by the General Assembly upon the recommendation of the President Pro Tempore in accordance with G.S. 120-121; (7), (8), and (9) by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121; (10) by the deans of the respective schools of engineering of the named universities; (11) by the Dean of the School of Government at the University of North Carolina at Chapel Hill; (12) by the President of the Community Colleges System; and (13) by the Commissioner of Insurance.

(b) The members shall be appointed for staggered terms and the initial appointments shall be made prior to September 1, 1977, and the appointees shall hold office until July 1 of the year in which their respective terms expire and until their successors are appointed and qualified as provided hereafter:

For the terms of one year: the members from subdivisions (1), (6) and (10) of subsection (a), and one member from subdivision (3).

For the terms of two years: the member from subdivision (11) of subsection (a), one member from subdivision (2), one member from subdivision (4), one member from subdivision (7), and one member from subdivision (14).

For the terms of three years: the members from subdivisions (8) and (12) of subsection (a), one member from subdivision (2), one member from subdivision (4), and one member from subdivision (14).

For the terms of four years: the members from subdivision (5), (9) and (13) of subsection (a), one member from subdivision (3), and one member from subdivision (7).

Thereafter, as the term of each member expires, his successor shall be appointed for a term of four years. Notwithstanding the appointments for a term of years, each member shall serve at the will of the Governor.

Members of the Board who are public officers shall serve ex officio and shall perform their duties on the Board in addition to the duties of their office.

(c) Vacancies in the Board occurring for any reason shall be filled for the unexpired term by the person making the appointment.

§ 143-151.10 COMPENSATION.

Members of the Board who are State officers or employees shall receive no salary for serving on the Board, but shall be reimbursed for their expenses in accordance with G.S. 138-6. Members of the Board who are full-time salaried public officers or employees other than State officers or employees shall receive no salary for serving on the Board, but shall be reimbursed for subsistence and travel expenses in accordance with G.S. 138-5(a)(2) and (3). All other members of the Board shall receive compensation and reimbursement for expenses in accordance with G.S. 138-5(a).

§ 143-151.11 CHAIRMAN; VICE-CHAIRMAN; OTHER OFFICERS; MEETINGS; REPORTS.

(a) The members of the Board shall select one of their members as chairman upon its creation, and shall select the chairman each July 1 thereafter.

(b) The Board shall select a vice-chairman and such other officers and committee chairmen from among its members, as it deems desirable, at the first regular meeting of the Board after its creation and at the first regular meeting after July 1 of each year thereafter. Provided, nothing in this subsection shall prevent the creation or abolition of committees or offices of the Board, other than the office of vice-chairman, as the need may arise at any time during the year.

(c) The Board shall hold at least four regular meetings per year upon the call of the chairman. Special meetings shall be held upon the call of the chairman or the vice-chairman, or upon the written request of four members of the Board.

(d) The activities and recommendations of the Board with respect to standards for Code officials training and certification shall be set forth in regular and special reports made by the Board. Additionally, the Board shall present special reports and recommendations to the Governor or the General Assembly, or both, as the need may arise or as the Governor or the General Assembly may request.

§ 143-151.12 POWERS.

In addition to powers conferred upon the Board elsewhere in this Article, the Board has the power to do the following:

(1) Adopt rules necessary to administer this Article.

(1a) Require State agencies, local inspection departments, and local governing bodies to submit reports and information about the employment, education, and training of Code-enforcement officials.

(2) Establish minimum standards for employment as a Code-enforcement official: (i) in probationary or temporary status, and (ii) in permanent positions;

(3) Certify persons as being qualified under the provisions of this Article to be Code-enforcement officials, including persons employed by a federally recognized Indian Tribe to perform inspections on tribal lands.

(4) Consult and cooperate with counties, municipalities, agencies of this State, other governmental agencies, and with universities, colleges, junior colleges, community colleges and other institutions concerning the development of Code-enforcement training schools and programs or courses of instruction.

(5) Establish minimum standards and levels of education or equivalent experience for all Code-enforcement instructors, teachers or professors.

(6) Conduct and encourage research by public and private agencies that shall be designed to improve education and training in the administration of Code enforcement.

(7) Adopt and amend bylaws, consistent with law, for its internal management and control; appoint advisory committees as necessary; and enter into contracts and do other things as necessary and incidental to the exercise of its authority pursuant to this Article.

(8) Make recommendations concerning any matters within its purview pursuant to this Article.

(9) Establish within the Department of Insurance a marketplace pool of qualified Code-enforcement officials available for the following purposes:

a. When requested by the Insurance Commissioner, to assist in the discharge of the Commissioner's duty under G.S. 143-139 to supervise, administer, and enforce the North Carolina State Building Code.

b. When requested by local inspection departments, to assist in Code enforcement.

§ 143-151.13 REQUIRED STANDARDS AND CERTIFICATES FOR CODE-ENFORCEMENT OFFICIALS.

(a) No person shall engage in Code enforcement under this Article unless that person possesses one of the following types of certificates, currently valid, issued by the Board attesting to that person's qualifications to engage in Code enforcement: (i) a standard certificate; (ii) a limited certificate provided for in subsection (c) of this section; or (iii) a probationary certificate provided for in subsection (d) of this section. To obtain a standard certificate, a person must pass an examination, as prescribed by the Board or by a contracting party under G.S. 143-151.16(d), that is based on the North Carolina State Building Code and administrative procedures required for Code enforcement. The Board may issue a standard certificate of qualification to each person who successfully completes the examination. The certificate authorizes that person to engage in Code enforcement and to practice as a qualified Code-enforcement official in North Carolina. The certificate of qualification shall bear the signatures of the chairman and secretary of the Board.

(b) The Board shall issue one or more standard certificates to each Code-enforcement official demonstrating the qualifications set forth in subsection (b1) of this section. Standard certificates are available for each of

the following types of qualified Code-enforcement officials:

(1) Building inspector.

(2) Electrical inspector.

(3) Mechanical inspector.

(4) Plumbing inspector.

(5) Fire inspector.

(6) Residential Changeout Inspector

(b1) The holder of a standard certificate may practice Code enforcement only within the inspection area and level described upon the certificate issued by the Board. A Code-enforcement official may qualify and hold one or more certificates. These certificates may be for different levels in different types of positions as defined in this section and in rules adopted by the Board.

(b2) A Code-enforcement official holding a certificate indicating a specified level of proficiency in a particular type of position may hold a position calling for that type of qualification anywhere in the State. With respect to all types of Code-enforcement officials, those with Level I, Level II, or Level III certificates shall be qualified to inspect and approve only those types and sizes of buildings as specified in rules adopted by the Board.

(c) A Code-enforcement official holding office as of the date specified in this subsection for the county or municipality by which he is employed, shall not be required to possess a standard certificate as a condition of tenure or continued employment but shall be required to complete such in-service training as may be prescribed by the Board. At the earliest practicable date, such official shall receive from the Board a limited certificate qualifying him to engage in Code enforcement at the level, in the particular type of position, and within the governmental jurisdiction in which he is employed. The limited certificate shall be valid only as an authorization for the official to continue in the position he held on the applicable date and shall become invalid if he does not complete in-service training within two years following the applicable date in the schedule below, according to the governmental jurisdiction's population as published in the 1970 U.S. Census:

- Counties and Municipalities over 75,000 population - July 1, 1979
- Counties and Municipalities between 50,001 and 75,000 - July 1, 1981
- Counties and Municipalities between 25,001 and 50,000 - July 1, 1983
- Counties and Municipalities 25,000 and under - July 1, 1985
- All fire prevention inspectors holding office - July 1, 1989. Fire prevention inspectors have until July 1, 1993, to complete in-service training.
- An official holding a limited certificate can be promoted to a position requiring a higher level certificate only upon issuance by the Board of a standard certificate or probationary certificate appropriate for such new position.

(d) The Board may provide for the issuance of probationary or temporary certificates valid for such period (not less than one year nor more than three years) as specified by the Board's rules, or until June 30, 1983, whichever is later, to any Code-enforcement official newly employed or newly promoted who lacks the qualifications prescribed by the Board as prerequisite to applying for a standard certificate under subsection (a). No official may have a probationary or temporary certificate extended beyond the specified period by renewal or otherwise. The Board may provide for appropriate levels of probationary or temporary certificates and may issue these certificates with such special conditions or requirements relating to the place of employment of the person holding the certificate, his supervision on a consulting or advisory basis, or other matters as the Board may deem necessary to protect the public safety and health.

(e) The Board shall, without requiring an examination, issue a standard certificate to any person who is currently certified as a county electrical inspector pursuant to G.S. 160D-1102. The certificate issued by the Board shall authorize the person to serve at the electrical inspector level approved by the Commissioner of Insurance in G.S. 160D-1102.

(f) The Board shall issue a standard certificate to any person who is currently licensed to practice as a(n):

(1) Architect, registered pursuant to Chapter 83A;

(2) General contractor, licensed pursuant to Article 1 of Chapter 87;

(3) Plumbing or heating contractor, licensed pursuant to Article 2 of Chapter 87;

(4) Electrical contractor, licensed pursuant to Article 4 of Chapter 87; or,

(5) Professional engineer, registered pursuant to Chapter 89C; provided the person successfully completes a short course, as prescribed by the Board, relating to the State Building Code regulations and Code-enforcement administration. The standard certificate shall authorize the person to practice as a qualified Code-enforcement official in a particular type of position at the level determined by the Board, based on the type of license or registration held in any profession specified above.

§ 143-151.13A. PROFESSIONAL DEVELOPMENT PROGRAM FOR OFFICIALS

(a) As used in this section, "official" means a qualified Code-enforcement official as that term is defined in G.S. 143-151.8.

(b) The Board may establish professional development requirements for officials as a condition of the renewal or reactivation of their certificates. The purposes of these professional development requirements are to assist officials in maintaining professional competence in their enforcement of the Code and to assure the health, safety, and welfare of the citizens of North Carolina. An official subject to this section shall present evidence to the Board at each certificate renewal after initial certification, that during the 12 months before the certificate expiration date, the official has completed the required number of credit hours in courses approved by the Board. Annual continuing education hour requirements shall be determined by the Board but shall not be more than six credit hours.

(c) The Board may require an individual who earns a certificate under programs established in G.S. 143-151.13 to complete professional development courses, not to exceed six hours in each technical area of certification, within one year after that individual is first employed by a city or county inspection department.

(d) As a condition of reactivating a standard or limited certificate, the Board may require the completion of professional development courses within one year after reemployment as an official as follows:

(1) An individual who has been on inactive status for more than two years and who has not been continuously employed by a city or county inspection department during the period of inactive status shall complete professional development courses not to exceed 12 hours for each technical area in which the individual is certified.

(2) An individual who has been on inactive status for more than two years and who has been continuously employed by a city or county inspection department during the period of inactive status shall complete professional development courses not to exceed six hours for each technical area in which the individual is certified.

(3) An individual who has been on inactive status for two years or less shall complete professional development courses not to exceed four hours for each technical area in which the individual is certified.

(e) The Board may, for good cause shown, grant extensions of time to officials to comply with these requirements. An official who, after obtaining an extension under this subsection, offers evidence satisfactory to the Board that the official has satisfactorily completed the required professional development courses, is in compliance with this section.

(f) The Board may adopt rules to implement this section, including rules that govern:

(1) The content and subject matter of professional development courses.
(2) The criteria, standards, and procedures for the approval of courses, course sponsors, and course instructors.
(3) The methods of instruction.
(4) The computation of course credit.
(5) The ability to carry-forward course credit from one year to another.

(6) The waiver of or variance from the professional development required for hardship or other reasons.
(7) The procedures for compliance and sanctions for noncompliance.

§ 143-151.14 COMITY.

(a) The Board may, without requiring an examination, grant a standard certificate as a qualified Code-enforcement official for a particular type of position and level to any person who, at the time of application, is certified as a qualified Code-enforcement official in good standing by a similar board of another state, district or territory where standards are acceptable to the Board and not lower than those required by this Article for a similar type of position and level in this State.

(b) The Board may, without requiring an examination, grant a standard certificate as a qualified Code-enforcement official for a particular type of position and level to any person who, at the time of application, is certified as a qualified Code-enforcement official in good standing by the International Code Council where standards and examination are acceptable to the Board and not lower than those required by this Article for a type of position and level in this State.

(c) The certificates granted under subsections (a) and (b) of this section shall expire after three years unless within that time period the holder completes a short course, as prescribed by the Board, relating to the State Building Code regulations and Code-enforcement administration.

(d) A fee of not more than twenty dollars ($20.00), as determined by the Board, must be paid by any applicant to the Board for the issuance of a certificate under this section. The provisions of G.S. 143-151.16(b) relating to renewal fees and late renewals shall apply to every person granted a standard certificate in accordance with this section.

§ 143-151.15 RETURN OF CERTIFICATE TO BOARD; REISSUANCE BY BOARD.

A certificate issued by the Board under this Article is valid as long as the person certified is employed by the State of North Carolina or any political subdivision thereof as a Code-enforcement official or is employed by a federally recognized Indian Tribe to perform inspections on tribal lands under as a Code-enforcement official. When the person certified leaves that employment for any reason, he shall return the certificate to the Board. If the person subsequently obtains employment as a Code-enforcement official in any governmental jurisdiction described above, the Board may reissue the certificate to him. The provisions of G.S. 143-151.16(b) relating to renewal fees and late renewals shall apply, if appropriate. The provisions of G.S. 143-151.16(c) shall not apply. This section does not affect the Board's powers under G.S. 143-151.17.

§ 143-151.16 CERTIFICATION FEES; RENEWAL OF CERTIFICATES; EXAMINATION FEES.

(a) The Board shall establish a schedule of fees to be paid by each applicant for certification as a qualified Code-enforcement official. Such fee shall not exceed twenty dollars ($20.00) for each applicant.

(b) A certificate, other than a probationary certificate, as a qualified Code-enforcement official issued pursuant to the provisions of this Article must be renewed annually on or before the first day of July. Each application for renewal must be accompanied by a renewal fee to be determined by the Board, but not to exceed ten dollars ($10.00). The Board is authorized to charge an extra four dollar ($4.00) late renewal fee for renewals made after the first day of July each year.

(c) Any person who fails to renew his certificate for a period of two consecutive years may be required by the Board to take and pass the same examination as unlicensed applicants before allowing such person to renew his certificate.

(d) The Board may contract with persons for the development and administration of the examinations required by G.S. 143-151.13(a), for course development related to the examinations, for review of a particular applicant's examination, and for other related services. The person with whom the Board contracts may charge applicants a reasonable fee for the costs associated with the development and administration of the examinations, for course development related to the examinations, for review of the applicant's examinations, and for other related

services. The fee shall be agreed to by the Board and the other contracting party. The amount of the fee under this subsection shall not exceed one hundred seventy-five dollars ($175.00). Contracts for the development and administration of the examinations, for course development related to the examinations, and for review of examinations shall not be subject to Article 3, 3C, or 8 of Chapter 143 of the General Statutes or to Article 14 of Chapter 143B of the General Statutes. However, the Board shall: (i) submit all proposed contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all proposed contracts to be awarded by the Board under this subsection a standard clause which provides that the State Auditor and internal auditors of the Board may audit the records of the contractor during and after the term of the contract to verify accounts and data affecting fees and performance. The Board shall not award a cost plus percentage of cost agreement or contract for any purpose.

§ 143-151.17 GROUNDS FOR DISCIPLINARY ACTIONS; INVESTIGATION; ADMINISTRATIVE PROCEDURES.

(a) The Board has the power to suspend, revoke, demote to a lower level, or refuse to grant a certificate issued under this Article to any person to whom any of the following applies:
  (1) Has been convicted of a felony against this State or the United States, or convicted of a felony in another state that would also be a felony if it had been committed in this State.
  (2) Has obtained certification through fraud, deceit, or perjury.
  (3) Has knowingly aided or abetted any person practicing contrary to the provisions of this Article or the State Building Code or any building codes adopted by a federally recognized Indian Tribe.
  (4) Has defrauded the public or attempted to do so.
  (5) Has affixed his or her signature to a report of inspection or other instrument of service if no inspection has been made by him or her or under his or her immediate and responsible direction.
  (6) Has been guilty of willful misconduct, gross negligence, or gross incompetence.

(b) The Board may investigate the actions of any qualified Code-enforcement official or applicant upon the verified complaint in writing of any person alleging a violation of subsection (a) of this section. The Board may suspend, revoke, or demote to a lower level any certificate of any qualified Code-enforcement official and refuse to grant a certificate to any applicant, whom it finds to have been guilty of one or more of the actions set out in subsection (a) of this section as grounds for disciplinary action.

(c) A denial, suspension, revocation, or demotion to a lower level of a certificate issued under this Article shall be made in accordance with Chapter 150B of the General Statutes.

(d) The Board may deny an application for a certificate for any of the grounds that are described in subsection (a) of this section. Within 30 days after receipt of a notification that an application for a certificate has been denied, the applicant may make a written request for a review by a committee designated by the chairman of the Board to determine the reasonableness of the Board's action. The review shall be completed without undue delay, and the applicant shall be notified promptly in writing as to the outcome of the review. Within 30 days after service of the notification as to the outcome, the applicant may make a written request for a hearing under Article 3A of Chapter 150B of the General Statutes if the applicant disagrees with the outcome.

(e) This section applies to Code-enforcement officials and applicants who are employed or seek to be employed by a federally recognized Indian Tribe to perform inspections on tribal lands.

§ 143-151.18 VIOLATIONS; PENALTY; INJUNCTION.

On and after July 1, 1979, it shall be unlawful for any person to represent himself as a qualified Code-enforcement official who does not hold a currently valid certificate of qualification issued by the Board. Further, it shall be unlawful for any person to practice Code enforcement except as allowed by any currently valid certificate issued to that person by the Board. Any person violating any of the provisions of this Article shall be guilty of a Class 1

misdemeanor. The Board is authorized to apply to any judge of the superior court for an injunction in order to prevent any violation or threatened violation of the provisions of this Article.

§ 143-151.19 ADMINISTRATION.

(a) The Division of Engineering and Building Codes in the Department of Insurance shall provide clerical and other staff services required by the Board, and shall administer and enforce all provisions of this Article and all rules promulgated pursuant to this Article, subject to the direction of the Board, except as delegated by this Article to local units of government, other State agencies, corporations, or individuals.

(b) The Board shall make copies of this Article and the rules adopted under this Article available to the public at a price determined by the Board.

(c) The Board shall keep current a record of the names and addresses of all qualified Code-enforcement officials and additional personal data as the Board deems necessary. The Board annually shall publish a list of all currently certified Code-enforcement officials.

(d) Each certificate issued by the Board shall contain such identifying information as the Board requires.

(e) The Board shall issue a duplicate certificate to practice as a qualified Code-enforcement official in place of one which has been lost, destroyed, or mutilated upon proper application and payment of a fee to be determined by the Board.

§ 143-151.20 DONATIONS AND APPROPRIATIONS.

(a) In addition to appropriations made by the General Assembly, the Board may accept for any of its purposes and functions under this Article any and all donations, both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize, disburse and transfer the same, subject to the approval of the Council of State. Any arrangements pursuant to this section shall be detailed in the next regular report of the Board. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any moneys received by the Board pursuant to this section shall be deposited in the State treasury to the account of the Board.

(b) The Board may provide grants as a reimbursement for actual expenses incurred by the State or political subdivision thereof for the provisions of training programs of officials from other jurisdictions within the State. The Board, by rules, shall provide for the administration of the grant program authorized herein. In promulgating such rules, the Board shall promote the most efficient and economical program of Code-enforcement training, including the maximum utilization of existing facilities and programs for the purpose of avoiding duplication

§ 143-151.21 DISPOSITION OF FEES.

Fees collected by the Commissioner under this Article shall be credited to the Insurance Regulatory Fund created under G.S. 58-6-25.

Article 9E.

Master Electrical and Natural Gas Meters Prohibited

§ 143-151.42 PROHIBITION OF MASTER METERS FOR ELECTRIC AND NATURAL GAS SERVICE.

(a) From and after September 1, 1977, in order that each occupant of an apartment or other individual dwelling unit may be responsible for his own conservation of electricity and gas, it shall be unlawful for any new residential building, as hereinafter defined, to be served by a master meter for electric service or natural gas service. Each individual dwelling unit shall have individual electric service with a separate electric meter and, if it has natural gas, individual natural gas service with a separate natural gas meter, which service and meters shall be in the name of the tenant or other occupant of said apartment or other dwelling unit. No electric supplier or natural gas supplier, whether regulated public utility or municipal corporation or electric membership corporation supplying said utility service, shall connect any residential building for electric service or natural gas service through a master meter, and said electric or natural gas supplier shall serve each said apartment or dwelling unit by separate

service and separate meter and shall bill and charge each individual occupant of said separate apartment or dwelling unit for said electric or natural gas service. A new residential building is hereby defined for the purposes of this section as any building for which a building permit is issued on or after September 1, 1977, which includes two or more apartments or other family dwelling units. Provided, however, that any owner or builder of a multi-unit residential building who desires to provide central heat or air conditioning or central hot water from a central furnace, air conditioner or hot water heater which incorporates solar assistance or other designs which accomplish greater energy conservation than separate heat, hot water, or air conditioning for each dwelling unit, may apply to the North Carolina Utilities Commission for approval of said central heat, air conditioning or hot water system, which may include a central meter for electricity or gas used in said central system, and the Utilities Commission shall promptly consider said application and approve it for such central meters if energy is conserved by said design. This section shall apply to any dwelling unit normally rented or leased for a minimum period of one month or longer, including apartments, condominiums and townhouses, but shall not apply to hotels, motels, hotels or motels that have been converted into condominiums, dormitories, rooming houses or nursing homes, or homes for the elderly.

(b) The provisions of this section requiring that service and meters for each individual dwelling unit be in the name of the tenant or other occupant of the apartment or other dwelling unit shall not apply in either of the following circumstances:

(1) The Utilities Commission has approved an application under G.S. 62-110(h).
(2) The tenant and landlord have agreed in the lease that the cost of the electric service or natural gas service or both shall be included in the rental payments and the service shall be in the name of the landlord.

Article 9F

North Carolina Home Inspector Licensure Board

§ 143-151.43 SHORT TITLE.

This Article is the Home Inspector Licensure Act and may be cited by that name.

§ 143-151.44 PURPOSE.

This Article safeguards the public health, safety, and welfare and protects the public from being harmed by unqualified persons by regulating the use of the title "Licensed Home Inspector" and by providing for the licensure and regulation of those who perform home inspections for compensation.

§ 143-151.45 DEFINITIONS.

The following definitions apply in this Article:

(1) Repealed by Session Laws 2009-509, s. 3.3, effective October 1, 2013. See note.
(2) Board. - The North Carolina Home Inspector Licensure Board.
(3) Compensation. - A fee or anything else of value.
(4) Home inspection. - A written evaluation, based on observation or noninvasive testing, of two or more of the following components of a residential building: heating system, cooling system, plumbing system, electrical system, structural components, foundation, roof, masonry structure, exterior and interior components, or any other related residential housing component. Noninvasive testing means testing methods which do not result in any damage to a component or system, such as tearing, puncturing, or gouging, provided that probing a wood component or system to inspect for deterioration is permissible.
(5) Home inspector. - An individual who engages in the business of performing home inspections for compensation.
(6) Residential building. - A structure intended to be, or that is in fact, used as a residence by one or more individuals.

§ 143-151.46 NORTH CAROLINA HOME INSPECTOR LICENSURE BOARD ESTABLISHED; MEMBERS; TERMS; VACANCIES.

(a) Membership. - The North Carolina Home Inspector Licensure Board is established in the Department of

Insurance. The Board shall be composed of the Commissioner of Insurance or the Commissioner's designee and seven additional members appointed as follows:

(1) A public member who is not actively engaged in one of the professional categories in subdivisions (2) through (4) of this subsection, appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.
(2) Four home inspectors, two of whom shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, one of whom shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and one of whom shall be appointed by the Governor.
(3) A licensed general contractor appointed by the Governor upon the recommendation of the North Carolina Home Builders Association.
(4) A licensed real estate broker appointed by the Governor upon the recommendation of the North Carolina Association of Realtors.

All members of the Board must be citizens of the State. Appointments by the General Assembly must be made in accordance with G.S. 120-121.

(b) Terms. - The members shall be appointed for staggered terms and the initial appointments shall be made prior to August 1, 1995. The appointees shall hold office until July 1 of the year in which their respective terms expire and until their successors are appointed and qualified.

Of the members initially appointed, the home inspector appointed by the Governor shall serve a one-year term. The home inspector appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives and the licensed real estate broker shall serve two-year terms. One home inspector appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate and the licensed contractor shall serve three-year terms. The remaining home inspector appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate and the citizen of the State shall serve four-year terms.

Thereafter, as the term of each member expires, a successor shall be appointed for a term of four years.

(d) Vacancies. - Vacancies in the Board occurring for any reason shall be filled for the unexpired term by the appointing official making the original appointment. Vacancies in positions appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate or the Speaker of the House of Representatives shall be filled in accordance with G.S. 120-122.

§ 143-151.47 COMPENSATION OF BOARD MEMBERS.

Members of the Board shall receive no salary for serving on the Board. Members may be reimbursed for their travel and other expenses in accordance with G.S. 93B-5 but may not receive the per diem authorized by that statute.

§ 143-151.48 ELECTION OF OFFICERS; MEETINGS OF BOARD.

(a) Officers. - Within 30 days after making appointments to the Board, the Governor shall call the first meeting of the Board. The Board shall elect a chair and a vice-chair who shall hold office according to rules adopted by the Board.

(b) Meetings. - The Board shall hold at least two regular meetings each year as provided by rules adopted by the Board. The Board may hold additional meetings upon the call of the chair or any two Board members. A majority of the Board membership constitutes a quorum.

§ 143-151.49 POWERS AND RESPONSIBILITIES OF BOARD.

(a) General. - The Board has the power to do all of the following:

(1) Examine and determine the qualifications and fitness of applicants for a new or renewed license.
(2) Adopt and publish a code of ethics and standard of practice for persons licensed under this Article.
(3) Issue, renew, deny, revoke, and suspend licenses under this Article.
(4) Conduct investigations, subpoena individuals and records, and do all other things necessary and

proper to discipline persons licensed under this Article and to enforce this Article.

(5) Employ professional, clerical, investigative, or special personnel necessary to carry out the provisions of this Article.

(6) Purchase or rent office space, equipment, and supplies necessary to carry out the provisions of this Article.

(7) Adopt a seal by which it shall authenticate its proceedings, official records, and licenses.

(8) Conduct administrative hearings in accordance with Article 3A of Chapter 150B of the General Statutes.

(9) Establish fees as allowed by this Article.

(10) Publish and make available upon request the licensure standards prescribed under this Article and all rules adopted by the Board.

(11) Request and receive the assistance of State educational institutions or other State agencies.

(12) (11a) Establish education requirements for licensure.

(13) Establish continuing education requirements for persons licensed under this Article.

(14) Adopt rules necessary to implement this Article.

(b) Education Requirements. - The education program adopted by the Board may not consist of more than 200 hours of instruction. The instruction may include field training, classroom instruction, distance learning, peer review, and any other educational format approved by the Board.

§ 143-151.50 LICENSE REQUIRED TO PERFORM HOME INSPECTIONS FOR COMPENSATION OR TO CLAIM TO BE A "LICENSED HOME INSPECTOR".

(a) Requirement. - To perform a home inspection for compensation or to claim to be a licensed home inspector, an individual must be licensed by the Board. An individual who is not licensed by the Board may perform a home inspection without compensation.

(b) Form of License. - The Board may issue a license only to an individual and may not issue a license to a partnership, an association, a corporation, a firm, or another group. A licensed home inspector, however, may perform home inspections for or on behalf of a partnership, an association, a corporation, a firm, or another group, may conduct business as one of these entities, and may enter into and enforce contracts as one of these entities.

§ 143-151.51 REQUIREMENTS TO BE LICENSED AS A HOME INSPECTOR.

(a) Licensure Eligibility. - To be eligible to be licensed as a home inspector, an applicant must do all of the following:

(1) Submit a completed application to the Board upon a form provided by the Board.

(2) Pass a licensing examination prescribed by the Board.

(3) Repealed by Session Laws 2009-509, s. 2.2, effective October 1, 2011.

(4) Pay the applicable fees.

(5) Meet one of the following three conditions:

a. Have a high school diploma or its equivalent and satisfactorily complete an education program approved by the Board. The program must be completed within three years of the date the applicant submits an application for licensure under this section.

b. Have education and experience the Board considers to be equivalent to that required by sub-subdivision a. of this subdivision.

c. Be licensed for at least six months as a general contractor under Article 1 of Chapter 87 of the General Statutes, as an architect under Chapter 83A of the General Statutes, or as a professional engineer under Chapter 89C of the General Statutes. A person qualifying under this sub-subdivision on or after October 1, 2011, must remain in good standing with the person's respective licensing board.

(b) License. - Upon compliance with the conditions of licensure under subsection (a) of this section, to be eligible to be licensed as a home inspector, an applicant must meet all of the insurance requirements of this subsection.

(1) General liability insurance in the amount of two hundred fifty thousand dollars ($250,000), which insurance may be individual coverage or coverage under an employer policy, with coverage parameters established by the Board.

(2) One of the following:

a. Minimum net assets in an amount determined by the Board, which amount may not be less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000).
b. A bond in an amount determined by the Board, which amount may not be less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000).
c. Errors and omissions insurance in the amount of two hundred fifty thousand dollars ($250,000), which insurance may be individual coverage or coverage under an employer policy, with coverage parameters established by the Board.

§ 143-151.52 (Repealed effective October 1, 2013) Requirements to be licensed as an associate home inspector.

§ 143-151.53 NOTIFICATION TO APPLICANT FOLLOWING EVALUATION OF APPLICATION.

If the Board finds that the applicant has not met fully the requirements for licensing, the Board shall refuse to issue the license and shall notify in writing the applicant of the denial, stating the grounds of the denial. The application may also be denied for any reason for which a license may be suspended or revoked or not renewed under G.S. 143-151.56. Within 30 days after service of the notification, the applicant may make a written demand upon the Board for a review to determine the reasonableness of the Board's action. The review shall be completed without undue delay, and the applicant shall be notified promptly in writing as to the outcome of the review. Within 30 days after service of the notification as to the outcome, the applicant may make a written demand upon the Board for a hearing under Article 3A of Chapter 150B of the General Statutes if the applicant disagrees with the outcome.

§ 143-151.54 MISCELLANEOUS LICENSE PROVISIONS.

(a) License as Property of the Board and Display of License. - A license issued by the Board is the property of the Board. If the Board suspends or revokes a license issued by it, the individual to whom it is issued must give it to the Board upon demand. An individual who is licensed by the Board must display the license certificate in the manner prescribed by the Board. A license holder whose address changes must report the change to the Board.

(b) Report Criminal Convictions and Disciplinary Actions. - A license holder who is convicted of any felony or misdemeanor or is disciplined by any governmental agency in connection with any other occupational or professional license shall file with the Board a written report of the conviction or disciplinary action within 60 days of the final judgment, order, or disposition of the case.

§ 143-151.55 RENEWAL OF LICENSE; INACTIVE LICENSES; LAPSED LICENSES.

(a) Renewal. - A license expires on September 30 of each year. A license may be renewed by filing an application for renewal with the Board and paying the required renewal fee. The Board must notify license holders at least 30 days before their licenses expire. The Board must renew the license of a person who files an application for renewal, pays the required renewal fee, has fulfilled the continuing education requirements set by the Board, and is not in violation of this Article when the application is filed. If the Board imposes a continuing education requirement as a condition of renewing a license, the Board must ensure that the courses needed to fulfill the requirement are available in all geographic areas of the State.

(b) Late Renewal. - The Board may provide for the late renewal of a license upon the payment of a late fee, but no late renewal of a license may be granted more than one year after the license expires.

(c) Inactive License. - A license holder may apply to the Board to be placed on inactive status. An applicant for inactive status must follow the procedure set by the Board. A license holder who is granted inactive status is not subject to the license renewal requirements during the period the license holder remains on inactive status.

A license holder whose application is granted and is placed on inactive status may apply to the Board to be reinstated to active status at any time. To change a license from inactive status to active status, the license holder must complete the same number of continuing education credit hours that would have been required of the license holder had the license holder maintained an

active license. The number of continuing education credit hours required to return an inactive license to active status shall not exceed 24 credit hours. The Board may set conditions for reinstatement to active status. An individual who is on inactive status and applies to be reinstated to active status must comply with the conditions set by the Board.

(d) Lapsed License. - The license of a licensed home inspector shall lapse if the licensee fails to continuously maintain the [insurance] requirements provided in G.S. 143-151.58(b).

§ 143-151.56 SUSPENSION, REVOCATION, AND REFUSAL TO RENEW LICENSE.

(a) The Board may deny or refuse to issue or renew a license, may suspend or revoke a license, or may impose probationary conditions on a license if the license holder or applicant for licensure has engaged in any of the following conduct:

(1) Employed fraud, deceit, or misrepresentation in obtaining or attempting to obtain or renew a license.
(2) Committed an act of malpractice, gross negligence, or incompetence in the practice of home inspections.
(3) Without having a current license, either performed home inspections for compensation or claimed to be licensed.
(4) Engaged in conduct that could result in harm or injury to the public.
(5) Been convicted of or pled guilty or nolo contendere to any misdemeanor involving moral turpitude or to any felony.
(6) Been adjudicated incompetent.
(7) Engaged in any act or practice that violates any of the provisions of this Article or any rule issued by the Board, or aided, abetted, or assisted any person in a violation of any of the provisions of this Article.
(8) Failed to maintain the requirements provided in G.S. 143-151.58(b).

(b) A denial of licensure, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a license holder may be ordered by the Board after a hearing held in accordance with Article 3A of Chapter 150B of the General Statutes and rules adopted by the Board. An application may be made to the Board for reinstatement of a revoked license if the revocation has been in effect for at least one year.

§ 143-151.57 FEES.

(a) Maximum Fees. - The Board may adopt fees that do not exceed the amounts set in the following table for administering this Article:

Item	Maximum Fee
Application for home inspector license	35.00
Home inspector examination	80.00
Issuance or renewal of home inspector license	160.00
Late renewal of home inspector license	30.00
Application for course approval	150.00
Renewal of course approval	75.00
Course fee, per credit hour per licensee	5.00
Credit for unapproved continuing education course	50.00
Copies of Board rules or licensure standards	Cost of printing and mailing

(b) Subsequent Application. - An individual who applied for a license as a home inspector and who failed the home inspector examination is not required to pay an additional application fee if the individual submits another application for a license as a home inspector. The individual must pay the examination fee, however, to be eligible to take the examination again. An individual may take the examination only once every 90 days.

§ 143-151.58 DUTIES OF LICENSED HOME INSPECTOR.

(a) Home Inspection Report. - A licensed home inspector must give to each person for whom the inspector performs a home inspection for compensation a written report of the home inspection. The inspector must give the person the report by the date set in a written

agreement by the parties to the home inspection. If the parties to the home inspection did not agree on a date in a written agreement, the inspector must give the person the report within:

(1) Three business days after the inspection was performed.

(2) Ten business days after the inspection was performed, if the report describes a deficiency as a violation of the State Residential Building Code in accordance with subsection (a2) of this section.

(a1) Summary Page. - A written report provided under subsection (a) of this section for a prepurchase home inspection of three or more systems must include a summary page that contains the information required by this subsection. All other subject matters pertaining to the home inspection must appear in the body of the report. The summary page must contain the following statement: "This summary page is not the entire report. The complete report may include additional information of interest or concern to you. It is strongly recommended that you promptly read the complete report. For information regarding the negotiability of any item in this report under the real estate purchase contract, contact your North Carolina real estate agent or an attorney."

The summary page must describe any system or component of the home that does not function as intended, allowing for normal wear and tear that does not prevent the system or component from functioning as intended. The summary page must also describe any system or component that appears not to function as intended, based upon documented tangible evidence, and that requires either subsequent examination or further investigation by a specialist. The summary page may describe any system or component that poses a safety concern.

(a2) State Residential Building Code. - If a licensee includes a deficiency in the written report of a home inspection that is stated as a violation of the North Carolina State Residential Building Code, the licensee must do all of the following:

(1) Determine the date of construction, renovation, and any subsequent installation or replacement of any system or component of the home.

(2) Determine the Code in effect at the time of construction, renovation, and any subsequent installation or replacement of any system or component of the home.

(3) Conduct the home inspection using the Code in effect at the time of the construction, renovation, and any subsequent installation or replacement of any system or component of the home.

In order to fully inform the client, if the licensee describes a deficiency as a violation of the Code in the written report, then the report shall include the information described in subdivision (1) of this subsection and photocopies of the relevant provisions of the Code used pursuant to subdivision (2) of this subsection to determine any violation stated in the report. The Board may adopt rules that are more restrictive on the use of the Code by home inspectors.

(b) Insurance, Net Assets, and Bond Requirements. - A licensed home inspector must continuously maintain general liability insurance and minimum net assets, a bond, or errors and omissions insurance as required in G.S. 143-151.51(b).

(c) Repealed by Session Laws 2009-509, s. 3.3, effective October 1, 2013.

(d) Record Keeping. - All licensees under this Article shall make and keep full and accurate records of business done under their licenses. Records shall include the written, signed contract and the written report required by subsection (a) of this section and the standards of practice referred to in G.S. 143-151.49(a)(2) and any other information the Board requires by rule. Records shall be retained by licensees for not less than three years. Licensees shall furnish their records to the Board on demand.

§ 143-151.59 VIOLATION IS A MISDEMEANOR.

A person who violates a provision of this Article is guilty of a Class 2 misdemeanor. Each unlawful act or practice constitutes a distinct and separate offense.

§ 143-151.60 INJUNCTIONS.

The Board may make application to any appropriate court for an order enjoining violations of this Article. Upon a

showing by the Board that any person has violated or is about to violate this Article, the court may grant an injunction or a restraining order or take other appropriate action.

§ 143-151.61 (Repealed effective October 1, 2013)

§ 143-151.62 PERSONS AND PRACTICES NOT AFFECTED.

This Article does not apply to any of the following:

(1) A person who is employed as a code enforcement official by the State or a political subdivision of the State and is certified pursuant to Article 9C of Chapter 143 of the General Statutes, when acting within the scope of that employment.
(2) A plumbing or heating contractor who does not claim to be a home inspector and is licensed under Article 2 of Chapter 87 of the General Statutes, when acting pursuant to that Article.
(3) An electrical contractor who does not claim to be a home inspector and is licensed under Article 4 of Chapter 87 of the General Statutes, when acting pursuant to that Article.
(4) A real estate broker or a real estate sales representative who does not claim to be a home inspector and is licensed under Article 1 of Chapter 93A of the General Statutes, when acting pursuant to that Article.
(5) A structural pest control licensee licensed under the provisions of Article 4C of Chapter 106 of the General Statutes, an employee of the licensee, or a certified applicator licensed under the provisions of Article 4C of Chapter 106 of the General Statutes who does not claim to be a home inspector, while performing structural pest control activities pursuant to that Article.

§ 143-151.63 ADMINISTRATION.

(a) The Division of Engineering and Building Code in the Department of Insurance shall provide clerical and other staff services required by the Board, and shall administer and enforce all provisions of this Article and all rules adopted under this Article, subject to the direction of the Board. The Board shall reimburse the Division for its services to the Board.
(b) Any monies received by the Board pursuant to this Article shall be deposited in the State treasury to the account of the Board and shall be used to administer this Article.
(c) The books and records of the Board are subject to the oversight of the State Auditor, as provided in G.S. 93B-4.

§ 143-151.64 CONTINUING EDUCATION REQUIREMENTS.

(a) Requirements. - The Board may establish programs of continuing education for licensees under this Article. A licensee subject to a program under this section shall present evidence to the Board upon the license renewal following initial licensure, and every renewal thereafter, that during the 12 months preceding the annual license expiration date the licensee has completed the required number of classroom hours of instruction in courses approved by the Board. Annual continuing education hour requirements shall be determined by the Board but shall not be less than 12 credit hours and no more than 20 hours. No member of the Board shall provide or sponsor a continuing education course under this section while that person is serving on the Board.

(b) Fees. - The Board may establish a nonrefundable course application fee to be charged to a course sponsor for the review and approval of a proposed continuing education course. Approval of a continuing education course must be renewed annually. The Board may also require a course sponsor to pay a fee for each licensee completing an approved continuing education course conducted by the sponsor.

(c) Credit for Unapproved Course. - The Board may award continuing education credit for an unapproved course or related educational activity. The Board may prescribe procedures for a licensee to submit information on an unapproved course or related educational activity for continuing education credit. The Board may charge a fee to the licensee for each course or activity submitted.

(d) Extension of Time. - The Board may, for good cause shown, grant extensions of time to licensees to comply with these requirements. Any licensee who, after obtaining an extension under this subsection, offers evidence satisfactory to the Board that the licensee has

satisfactorily completed the required continuing education courses, is in compliance with this section.

(e) Rules. - The Board may adopt rules governing continuing education requirements, including rules that govern:

(1) The content and subject matter of continuing education courses.
(2) The criteria, standards, and procedures for the approval of courses, course sponsors, and course instructors.
(3) The methods of instruction.
(4) The computation of course credit.
(5) The ability to carry forward course credit from one year to another.
(6) The waiver of or variance from the continuing education requirement for hardship or other reasons.
(7) The procedures for compliance and sanctions for noncompliance.

CHAPTER 150B - ADMINISTRATIVE PROCEDURES ACT

Administrative Procedures Act

§ 150B-18 SCOPE AND EFFECT.

This Article applies to an agency's exercise of its authority to adopt a rule. A rule is not valid unless it is adopted in substantial compliance with this Article. An agency shall not seek to implement or enforce against any person a policy, guideline, or other interpretive statement that meets the definition of a rule contained in G.S. 150B-2(8a) if the policy, guideline, or other interpretive statement has not been adopted as a rule in accordance with this Article.

§ 150B-19 RESTRICTIONS ON WHAT CAN BE ADOPTED AS A RULE.

An agency may not adopt a rule that does one or more of the following:

(1) Implements or interprets a law unless that law or another law specifically authorizes the agency to do so.

(2) Enlarges the scope of a profession, occupation, or field of endeavor for which an occupational license is required.

(3) Imposes criminal liability or a civil penalty for an act or omission, including the violation of a rule, unless a law specifically authorizes the agency to do so or a law declares that violation of the rule is a criminal offense or is grounds for a civil penalty.

(4) Repeats the content of a law, a rule, or a federal regulation. A brief statement that informs the public of a requirement imposed by law does not violate this subdivision and satisfies the "reasonably necessary" standard of review set in G.S. 150B-21.9(a)(3).

(5) Establishes a fee or other charge for providing a service in fulfillment of a duty unless a law specifically authorizes the agency to do so or the fee or other charge is for one of the following:

a. A service to a State, federal, or local governmental unit.
b. A copy of part or all of a State publication or other document, the cost of mailing a document, or both.
c. A transcript of a public hearing.
d. A conference, workshop, or course.
e. Data processing services.

(6) Allows the agency to waive or modify a requirement set in a rule unless a rule establishes specific guidelines the agency must follow in determining whether to waive or modify the requirement.

(7) Repealed by Session Laws 2011-398, s. 61.2, effective July 25, 2011.

§ 150B-20 PETITIONING AN AGENCY TO ADOPT A RULE.

(a) Petition. - A person may petition an agency to adopt a rule by submitting to the agency a written rule-making petition requesting the adoption. A person may submit written comments with a rule-making petition. If a rule-making petition requests the agency to create or amend a rule, the person must submit the proposed text of the requested rule change and a statement of the effect of the requested rule change. Each agency must establish by rule the procedure for submitting a rule-making petition to it and the procedure the agency follows in considering a rule-making petition.

(b) Time. - An agency must grant or deny a rule-making petition submitted to it within 30 days after the date the rule-making petition is submitted, unless the agency is a board or commission. If the agency is a board or commission, it must grant or deny a rule-making petition within 120 days after the date the rule-making petition is submitted.

(c) Action. - If an agency denies a rule-making petition, it must send the person who submitted the petition a written statement of the reasons for denying the petition. If an agency grants a rule-making petition, it must inform the person who submitted the rule-making petition of its decision and must initiate rule-making proceedings. When an agency grants a rule-making petition, the notice of text it publishes in the North Carolina Register may state that the agency is initiating rule making as the result of a rule-making petition and state the name of the person who submitted the rule-making petition. If the rule-making petition requested the creation or amendment of a rule, the notice of text the agency publishes may set out the text of the requested rule change submitted with the rule-making petition and state whether the agency endorses the proposed text.

(d) Review. - Denial of a rule-making petition is a final agency decision and is subject to judicial review under Article 4 of this Chapter. Failure of an agency to grant or deny a rule-making petition within the time limits set in subsection (b) is a denial of the rule-making petition.

(e) Repealed by Session Laws 1996, Second Extra Session, c. 18, s. 7.10(b).

§ 150B-21.2 PROCEDURE FOR ADOPTING A PERMANENT RULE.

(a) Steps. - Before an agency adopts a permanent rule, the agency must comply with the requirements of G.S. 150B-19.1, and it must take the following actions:

(1) Publish a notice of text in the North Carolina Register.

(2) When required by G.S. 150B-21.4, prepare or obtain a fiscal note for the proposed rule.

(3) Repealed by Session Laws 2003-229, s. 4, effective July 1, 2003.

(4) When required by subsection (e) of this section, hold a public hearing on the proposed rule after publication of the proposed text of the rule.

(5) Accept oral or written comments on the proposed rule as required by subsection (f) of this section.

(b) Repealed by Session Laws 2003-229, s. 4, effective July 1, 2003.

(c) Notice of Text. - A notice of the proposed text of a rule must include all of the following:

(1) The text of the proposed rule, unless the rule is a readoption without substantive changes to the existing rule proposed in accordance with G.S. 150B-21.3A.

(2) A short explanation of the reason for the proposed rule.

(2a) A link to the agency's website containing the information required by G.S. 150B-19.1(c).

(3) A citation to the law that gives the agency the authority to adopt the rule.

(4) The proposed effective date of the rule.

(5) The date, time, and place of any public hearing scheduled on the rule.

(6) Instructions on how a person may demand a public hearing on a proposed rule if the notice does not schedule a public hearing on the proposed rule and subsection (e) of this section requires the agency to hold a public hearing on the proposed rule when requested to do so.

(7) The (i) period of time during which and (ii) person within the agency to whom written comments may be submitted on the proposed rule.

(8) If a fiscal note has been prepared for the rule, a statement that a copy of the fiscal note can be obtained from the agency.

(9) Repealed by Session Laws 2013-143, s. 1, effective June 19, 2013.

(d) Mailing List. - An agency must maintain a mailing list of persons that have requested notice of rulemaking. When an agency publishes in the North Carolina Register a notice of text of a proposed rule, it must mail a copy of the notice of text to each person on the mailing list that has requested notice on the subject

matter described in the notice or the rule affected. An agency may charge an annual fee to each person on the agency's mailing list to cover copying and mailing costs.

(e) Hearing. - An agency must hold a public hearing on a rule it proposes to adopt if the agency publishes the text of the proposed rule in the North Carolina Register and the agency receives a written request for a public hearing on the proposed rule within 15 days after the notice of text is published. The agency must accept comments at the public hearing on both the proposed rule and any fiscal note that has been prepared in connection with the proposed rule.

An agency may hold a public hearing on a proposed rule and fiscal note in other circumstances. When an agency is required to hold a public hearing on a proposed rule or decides to hold a public hearing on a proposed rule when it is not required to do so, the agency must publish in the North Carolina Register a notice of the date, time, and place of the public hearing. The hearing date of a public hearing held after the agency publishes notice of the hearing in the North Carolina Register must be at least 15 days after the date the notice is published. If notice of a public hearing has been published in the North Carolina Register and that public hearing has been cancelled, the agency must publish notice in the North Carolina Register at least 15 days prior to the date of any rescheduled hearing.

(f) Comments. - An agency must accept comments on the text of a proposed rule that is published in the North Carolina Register and any fiscal note that has been prepared in connection with the proposed rule for at least 60 days after the text is published or until the date of any public hearing held on the proposed rule, whichever is longer. An agency must consider fully all written and oral comments received.

(g) Adoption. - An agency shall not adopt a rule until the time for commenting on the proposed text of the rule has elapsed and shall not adopt a rule if more than 12 months have elapsed since the end of the time for commenting on the proposed text of the rule. Prior to adoption, an agency must review any fiscal note that has been prepared for the proposed rule and consider any public comments received in connection with the proposed rule or the fiscal note. An agency shall not adopt a rule that differs substantially from the text of a proposed rule published in the North Carolina Register unless the agency publishes the text of the proposed different rule in the North Carolina Register and accepts comments on the proposed different rule for the time set in subsection (f) of this section.

An adopted rule differs substantially from a proposed rule if it does one or more of the following:

(1) Affects the interests of persons that, based on the proposed text of the rule published in the North Carolina Register, could not reasonably have determined that the rule would affect their interests.

(2) Addresses a subject matter or an issue that is not addressed in the proposed text of the rule.

(3) Produces an effect that could not reasonably have been expected based on the proposed text of the rule.

When an agency adopts a rule, it shall not take subsequent action on the rule without following the procedures in this Part. An agency must submit an adopted rule to the Rules Review Commission within 30 days of the agency's adoption of the rule.

(h) Explanation. - An agency must issue a concise written statement explaining why the agency adopted a rule if, within 15 days after the agency adopts the rule, a person asks the agency to do so. The explanation must state the principal reasons for and against adopting the rule and must discuss why the agency rejected any arguments made or considerations urged against the adoption of the rule. The agency must issue the explanation within 15 days after receipt of the request for an explanation.

(i) Record. - An agency must keep a record of a rulemaking proceeding. The record must include all written comments received, a transcript or recording of any public hearing held on the rule, any fiscal note that has been prepared for the rule, and any written explanation made by the agency for adopting the rule.

§ 150B-21.3 EFFECTIVE DATE OF RULES.

(a) Temporary and Emergency Rules. - A temporary rule or an emergency rule becomes effective on the date the Codifier of Rules enters the rule in the North Carolina Administrative Code.

(b) Permanent Rule. - A permanent rule approved by the Commission becomes effective on the first day of the month following the month the rule is approved by the Commission, unless the Commission received written objections to the rule in accordance with subsection (b2) of this section, or unless the agency that adopted the rule specifies a later effective date.

(b1) Delayed Effective Dates. - If the Commission received written objections to the rule in accordance with subsection (b2) of this section, the rule becomes effective on the earlier of the thirty-first legislative day or the day of adjournment of the next regular session of the General Assembly that begins at least 25 days after the date the Commission approved the rule, unless a different effective date applies under this section. If a bill that specifically disapproves the rule is introduced in either house of the General Assembly before the thirty-first legislative day of that session, the rule becomes effective on the earlier of either the day an unfavorable final action is taken on the bill or the day that session of the General Assembly adjourns without ratifying a bill that specifically disapproves the rule. If the agency adopting the rule specifies a later effective date than the date that would otherwise apply under this subsection, the later date applies. A permanent rule that is not approved by the Commission or that is specifically disapproved by a bill enacted into law before it becomes effective does not become effective.

A bill specifically disapproves a rule if it contains a provision that refers to the rule by appropriate North Carolina Administrative Code citation and states that the rule is disapproved. Notwithstanding any rule of either house of the General Assembly, any member of the General Assembly may introduce a bill during the first 30 legislative days of any regular session to disapprove a rule that has been approved by the Commission and that either has not become effective or has become effective by executive order under subsection (c) of this section.

(b2) Objection. - Any person who objects to the adoption of a permanent rule may submit written comments to the agency. If the objection is not resolved prior to adoption of the rule, a person may submit written objections to the Commission. If the Commission receives written objections from 10 or more persons, no later than 5:00 P.M. of the day following the day the Commission approves the rule, clearly requesting review by the legislature in accordance with instructions contained in the notice pursuant to G.S. 150B-21.2(c)(9), and the Commission approves the rule, the rule will become effective as provided in subsection (b1) of this section. The Commission shall notify the agency that the rule is subject to legislative disapproval on the day following the day it receives 10 or more written objections. When the requirements of this subsection have been met and a rule is subject to legislative disapproval, the agency may adopt the rule as a temporary rule if the rule would have met the criteria listed in G.S. 150B-21.1(a) at the time the notice of text for the permanent rule was published in the North Carolina Register. If the Commission receives objections from 10 or more persons clearly requesting review by the legislature, and the rule objected to is one of a group of related rules adopted by the agency at the same time, the agency that adopted the rule may cause any of the other rules in the group to become effective as provided in subsection (b1) of this section by submitting a written statement to that effect to the Commission before the other rules become effective.

(c) Executive Order Exception. - The Governor may, by executive order, make effective a permanent rule that has been approved by the Commission but the effective date of which has been delayed in accordance with subsection (b1) of this section upon finding that it is necessary that the rule become effective in order to protect public health, safety, or welfare. A rule made effective by executive order becomes effective on the date the order is issued or at a later date specified in the order. When the Codifier of Rules enters in the North Carolina Administrative Code a rule made effective by executive order, the entry must reflect this action.

A rule that is made effective by executive order remains in effect unless it is specifically disapproved by the General Assembly in a bill enacted into law on or before the day of adjournment of the regular session of the General Assembly that begins at least 25 days after the date the executive order is issued. A rule that is made effective by executive order and that is specifically disapproved by a bill enacted into law is repealed as of the date specified in the bill. If a rule that is made effective by executive order is not specifically disapproved by a bill enacted into law within the time

set by this subsection, the Codifier of Rules must note this in the North Carolina Administrative Code.

(c1) Fees. - Notwithstanding any other provision of this section, a rule that establishes a new fee or increases an existing fee shall not become effective until the agency has complied with the requirements of G.S. 12-3.1.

(d) Legislative Day and Day of Adjournment. - As used in this section:

(1) A "legislative day" is a day on which either house of the General Assembly convenes in regular session.

(2) The "day of adjournment" of a regular session held in an odd-numbered year is the day the General Assembly adjourns by joint resolution or by operation of law for more than 30 days.

(3) The "day of adjournment" of a regular session held in an even-numbered year is the day the General Assembly adjourns sine die.

(e) OSHA Standard. - A permanent rule concerning an occupational safety and health standard that is adopted by the Occupational Safety and Health Division of the Department of Labor and is identical to a federal regulation promulgated by the Secretary of the United States Department of Labor becomes effective on the date the Division delivers the rule to the Codifier of Rules, unless the Division specifies a later effective date. If the Division specifies a later effective date, the rule becomes effective on that date.

(f) Technical Change. - A permanent rule for which no notice or hearing is required under G.S. 150B-21.5(a)(1) through (a)(5) or G.S. 150B-21.5(b) becomes effective on the first day of the month following the month the rule is approved by the Rules Review Commission.

§ 150B-21.4 FISCAL NOTES ON RULES.

(a) State Funds. - Before an agency adopts a permanent rule change that would require the expenditure or distribution of funds subject to the State Budget Act, Chapter 143C of the General Statutes it must obtain certification from the Office of State Budget and Management that the funds that would be required by the proposed rule change are available. The agency shall submit the text of the proposed rule change, an analysis of the proposed rule change, and a fiscal note on the proposed rule change to the Office at the same time as the agency submits the notice of text for publication pursuant to G.S. 150B-21.2. The fiscal note must state the amount of funds that would be expended or distributed as a result of the proposed rule change and explain how the amount was computed. The Office of State Budget and Management must certify a proposed rule change if funds are available to cover the expenditure or distribution required by the proposed rule change.

(a1) DOT Analyses. - In addition to the requirements of subsection (a) of this section, any agency that adopts a rule affecting environmental permitting of Department of Transportation projects shall conduct an analysis to determine if the rule will result in an increased cost to the Department of Transportation. The analysis shall be conducted and submitted to the Board of Transportation when the agency submits the notice of text for publication. The agency shall consider any recommendations offered by the Board of Transportation prior to adopting the rule. Once a rule subject to this subsection is adopted, the Board of Transportation may submit any objection to the rule it may have to the Rules Review Commission. If the Rules Review Commission receives an objection to a rule from the Board of Transportation no later than 5:00 P.M. of the day following the day the Commission approves the rule, then the rule shall only become effective as provided in G.S. 150B-21.3(b1).

(b) Local Funds. - Before an agency adopts a permanent rule change that would affect the expenditures or revenues of a unit of local government, it must submit the text of the proposed rule change and a fiscal note on the proposed rule change to the Office of State Budget and Management as provided by G.S. 150B-21.26, the Fiscal Research Division of the General Assembly, the North Carolina Association of County Commissioners, and the North Carolina League of Municipalities. The fiscal note must state the amount by which the proposed rule change would increase or decrease expenditures or revenues of a unit of local government and must explain how the amount was computed.

(b1) Substantial Economic Impact. - Before an agency adopts a permanent rule change that would have a substantial economic impact and that is not identical to

a federal regulation that the agency is required to adopt, the agency shall prepare a fiscal note for the proposed rule change and have the note approved by the Office of State Budget and Management. The agency may request the Office of State Budget and Management to prepare the fiscal note only after, working with the Office, it has exhausted all resources, internal and external, to otherwise prepare the required fiscal note. If an agency requests the Office of State Budget and Management to prepare a fiscal note for a proposed rule change, that Office must prepare the note within 90 days after receiving a written request for the note. If the Office of State Budget and Management fails to prepare a fiscal note within this time period, the agency proposing the rule change shall prepare a fiscal note. A fiscal note prepared in this circumstance does not require approval of the Office of State Budget and Management.

If an agency prepares the required fiscal note, the agency must submit the note to the Office of State Budget and Management for review. The Office of State Budget and Management shall review the fiscal note within 14 days after it is submitted and either approve the note or inform the agency in writing of the reasons why it does not approve the fiscal note. After addressing these reasons, the agency may submit the revised fiscal note to that Office for its review. If an agency is not sure whether a proposed rule change would have a substantial economic impact, the agency shall ask the Office of State Budget and Management to determine whether the proposed rule change has a substantial economic impact. Failure to prepare or obtain approval of the fiscal note as required by this subsection shall be a basis for objection to the rule under G.S. 150B-21.9(a)(4).

As used in this subsection, the term "substantial economic impact" means an aggregate financial impact on all persons affected of at least one million dollars ($1,000,000) in a 12-month period. In analyzing substantial economic impact, an agency shall do the following:

(1) Determine and identify the appropriate time frame of the analysis.
(2) Assess the baseline conditions against which the proposed rule is to be measured.
(3) Describe the persons who would be subject to the proposed rule and the type of expenditures these persons would be required to make.
(4) Estimate any additional costs that would be created by implementation of the proposed rule by measuring the incremental difference between the baseline and the future condition expected after implementation of the rule. The analysis should include direct costs as well as opportunity costs. Cost estimates must be monetized to the greatest extent possible. Where costs are not monetized, they must be listed and described.
(5) For costs that occur in the future, the agency shall determine the net present value of the costs by using a discount factor of seven percent (7%).

(b2) Content. - A fiscal note required by subsection (b1) of this section must contain the following:

(1) A description of the persons who would be affected by the proposed rule change.
(2) A description of the types of expenditures that persons affected by the proposed rule change would have to make to comply with the rule and an estimate of these expenditures.
(3) A description of the purpose and benefits of the proposed rule change.
(4) An explanation of how the estimate of expenditures was computed.
(5) A description of at least two alternatives to the proposed rule that were considered by the agency and the reason the alternatives were rejected. The alternatives may have been identified by the agency or by members of the public.

(c) Errors. - An erroneous fiscal note prepared in good faith does not affect the validity of a rule.

§ 150B-21.5 CIRCUMSTANCES WHEN NOTICE AND RULE-MAKING HEARING NOT REQUIRED.

(a) Amendment. - An agency is not required to publish a notice of text in the North Carolina Register or hold a public hearing when it proposes to amend a rule to do one of the following:

(1) Reletter or renumber the rule or subparts of the rule.

(2) Substitute one name for another when an organization or position is renamed.
(3) Correct a citation in the rule to another rule or law when the citation has become inaccurate since the rule was adopted because of the repeal or renumbering of the cited rule or law.
(4) Change information that is readily available to the public, such as an address or a telephone number.
(5) Correct a typographical error in the North Carolina Administrative Code.
(6) Change a rule in response to a request or an objection by the Commission, unless the Commission determines that the change is substantial.

(b) Repeal. - An agency is not required to publish a notice of text in the North Carolina Register or hold a public hearing when it proposes to repeal a rule as a result of any of the following:

(1) The law under which the rule was adopted is repealed.

(2) The law under which the rule was adopted or the rule itself is declared unconstitutional.

(3) The rule is declared to be in excess of the agency's statutory authority.

(c) OSHA Standard. - The Occupational Safety and Health Division of the Department of Labor is not required to publish a notice of text in the North Carolina Register or hold a public hearing when it proposes to adopt a rule that concerns an occupational safety and health standard and is identical to a federal regulation promulgated by the Secretary of the United States Department of Labor. The Occupational Safety and Health Division is not required to submit to the Commission for review a rule for which notice and hearing is not required under this subsection.

(d) State Building Code. - The Building Code Council is not required to publish a notice of text in the North Carolina Register when it proposes to adopt a rule that concerns the North Carolina State Building Code. The Building Code Council is required to publish a notice in the North Carolina Register when it proposes to adopt a rule that concerns the North Carolina State Building Code. The notice must include all of the following:

(1) A statement of the subject matter of the proposed rule making.
(2) A short explanation of the reason for the proposed action.
(3) A citation to the law that gives the agency the authority to adopt a rule on the subject matter of the proposed rule making.
(4) The person to whom questions or written comments may be submitted on the subject matter of the proposed rule making.

The Building Code Council is required to submit to the Commission for review a rule for which notice of text is not required under this subsection. In adopting a rule, the Council shall comply with the procedural requirements of G.S. 150B-21.3.

§ 150B-21.6 INCORPORATING MATERIAL IN A RULE BY REFERENCE.

An agency may incorporate the following material by reference in a rule without repeating the text of the referenced material:

(1) Another rule or part of a rule adopted by the agency.
(2) All or part of a code, standard, or regulation adopted by another agency, the federal government, or a generally recognized organization or association.
(3) Repealed by Session Laws 1997-34, s. 5.

In incorporating material by reference, the agency must designate in the rule whether or not the incorporation includes subsequent amendments and editions of the referenced material. The agency can change this designation only by a subsequent rule-making proceeding. The agency must have copies of the incorporated material available for inspection and must specify in the rule both where copies of the material can be obtained and the cost on the date the rule is adopted of a copy of the material.

A statement in a rule that a rule incorporates material by reference in accordance with former G.S. 150B-14(b) is a statement that the rule does not include subsequent amendments and editions of the referenced material. A statement in a rule that a rule incorporates material by reference in accordance with former G.S. 150B-14(c) is a statement that the rule includes subsequent amendments and editions of the referenced material.

§ 150B-21.7 EFFECT OF TRANSFER OF DUTIES OR TERMINATION OF AGENCY ON RULES.

(a) When a law that authorizes an agency to adopt a rule is repealed and another law gives the same or another agency substantially the same authority to adopt a rule, the rule remains in effect until the agency with authority over the rule amends or repeals the rule. When a law that authorizes an agency to adopt a rule is repealed and another law does not give the same or another agency substantially the same authority to adopt a rule, a rule adopted under the repealed law is repealed as of the date the law is repealed. The agency that adopted the rule shall notify the Codifier of Rules that the rule is repealed pursuant to this subsection.

(b) When an executive order abolishes part or all of an agency and transfers a function of that agency to another agency, a rule concerning the transferred function remains in effect until the agency to which the function is transferred amends or repeals the rule. When an executive order abolishes part or all of an agency and does not transfer a function of that agency to another agency, a rule concerning a function abolished by the executive order is repealed as of the effective date of the executive order. The agency that adopted the rule shall notify the Codifier of Rules that the rule is repealed pursuant to this subsection.

(c) When notified of a rule repealed under this section, the Codifier of Rules must enter the repeal of the rule in the North Carolina Administrative Code.

Part 3. Review by Commission.

§ 150B-21.8 REVIEW OF RULE BY COMMISSION.

(a) Emergency Rule. - The Commission does not review an emergency rule.

(b) Temporary and Permanent Rules. - An agency must submit temporary and permanent rules adopted by it to the Commission before the rule can be included in the North Carolina Administrative Code. The Commission reviews a temporary or permanent rule in accordance with the standards in G.S. 150B-21.9 and follows the procedure in this Part in its review of a rule.

(c) Scope. - When the Commission reviews an amendment to a permanent rule, it may review the entire rule that is being amended. The procedure in G.S. 150B-21.12 applies when the Commission objects to a part of a permanent rule that is within its scope of review but is not changed by a rule amendment.

(d) Judicial Review. - When the Commission returns a permanent rule to an agency in accordance with G.S. 150B-21.12(d), the agency may file an action for declaratory judgment in Wake County Superior Court pursuant to Article 26 of Chapter 1 of the General Statutes.

§ 150B-21.9 STANDARDS AND TIMETABLE FOR REVIEW BY COMMISSION.

(a) Standards. - The Commission must determine whether a rule meets all of the following criteria:

(1) It is within the authority delegated to the agency by the General Assembly.
(2) It is clear and unambiguous.
(3) It is reasonably necessary to implement or interpret an enactment of the General Assembly, or of Congress, or a regulation of a federal agency. The Commission shall consider the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed.
(4) It was adopted in accordance with Part 2 of this Article.

The Commission shall not consider questions relating to the quality or efficacy of the rule but shall restrict its review to determination of the standards set forth in this subsection.

The Commission may ask the Office of State Budget and Management to determine if a rule has a substantial economic impact and is therefore required to have a fiscal note. The Commission must ask the Office of State Budget and Management to make this determination if a fiscal note was not prepared for a rule and the Commission receives a written request for a determination of whether the rule has a substantial economic impact.

(a1) Entry of a rule in the North Carolina Administrative Code after review by the Commission creates a rebuttable presumption that the rule was adopted in accordance with Part 2 of this Article.

(b) Timetable. - The Commission must review a permanent rule submitted to it on or before the twentieth of a month by the last day of the next month. The Commission must review a rule submitted to it after the

twentieth of a month by the last day of the second subsequent month. The Commission must review a temporary rule in accordance with the timetable and procedure set forth in G.S. 150B-21.1.

§ 150B-21.10 COMMISSION ACTION ON PERMANENT RULE.

At the first meeting at which a permanent rule is before the Commission for review, the Commission must take one of the following actions:

(1) Approve the rule, if the Commission determines that the rule meets the standards for review.
(2) Object to the rule, if the Commission determines that the rule does not meet the standards for review.
(3) Extend the period for reviewing the rule, if the Commission determines it needs additional information on the rule to be able to decide whether the rule meets the standards for review.

In reviewing a new rule or an amendment to an existing rule, the Commission may request an agency to make technical changes to the rule and may condition its approval of the rule on the agency's making the requested technical changes.

§ 150B-21.11 PROCEDURE WHEN COMMISSION APPROVES PERMANENT RULE.

When the Commission approves a permanent rule, it must notify the agency that adopted the rule of the Commission's approval and deliver the approved rule to the Codifier of Rules. Regulatory Reform

If the approved rule will increase or decrease expenditures or revenues of a unit of local government, the Commission must also notify the Governor of the Commission's approval of the rule and deliver a copy of the approved rule to the Governor by the end of the month in which the Commission approved the rule.

§ 150B-21.12 PROCEDURE WHEN COMMISSION OBJECTS TO A PERMANENT RULE.

(a) Action. - When the Commission objects to a permanent rule, it must send the agency that adopted the rule a written statement of the objection and the reason for the objection. The agency that adopted the rule must take one of the following actions:

(1) Change the rule to satisfy the Commission's objection and submit the revised rule to the Commission.
(2) Submit a written response to the Commission indicating that the agency has decided not to change the rule.

(b) Time Limit. - An agency that is not a board or commission must take one of the actions listed in subsection (a) of this section within 30 days after receiving the Commission's statement of objection. A board or commission must take one of these actions within 30 days after receiving the Commission's statement of objection or within 10 days after the board or commission's next regularly scheduled meeting, whichever comes later.

(c) Changes. - When an agency changes a rule in response to an objection by the Commission, the Commission must determine whether the change satisfies the Commission's objection. If it does, the Commission must approve the rule. If it does not, the Commission must send the agency a written statement of the Commission's continued objection and the reason for the continued objection. The Commission must also determine whether the change is substantial. In making this determination, the Commission shall use the standards set forth in G.S. 150B-21.2(g). If the change is substantial, the revised rule shall be published and reviewed in accordance with the procedure set forth in G.S. 150B-21.1(a3) and (b).

(d) Return of Rule. - A rule to which the Commission has objected remains under review by the Commission until the agency that adopted the rule decides not to satisfy the Commission's objection and makes a written request to the Commission to return the rule to the agency. When the Commission returns a rule to which it has objected, it must notify the Codifier of Rules of its action. If the rule that is returned would have increased or decreased expenditures or revenues of a unit of local government, the Commission must also notify the Governor of its action and must send a copy of the record of the Commission's review of the rule to the Governor. The record of review consists of the rule, the Commission's letter of objection to the rule, the agency's written response to the Commission's letter,

and any other relevant documents before the Commission when it decided to object to the rule.

General Statutes 160D-401 through 160D-404 and 160D-1101 through 160D-1129 were made effective on June 19, 2020, through SESSION LAW 2020-25.

CHAPTER 160D - LOCAL PLANNING & DEVELOPMENT REGULATION

Article 4.

Local Planning & Development Regulation: Administration, Enforcement & Appeals

§ 160D-402 ADMINISTRATIVE STAFF.

(a) Authorization. - Local governments may appoint administrators, inspectors, enforcement officers, planners, technicians, and other staff to develop, administer, and enforce development regulations authorized by this Chapter.

(b) Duties. - Duties assigned to staff may include, but are not limited to, drafting and implementing plans and development regulations to be adopted pursuant to this Chapter; determining whether applications for development approvals are complete; receiving and processing applications for development approvals; providing notices of applications and hearings; making decisions and determinations regarding development regulation implementation; determining whether applications for development approvals meet applicable standards as established by law and local ordinance; conducting inspections; issuing or denying certificates of compliance or occupancy; enforcing development regulations, including issuing notices of violation, orders to correct violations, and recommending bringing judicial actions against actual or threatened violations; keeping adequate records; and any other actions that may be required in order adequately to enforce the laws and development regulations under their jurisdiction. A development regulation may require that designated staff members take an oath of office. The local government shall have the authority to enact ordinances, procedures, and fee schedules relating to the administration and the enforcement of this Chapter. The administrative and enforcement provisions related to building permits set forth in Article 11 of this Chapter shall be followed for those permits.

(c) Alternative Staff Arrangements. - A local government may enter into contracts with another city, county, or combination thereof under which the parties agree to create a joint staff for the enforcement of State and local laws specified in the agreement. The governing boards of the contracting parties may make any necessary appropriations for this purpose. In lieu of joint staff, a governing board may designate staff from any other city or county to serve as a member of its staff with the approval of the governing board of the other city or county. A staff member, if designated from another city or county under this section, shall, while exercising the duties of the position, be considered an agent of the local government exercising those duties. The governing board of one local government may request the governing board of a second local government to direct one or more of the second local government's staff members to exercise their powers within part or all of the first local government's jurisdiction, and they shall thereupon be empowered to do so until the first local government officially withdraws its request in the manner provided in G.S. 160D-202.

A local government may contract with an individual, company, council of governments, regional planning agency, metropolitan planning organization, or rural planning agency to designate an individual who is not a city or county employee to work under the supervision of the local government to exercise the functions authorized by this section. The local government shall have the same potential liability, if any, for inspections conducted by an individual who is not an employee of the local government as it does for an individual who is an employee of the local government. The company or individual with whom the local government contracts shall have errors and omissions and other insurance coverage acceptable to the local government.

(d) Financial Support. - The local government may appropriate for the support of the staff any funds that it deems necessary. It shall have power to fix reasonable fees for support, administration, and implementation of programs authorized by this Chapter, and all such fees shall be used for no other purposes. When an

inspection, for which the permit holder has paid a fee to the local government, is performed by a marketplace pool Code-enforcement official upon request of the Insurance Commissioner under G.S. 143-151.12(9) a., the local government shall promptly return to the permit holder the fee collected by the local government for such inspection. This subsection applies to the following types of inspection: plumbing, electrical systems, general building restrictions and regulations, heating and air-conditioning, and the general construction of buildings.

§ 160D-403 ADMINISTRATIVE DEVELOPMENT APPROVALS AND DETERMINATIONS.

(a) Development Approvals. - To the extent consistent with the scope of regulatory authority granted by this Chapter, no person shall commence or proceed with development without first securing any required development approval from the local government with jurisdiction over the site of the development. A development approval shall be in writing and may contain a provision that the development shall comply with all applicable State and local laws. A local government may issue development approvals in print or electronic form. Any development approval issued exclusively in electronic form shall be protected from further editing once issued. Applications for development approvals may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement.

(b) Determinations and Notice of Determinations. - A development regulation enacted under the authority of this Chapter may designate the staff member or members charged with making determinations under the development regulation.

The officer making the determination shall give written notice to the owner of the property that is the subject of the determination and to the party who sought the determination, if different from the owner. The written notice shall be delivered by personal delivery, email or first-class mail. The notice shall be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner.

It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the determination from the date a sign providing notice that a determination has been made is prominently posted on the property that is the subject of the determination, so long as the sign remains on the property for at least 10 days. A posted sign shall contain the words "Zoning Decision" or "Subdivision Decision" or similar language for other determinations in letters at least six inches high and shall identify the means to contact a local government staff member for information about the determination. Posting of signs is not the only form of constructive notice. Any sign posting shall be the responsibility of the landowner, applicant, or person that sought the determination. Verification of the posting shall be provided to the staff member responsible for the determination. Absent an ordinance provision to the contrary, posting of signs is not be required.

(c) Duration of Development Approval. - Unless a different period is specified by this Chapter or other specific applicable law, or a different period is provided by a quasi-judicial development approval, a development agreement, or a local ordinance, a development approval issued pursuant to this Chapter shall expire one year after the date of issuance if the work authorized by the development approval has not been substantially commenced. Local development regulations may provide for development approvals of shorter duration for temporary land uses, special events, temporary signs, and similar development. Unless provided otherwise by this Chapter or other specific applicable law or a longer period is provided by local ordinance, if after commencement the work or activity is discontinued for a period of 12 months after commencement, the development approval shall immediately expire. The time periods set out in this subsection shall be tolled during the pendency of any appeal. No work or activity authorized by any development approval that has expired shall thereafter be performed until a new development approval has been secured. Nothing in this subsection shall be

deemed to limit any vested rights secured under G.S. 160D-108.

(d) Changes. - After a development approval has been issued, no deviations from the terms of the application or the development approval shall be made until written approval of proposed changes or deviations has been obtained. A local government may define by ordinance minor modifications to development approvals that can be exempted or administratively approved. The local government shall follow the same development review and approval process required for issuance of the development approval in the review and approval of any major modification of that approval.

(e) Inspections. - Administrative staff may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff may enter any premises within the jurisdiction of the local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials, so long as the appropriate consent has been given for inspection of areas not open to the public or an appropriate inspection warrant has been secured.

(f) Revocation of Development Approvals. - In addition to initiation of enforcement actions under G.S. 160D-404, development approvals may be revoked by the local government issuing the development approval by notifying the holder in writing stating the reason for the revocation. The local government shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed pursuant to G.S. 160D-405(f). If an appeal is filed regarding a development regulation adopted by a local government pursuant to this Chapter, the provisions of G.S. 160D-405(e) regarding stays shall be applicable.

(g) Certificate of Occupancy. - A local government may, upon completion of work or activity undertaken pursuant to a development approval, make final inspections and issue a certificate of compliance or occupancy if staff finds that the completed work complies with all applicable State and local laws and with the terms of the approval. No building, structure, or use of land that is subject to a building permit required by Article 11 of this Chapter shall be occupied or used until a certificate of occupancy or temporary certificate pursuant to G.S. 160D-1116 has been issued.

(h) Optional Communication Requirements. - A regulation adopted pursuant to this Chapter may require notice or informational meetings, or both, as part of the administrative decision-making process.

§ 160D-404 ENFORCEMENT.

(a) Notices of Violation. - When staff determines work or activity has been undertaken in violation of a development regulation adopted pursuant to this Chapter or other local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the local government that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1123 or G.S. 160D-1206 or otherwise provided by law, a notice of violation may be appealed to the board of adjustment pursuant to G.S. 160D-405.

(b) Stop Work Orders. - Whenever any work or activity subject to regulation pursuant to this Chapter or other applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State is undertaken in substantial violation of any State or local law, or in a manner that endangers life or property, staff may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefor, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail. The person or persons delivering the stop work order shall certify to the local government that the order was delivered and that certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1112 and G.S. 160D-1208, a stop work order may be appealed pursuant to G.S. 160D-405. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.

(c) Remedies. –

(1) Subject to the provisions of the development regulation, any development regulation adopted pursuant to authority conferred by this Chapter may be enforced by any remedy provided by G.S. 160A-175 or G.S. 153A-123. If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used or developed in violation of this Chapter or of any development regulation or other regulation made under authority of this Chapter, the local government, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, use, or development; to restrain, correct or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises.

(2) When a development regulation adopted pursuant to authority conferred by this Chapter is to be applied or enforced in any area outside the planning and development regulation jurisdiction of a city as set forth in Article 2 of this Chapter, the city and the property owner shall certify that the application or enforcement of the city development regulation is not under coercion or otherwise based on representation by the city that the city's development approval would be withheld without the application or enforcement of the city development regulation outside the jurisdiction of the city. The certification may be evidenced by a signed statement of the parties on any development approval.

(3) In case any building, structure, site, area, or object designated as a historic landmark or located within a historic district designated pursuant to this Chapter is about to be demolished whether as the result of deliberate neglect or otherwise, materially altered, remodeled, removed, or destroyed, except in compliance with the development regulation or other provisions of this Chapter, the local government, the historic preservation commission, or other party aggrieved by such action may institute any appropriate action or proceedings to prevent such unlawful demolition, destruction, material alteration, remodeling, or removal, to restrain, correct, or abate such violation, or to prevent any illegal act or conduct with respect to such building, structure, site, area, or object. Such remedies shall be in addition to any others authorized by this Chapter for violation of an ordinance.

§ 160D-903 AGRICULTURAL USES

(a) **Bona Fide Farming Exempt From County Zoning.** – County zoning regulations may not affect property used for bona fide farm purposes; provided, however, that this section does not limit zoning regulation with respect to the use of farm property for nonfarm purposes. Except as provided in G.S. 106-743.4 for farms that are subject to a conservation agreement under G.S. 106-743.2, bona fide farm purposes include

the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1. Activities incident to the farm include existing or new residences constructed to the applicable residential building code situated on the farm occupied by the owner, lessee, or operator of the farm and other buildings or structures sheltering or supporting the farm use and operation. A building or structure that is used solely for storage of cotton, peanuts, or sweetpotatoes, or any byproduct of those commodities, is a bona fide farm purpose, including a building or structure on a property that does not have the documentation listed in subdivisions (1) through (4) of this subsection. For purposes of this section, "when performed on the farm" in G.S. 106-581.1(6) includes the farm within the jurisdiction of the county and any other farm owned or leased to or from others by the bona fide farm operator, no matter where located. For purposes of this section, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose. For purposes of determining whether a property is being used for bona fide farm purposes, any of the following is sufficient evidence that the property is being used for bona fide farm purposes, but other evidence may also be considered:

(1) A farm sales tax exemption certificate issued by the Department of Revenue.
(2) A copy of the property tax listing showing that the property is eligible for participation in the present-use value program pursuant to G.S. 105-277.3.
(3) A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.
(4) A forest management plan.

A building or structure that is used for agritourism is a bona fide farm purpose if the building or structure is located on a property that (i) is owned by a person who holds a qualifying farm sales tax exemption certificate from the Department of Revenue pursuant to G.S. 105-164.13E(a) or (ii) is enrolled in the present-use value program pursuant to G.S. 105-277.3. Failure to maintain the requirements of this subsection for a period of three years after the date the building or structure was originally classified as a bona fide farm purpose pursuant to this subsection subjects the building or structure to applicable zoning and development regulation ordinances adopted by a county pursuant to G.S. 160D-702 in effect on the date the property no longer meets the requirements of this subsection. For purposes of this section, "agritourism" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, hunting, fishing, equestrian activities, or natural activities and attractions. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting.

(b) County Zoning of Residential Uses on Large Lots in Agricultural Districts. - A county zoning regulation shall not prohibit single-family detached residential uses constructed in accordance with the North Carolina State Building Code on lots greater than 10 acres in size and in zoning districts where more than fifty percent (50%) of the land is in use for agricultural or silvicultural purposes, except that this restriction does not apply to commercial or industrial districts where a broad variety of commercial or industrial uses are permissible. A zoning regulation shall not require that a lot greater than 10 acres in size have frontage on a public road or county-approved private road or be served by public water or sewer lines in order to be developed for single-family residential purposes.

(c) Agricultural Areas in Municipal Extraterritorial Jurisdiction. - Property that is located in a city's extraterritorial planning and development regulation jurisdiction and that is used for bona fide farm purposes is exempt from the city's zoning regulation to the same extent bona fide farming activities are exempt from county zoning pursuant to this section. As used in this subsection, "property" means a single tract of property or an identifiable portion of a single tract. Property that ceases to be used for bona fide farm purposes becomes subject to exercise of the city's extraterritorial planning

and development regulation jurisdiction under this Chapter. For purposes of complying with State or federal law, property that is exempt from municipal zoning pursuant to this subsection is subject to the county's floodplain regulation or all floodplain regulation provisions of the county's unified development ordinance.

(d) Accessory Farm Buildings. - A city may provide in its zoning regulation that an accessory building of a "bona fide farm" has the same exemption from the building code as it would have under county zoning.

(e) City Regulations in Voluntary Agricultural Districts. - A city may amend the development regulations applicable within its planning and development regulation jurisdiction to provide flexibility to farming operations that are located within a city or county, voluntary agricultural district, or enhanced voluntary agricultural district adopted under Article 61 of Chapter 106 of the General Statutes. Amendments to applicable development regulations may include provisions regarding on-farm sales, pick-your-own operations, road signs, agritourism, and other activities incident to farming.

Article 11

Building Code Enforcement

§ 160D-1101 DEFINITIONS.

As used in this Article, the following terms shall have their ordinary meaning and shall also be read to include the following:

(1) Building or buildings. - Includes other structures.
(2) Governing board or board of commissioners. - Includes the Tribal Council of a federally recognized Indian tribe.
(3) Local government. - Includes a federally recognized Indian tribe, and, as to such tribe, includes lands held in trust for the tribe.
(4) Public officer. - Includes the officer or officers who are authorized by regulations adopted hereunder to exercise the powers prescribed by the regulations and by this Article.

§ 160D-1102 BUILDING CODE ADMINISTRATION.

(a) A local government may create an inspection department and may appoint inspectors who may be given appropriate titles, such as building inspector, electrical inspector, plumbing inspector, housing inspector, zoning inspector, heating and air-conditioning inspector, fire prevention inspector, or deputy or assistant inspector, or another title generally descriptive of the duties assigned. Every local government shall perform the duties and responsibilities set forth in G.S. 160D-1104 either by (i) creating its own inspection department, (ii) creating a joint inspection department in cooperation with one or more other units of local government, pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, (iii) contracting with another unit of local government for the provision of inspection services pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, or (iv) arranging for the county in which a city is located to perform inspection services within the city's jurisdiction as authorized by G.S. 160D-1104 and G.S. 160D-202. Every local government shall designate a person responsible for the daily oversight of the local government's duties and responsibilities under G.S. 160D-1104.

(b) In the event that any local government fails to provide inspection services or ceases to provide inspection services, the Commissioner of Insurance shall arrange for the provision of inspection services, either through personnel employed by the department or through an arrangement with other units of government. In either event, the Commissioner has and may exercise within the local government's planning and development regulation jurisdiction all powers made available to the governing board with respect to building inspection under this Article and Part 1 of Article 20 of Chapter 160A of the General Statutes. Whenever the Commissioner has intervened in this manner, the local government may assume provision of inspection services only after giving the Commissioner two years' written notice of its intention to do so; however, the Commissioner may waive this requirement or permit assumption at an earlier date upon finding that an earlier assumption will not unduly interfere with arrangements made for the provision of those services. (2019-111, s. 2.4.)

(c) No later than October 1 of 2023, 2024, and 2025, every local government shall publish an annual financial

report on how it used fees from the prior fiscal year for the support, administration, and implementation of its building code enforcement program as required by G.S. 160D-402(d). This report is in addition to any other financial report required by law.

SECTION 9.(b) This section becomes effective October 1, 2022, and applies to financial reports due after that date.

§ 160D-1103 QUALIFICATIONS OF INSPECTORS.

No local government shall employ an inspector to enforce the State Building Code who does not have one of the following types of certificates issued by the North Carolina Code Officials Qualification Board attesting to the inspector's qualifications to hold such position: (i) a probationary certificate, (ii) a standard certificate, or (iii) a limited certificate which shall be valid only as an authorization to continue in the position held on the date specified in G.S. 143-151.13(c) and which shall become invalid if the inspector does not successfully complete in-service training specified by the Qualification Board within the period specified in G.S. 143-151.13(c). An inspector holding one of the above certificates can be promoted to a position requiring a higher level certificate only upon issuance by the Board of a standard certificate or probationary certificate appropriate for such new position.

§ 160D-1104 DUTIES AND RESPONSIBILITIES.

(a) The duties and responsibilities of an inspection department and of the inspectors in it shall be to enforce within their planning and development regulation jurisdiction State and local laws relating to the following:

(1) The construction of buildings and other structures.

(2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems.

(3) The maintenance of buildings and other structures in a safe, sanitary, and healthful condition.

(4) Other matters that may be specified by the governing board.

(b) The duties and responsibilities set forth in subsection (a) of this section shall include the receipt of applications for permits and the issuance or denial of permits, the making of any necessary inspections in a timely manner, the issuance or denial of certificates of compliance, the issuance of orders to correct violations, the bringing of judicial actions against actual or threatened violations, the keeping of adequate records, and any other actions that may be required in order adequately to enforce those laws. The city council shall have the authority to enact reasonable and appropriate provisions governing the enforcement of those laws.

(c) In performing the specific inspections required by the North Carolina Building Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected fails to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings or the North Carolina Building Code.

(d) Except as provided in G.S. 160D-1117 and G.S. 160D-1207, a local government may not adopt or enforce a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. The North Carolina Building Code Council shall review all applications for additional inspections requested by a local government and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the local government to require inspections upon unforeseen or unique circumstances that require immediate action. In performing the specific inspections required by the North Carolina Residential Building Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected is incomplete or otherwise fails to meet the requirements of the North Carolina Residential Code

for One- and Two-Family Dwellings or the North Carolina Building Code. When a subsequent inspection is conducted to verify completion or correction of instances of Code noncompliance, any additional violations of Code noted by the inspector on items already approved by the inspections department shall not delay the issuance of a temporary certificate of occupancy, and the inspections department shall not charge a fee for reinspection of those items.

(d1) A local government may not adopt or enforce a local ordinance, resolution, or policy that requires that plans and specifications for any alteration, remodeling, renovation, or repair of a commercial building or structure be prepared by and under the seal of a registered architect licensed under Chapter 83A of the General Statutes, or a registered engineer licensed under Chapter 89C of the General Statutes, if the alteration, remodeling, renovation, or repair costs less than three hundred thousand dollars ($300,000) or if the total building area does not exceed 3,000 square feet in gross floor area and all of the following apply:

(1) The alteration, remodeling, renovation, or repair does not include the addition, repair, or replacement of load-bearing structures.

(2) The alteration, remodeling, renovation, or repair is not subject to the requirements of G.S. 133-1.1(a)."

(e) Each inspection department shall implement a process for an informal internal review of inspection decisions made by the department's inspectors. This process shall include, at a minimum, the following:

(1) Initial review by the supervisor of the inspector.

(2) The provision in or with each permit issued by the department of (i) the name, phone number, and e-mail address of the supervisor of each inspector and (ii) a notice of availability of the informal internal review process.

(3) Procedures the department must follow when a permit holder or applicant requests an internal review of an inspector's decision.

Nothing in this subsection shall be deemed to limit or abrogate any rights available under Chapter 150B of the General Statutes to a permit holder or applicant.

§ 160D-1104.1 REMOTE INSPECTION ALTERNATIVE

An inspection department shall implement remote inspection procedures in accordance with criteria and procedures developed pursuant to G.S. 143-139(b)(3). An inspection department must provide the option to elect remote inspections for a project to a building permit applicant. An inspection department must specify the extent to which a project is eligible for remote inspections at the time of building permit issuance.

§ 160D-1105 OTHER ARRANGEMENTS FOR INSPECTIONS.

A local government may contract with an individual who is not a local government employee but who holds one of the applicable certificates as provided in G.S. 160D-1103 or with the employer of an individual who holds one of the applicable certificates as provided in G.S. 160D-1103.

§ 160D-1106 ALTERNATE INSPECTION METHOD FOR COMPONENT OR ELEMENT.

(a) Notwithstanding the requirements of this Article, a city shall accept and approve, without further responsibility to inspect, a design or other proposal for a component or element in the construction of buildings from an architect licensed under Chapter 83A of the General Statutes or professional engineer licensed under Chapter 89C of the General Statutes provided all of the following apply:

(1) The submission design or other proposal is completed under valid seal of the licensed architect or licensed professional engineer.

(2) Field inspection of the installation or completion of a component or element of the building is performed by a licensed architect or licensed professional engineer or a person under the direct supervisory control of the licensed architect or licensed professional engineer.

(3) The licensed architect or licensed professional engineer under subdivision (2) of this subsection provides the city with a signed written document stating the component or element of the building inspected under subdivision (2) of this subsection is in compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings. The inspection certification required under this

subdivision shall be provided by electronic or physical delivery and its receipt shall be promptly acknowledged by the city through reciprocal means.

(b) Upon the acceptance and approval receipt of a signed written document by the city as required under subsection (a) of this section, notwithstanding the issuance of a certificate of occupancy, the city, its inspection department, and the inspectors shall be discharged and released from any liabilities, duties, and responsibilities imposed by this Article with respect to or in common law from any claim arising out of or attributed to the component or element in the construction of the building for which the signed written document was submitted.

(c) With the exception of the requirements contained in subsection (a) of this section, no further certification by a licensed architect or licensed professional engineer shall be required for any component or element designed and sealed by a licensed architect or licensed professional engineer for the manufacturer of the component or element under the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings.

(d) As used in this section, the following definitions apply:

(1) Component. - Any assembly, subassembly, or combination of elements designed to be combined with other components to form part of a building or structure. Examples of a component include an excavated footing trench containing no concrete. The term does not include a system.

(2) Element. - A combination of products designed to be combined with other elements to form all or part of a building component. The term does not include a system.

§ 160D-1107 MUTUAL AID CONTRACTS.

(a) Any two or more cities or counties may enter into contracts with each other to provide mutual aid and assistance in the administration and enforcement of State and local laws pertaining to the North Carolina State Building Code. Mutual aid contracts may include provisions addressing the scope of aid provided, for reimbursement or indemnification of the aiding party for loss or damage incurred by giving aid, for delegating authority to a designated official or employee to request aid or to send aid upon request, and any other provisions not inconsistent with law.

(b) Unless the mutual aid contract says otherwise, while working with the requesting city or county under the authority of this section, a Code-enforcement official shall have the same jurisdiction, powers, rights, privileges, and immunities, including those relating to the defense of civil actions and payment of judgments, as the Code-enforcement officials of the requesting agency.

(c) Nothing in this section shall be construed to deprive any party to a mutual aid contract under this section of its discretion to send or decline to provide aid to another party to the contract under any circumstances, whether or not obligated by the contract to do so. In no case shall a party to a mutual aid contract or any of its officials or employees be held to answer in any civil or criminal action for declining to send aid whether or not obligated by contract to do so.

§ 160D-1108 CONFLICTS OF INTEREST.

Staff members, agents, or contractors responsible for building inspections shall comply with G.S. 160D-109(c). No member of an inspection department shall be financially interested or employed by a business that is financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of any building within the local government's planning and development regulation jurisdiction or any part or system thereof, or in the making of plans or specifications therefor, unless he is the owner of the building. No member of an inspection department or other individual or an employee of a company contracting with a local government to conduct building inspections shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government. The local government must find a conflict of interest if any of the following is the case:

(1) If the individual, company, or employee of a company contracting to perform building inspections for the local government has worked for the owner, developer, contractor, or project manager of the project to be inspected within the last two years.

(2) If the individual, company, or employee of a company contracting to perform building inspections for the local government is closely related to the owner, developer, contractor, or project manager of the project to be inspected.

(3) If the individual, company, or employee of a company contracting to perform building inspections for the local government has a financial or business interest in the project to be inspected.

The provisions of this section do not apply to a firefighter whose primary duties are fire suppression and rescue but who engages in some fire inspection activities as a secondary responsibility of the firefighter's employment as a firefighter, except no firefighter may inspect any work actually done, or materials or appliances supplied, by the firefighter or the firefighter's business within the preceding six years.

§ 160D-1109 FAILURE TO PERFORM DUTIES.

(a) If any member of an inspection department shall willfully fail to perform the duties required by law, or willfully shall improperly issue a building permit, or shall give a certificate of compliance without first making the inspections required by law, or willfully shall improperly give a certificate of compliance, the member shall be guilty of a Class 1 misdemeanor.

(b) A member of the inspection department shall not be in violation of this section when the local government, its inspection department, or one of the inspectors accepted a signed written document of compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings from a licensed architect or licensed engineer in accordance with G.S. 160D-1104(d).

§ 160D-1110 BUILDING PERMITS.

(a) Except as provided in subsection (c) of this section, no person shall commence or proceed with any of the following without first securing all permits required by the State Building Code and any other State or local laws applicable to any of the following activities:

(1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building or structure.

(2) The installation, extension, or general repair of any plumbing system except that in any one- or two-family dwelling unit a permit shall not be required for the connection of a water heater that is being replaced, provided that the work is performed by a person licensed under G.S. 87-21 who personally examines the work at completion and ensures that a leak test has been performed on the gas piping, and provided the energy use rate or thermal input is not greater than that of the water heater that is being replaced, there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping, and the replacement is installed in accordance with the current edition of the State Building Code.

(3) The installation, extension, alteration, or general repair of any heating or cooling equipment system.

(4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment, except that in any one- or two-family dwelling unit a permit shall not be required for repair or replacement of electrical lighting fixtures or devices, such as receptacles and lighting switches, or for the connection of an existing branch circuit to an electric water heater that is being replaced, provided that all of the following requirements are met:

a. With respect to electric water heaters, the replacement water heater is placed in the same location and is of the same or less capacity and electrical rating as the original.
b. With respect to electrical lighting fixtures and devices, the replacement is with a fixture or device having the same voltage and the same or less amperage.
c. The work is performed by a person licensed under G.S. 87-43.
d. The repair or replacement installation meets the current edition of the State Building Code, including the State Electrical Code.

However, a building permit is not required for the installation, maintenance, or replacement of any load

control device or equipment by an electric power supplier, as defined in G.S. 62-133.8, or an electrical contractor contracted by the electric power supplier, so long as the work is subject to supervision by an electrical contractor licensed under Article 4 of Chapter 87 of the General Statutes. The electric power supplier shall provide such installation, maintenance, or replacement in accordance with (i) an activity or program ordered, authorized, or approved by the North Carolina Utilities Commission pursuant to G.S. 62-133.8 or G.S. 62-133.9 or (ii) a similar program undertaken by a municipal electric service provider, whether the installation, modification, or replacement is made before or after the point of delivery of electric service to the customer. The exemption under this subsection applies to all existing installations.

(b) A building permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws. Nothing in this section shall require a local government to review and approve residential building plans submitted to the local government pursuant to the North Carolina Residential Code, provided that the local government may review and approve such residential building plans as it deems necessary. No building permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof, and, if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a licensed architect or licensed engineer, no building permit shall be issued unless the plans and specifications bear the North Carolina seal of a licensed architect or of a licensed engineer. When any provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no building permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor.

(c) No permit issued under Article 9 or 9C of Chapter 143 of the General Statutes shall be required for any construction, installation, repair, replacement, or alteration performed in accordance with the current edition of the North Carolina State Building Code costing twenty thousand dollars ($20,000) or less in any single-family residence, farm building, or commercial building unless the work involves any of the following:

(1) The addition, repair, or replacement of load-bearing structures. However, no permit is required for replacement of windows, doors, exterior siding, or the pickets, railings, stair treads, and decking of porches and exterior decks that otherwise meet the requirements of this subsection.

(2) The addition or change in the design of plumbing. However, no permit is required for replacements otherwise meeting the requirements of this subsection that do not change size or capacity.

(3) The addition, replacement, or change in the design of heating, air-conditioning, or electrical wiring, devices, appliances, or equipment, other than like-kind replacement of electrical devices and lighting fixtures.

(4) The use of materials not permitted by the North Carolina State Building Code.

(5) The addition (excluding replacement) of roofing.

(6) Any changes to which the North Carolina Fire Prevention Code applies.

(d) A local government shall not require more than one building permit for the complete installation or replacement of any natural gas, propane gas, or electrical appliance on an existing structure when the installation or replacement is performed by a person licensed under G.S. 87-21 or G.S. 87-43. The cost of the building permit for such work shall not exceed the cost of any one individual trade permit issued by that local government, nor shall the local government increase the costs of any fees to offset the loss of revenue caused by this provision.

(e) No building permit shall be issued pursuant to subsection (a) of this section for any land-disturbing activity, as defined in G.S. 113A-52(6), or for any activity covered by G.S. 113A-57, unless an erosion and sedimentation control plan for the site of the activity or a tract of land including the site of the activity has been approved under the Sedimentation Pollution Control Act.

(f) No building permit shall be issued pursuant to subsection (a) of this section for any land-disturbing activity that is subject to, but does not comply with, the requirements of G.S. 113A-71.

(g) No building permit shall be issued pursuant to subdivision (1) of subsection (a) of this section where the cost of the work is thirty thousand dollars ($30,000) or more, other than for improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that the owner occupies as a residence, or for the addition of an accessory building or accessory structure as defined in the North Carolina Uniform Residential Building Code, the use of which is incidental to that residential dwelling unit, unless the name, physical and mailing address, telephone number, facsimile number, and electronic mail address of the lien agent designated by the owner pursuant to G.S. 44A-11.1(a) is conspicuously set forth in the permit or in an attachment thereto. The building permit may contain the lien agent's electronic mail address. The lien agent information for each permit issued pursuant to this subsection shall be maintained by the inspection department in the same manner and in the same location in which it maintains its record of building permits issued. Where the improvements to a real property leasehold are limited to the purchase, transportation, and setup of a manufactured home, as defined in G.S. 143-143.9(6), the purchase price of the manufactured home shall be excluded in determining whether the cost of the work is thirty thousand dollars ($30,000) or more.

(h) No local government may withhold a building permit or certificate of occupancy that otherwise would be eligible to be issued under this section to compel, with respect to another property or parcel, completion of work for a separate permit or compliance with land-use regulations under this Chapter unless otherwise authorized by law or unless the local government reasonably determines the existence of a public safety issue directly related to the issuance of a building permit or certificate of occupancy.

(i) Violation of this section constitutes a Class 1 misdemeanor.

§ 160D-1111 EXPIRATION OF BUILDING PERMITS.

A building permit issued pursuant to this Article expires by limitation six months, or any lesser time fixed by ordinance, after the date of issuance if the work authorized by the permit has not been commenced. If, after commencement, the work is discontinued for a period of 12 months, the permit shall immediately expire. No work authorized by any building permit that has expired shall be performed until a new permit has been secured.

§ 160D-1112 CHANGES IN WORK.

After a building permit has been issued, no changes or deviations from the terms of the application, plans and specifications, or the permit, except where changes or deviations are clearly permissible under the State Building Code, shall be made until specific written approval of proposed changes or deviations has been obtained from the inspection department.

§ 160D-1113 INSPECTIONS OF WORK IN PROGRESS.

Subject to the limitation imposed by G.S. 160D-1104(b), as the work pursuant to a building permit progresses, local inspectors shall make as many inspections thereof as may be necessary to satisfy them that the work is being done according to the provisions of any applicable State and local laws and of the terms of the permit. In exercising this power, members of the inspection department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. If a building permit has been obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be conducted without the owner being present, unless the plans for the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes.

§ 160D-1114 APPEALS OF STOP ORDERS.

(a) The owner or builder may appeal from a stop order involving alleged violation of the State Building Code or any approved local modification thereof to the North Carolina Commissioner of Insurance or his designee within a period of five days after the order is issued. Notice of appeal shall be given in writing to the Commissioner of Insurance or his designee, with a copy to the local inspector. The Commissioner of Insurance or his or her designee shall promptly conduct an investigation, and the appellant and the inspector shall be permitted to submit relevant evidence. The

Commissioner of Insurance or his or her designee shall as expeditiously as possible provide a written statement of the decision setting forth the facts found, the decision reached, and the reasons for the decision. Pending the ruling by the Commissioner of Insurance or his or her designee on an appeal, no further work shall take place in violation of a stop order. In the event of dissatisfaction with the decision, the person affected shall have the following options:

(1) Appealing to the Building Code Council.

(2) Appealing to the superior court as provided in G.S. 143-141.

(b) The owner or builder may appeal from a stop order involving alleged violation of a local development regulation as provided in G.S. 160D-405.

§ 160D-1115 REVOCATION OF BUILDING PERMITS.

The appropriate inspector may revoke and require the return of any building permit by notifying the permit holder in writing stating the reason for the revocation. Building permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable State or local laws; or for false statements or misrepresentations made in securing the permit. Any building permit mistakenly issued in violation of an applicable State or local law may also be revoked.

§ 160D-1116 CERTIFICATES OF COMPLIANCE.

At the conclusion of all work done under a building permit, the appropriate inspector shall make a final inspection, and, if the inspector finds that the completed work complies with all applicable State and local laws and with the terms of the permit, the inspector shall issue a certificate of compliance. No new building or part thereof may be occupied, no addition or enlargement of an existing building may be occupied, and no existing building that has been altered or moved may be occupied, until the inspection department has issued a certificate of compliance. A temporary certificate of occupancy or compliance may be issued permitting occupancy for a stated period of time of either the entire building or property or of specified portions of the building if the inspector finds that such building or property may safely be occupied prior to its final completion. Violation of this section shall constitute a Class 1 misdemeanor. A local government may require the applicant for a temporary certificate of occupancy to post suitable security to ensure code compliance.

§ 160D-1117 PERIODIC INSPECTIONS.

The inspection department may make periodic inspections, subject to the governing board's directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings or structures within its planning and development regulation jurisdiction. In exercising this power, members of the department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. Inspections of dwellings shall follow the provisions of G.S. 160D-1207. Nothing in this section shall be construed to prohibit periodic inspections in accordance with State fire prevention code or as otherwise required by State law.

§ 160D-1118 DEFECTS IN BUILDINGS TO BE CORRECTED.

When a local inspector finds any defects in a building, or finds that the building has not been constructed in accordance with the applicable State and local laws, or that a building because of its condition is dangerous or contains fire hazardous conditions, it shall be the inspector's duty to notify the owner or occupant of the building of its defects, hazardous conditions, or failure to comply with law. The owner or occupant shall each immediately remedy the defects, hazardous conditions, or violations of law in the property.

§ 160D-1119 UNSAFE BUILDINGS CONDEMNED.

(a) Designation of Unsafe Buildings. - Every building that shall appear to the inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating systems, inadequate means of egress, or other causes shall be held to be unsafe, and the inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of the building.

(b) Nonresidential Building or Structure. - In addition to the authority granted in subsection (a) of this section, an inspector may declare a nonresidential building or structure within a community development target area to be unsafe if it meets all of the following conditions:

(1) It appears to the inspector to be vacant or abandoned.

(2) It appears to the inspector to be in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, or fire or safety hazard, to be a danger to children, or to tend to attract persons intent on criminal activities or other activities that would constitute a public nuisance.

(c) Notice Posted on Structure. - If an inspector declares a nonresidential building or structure to be unsafe under subsection (b) of this section, the inspector must affix a notice of the unsafe character of the structure to a conspicuous place on the exterior wall of the building. For the purposes of this section, the term "community development target area" means an area that has characteristics of an urban progress zone under G.S. 143B-437.09, a "nonresidential redevelopment area" under G.S. 160A-503(10), or an area with similar characteristics designated by the governing board as being in special need of revitalization for the benefit and welfare of its citizens.

(d) Applicability to Residential Structures. - A local government may expand subsections (b) and (c) of this section to apply to residential buildings by adopting an ordinance. Before adopting such an ordinance, a local government shall hold a legislative hearing with published notice as provided by G.S. 160D-601.

§ 160D-1120 REMOVING NOTICE FROM CONDEMNED BUILDING.

If any person shall remove any notice that has been affixed to any building or structure by a local inspector of any local government and that states the dangerous character of the building or structure, that person shall be guilty of a Class 1 misdemeanor.

§ 160D-1121 ACTION IN EVENT OF FAILURE TO TAKE CORRECTIVE ACTION.

If the owner of a building or structure that has been condemned as unsafe pursuant to G.S. 160D-1117 shall fail to take prompt corrective action, the local inspector shall give written notice, by certified mail to the owner's last known address or by personal service, of all of the following:

(1) That the building or structure is in a condition that appears to meet one or more of the following conditions:

a. Constitutes a fire or safety hazard.
b. Is dangerous to life, health, or other property.
c. Is likely to cause or contribute to blight, disease, vagrancy, or danger to children.
d. Has a tendency to attract persons intent on criminal activities or other activities that would constitute a public nuisance.

(2) That an administrative hearing will be held before the inspector at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter.

(3) That following the hearing, the inspector may issue such order to repair, close, vacate, or demolish the building or structure as appears appropriate.

If the name or whereabouts of the owner cannot, after due diligence, be discovered, the notice shall be considered properly and adequately served if a copy is posted on the outside of the building or structure in question at least 10 days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the local government's area of jurisdiction at least once not later than one week prior to the hearing.

§ 160D-1122 ORDER TO TAKE CORRECTIVE ACTION.

If, upon a hearing held pursuant to the notice prescribed in G.S. 160D-1119, the inspector shall find that the building or structure is in a condition that constitutes a fire or safety hazard or renders it dangerous to life, health, or other property, the inspector shall make an order in writing, directed to the owner of such building or structure, requiring the owner to remedy the defective conditions by repairing, closing, vacating, or demolishing the building or structure or taking other necessary steps, within such period, not less

than 60 days, as the inspector may prescribe, provided that where the inspector finds that there is imminent danger to life or other property, the inspector may order that corrective action be taken in such lesser period as may be feasible.

§ 160D-1123 APPEAL; FINALITY OF ORDER IF NOT APPEALED.

Any owner who has received an order under G.S. 160D-1120 may appeal from the order to the governing board by giving notice of appeal in writing to the inspector and to the local government clerk within 10 days following issuance of the order. In the absence of an appeal, the order of the inspector shall be final. The governing board shall hear in accordance with G.S. 160D-406 and render a decision in an appeal within a reasonable time. The governing board may affirm, modify and affirm, or revoke the order.

§ 160D-1124 FAILURE TO COMPLY WITH ORDER.

If the owner of a building or structure fails to comply with an order issued pursuant to G.S. 160D-1120 from which no appeal has been taken or fails to comply with an order of the governing board following an appeal, the owner shall be guilty of a Class 1 misdemeanor.

§ 160D-1125 ENFORCEMENT.

(a) Action Authorized. - Whenever any violation is denominated a misdemeanor under the provisions of this Article, the local government, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure involved.

(b) Removal of Building. - In the case of a building or structure declared unsafe under G.S. 160D-1117 or an ordinance adopted pursuant to G.S. 160D-1117, a local government may, in lieu of taking action under subsection (a) of this section, cause the building or structure to be removed or demolished. The amounts incurred by the local government in connection with the removal or demolition shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same manner as liens for special assessments provided in Article 10 of Chapter 160A of the General Statutes. If the building or structure is removed or demolished by the local government, the local government shall sell the usable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building. The local government shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining from the sale shall be deposited with the clerk of superior court of the county where the property is located and shall be disbursed by the court to the person found to be entitled thereto by final order or decree of the court.

(c) Additional Lien. - The amounts incurred by a local government in connection with the removal or demolition shall also be a lien against any other real property owned by the owner of the building or structure and located within the local government's planning and development regulation jurisdiction, and for municipalities without extraterritorial planning and development jurisdiction, within one mile of the city limits, except for the owner's primary residence. The provisions of subsection (b) of this section apply to this additional lien, except that this additional lien is inferior to all prior liens and shall be collected as a money judgment.

(d) Nonexclusive Remedy. - Nothing in this section shall be construed to impair or limit the power of the local government to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

§ 160D-1126 (EFFECTIVE JANUARY 1, 2021) RECORDS AND REPORTS.

The inspection department shall keep complete and accurate records in convenient form of all applications received, permits issued, inspections and reinspections made, defects found, certificates of compliance or occupancy granted, and all other work and activities of the department. These records shall be kept in the manner and for the periods prescribed by the Department of Natural and Cultural Resources. Periodic reports shall be submitted to the governing board and to the Commissioner of Insurance as they shall by ordinance, rule, or regulation require.

§ 160D-1127 (EFFECTIVE JANUARY 1, 2021) APPEALS.

Unless otherwise provided by law, appeals from any order, decision, or determination by a member of a local inspection department pertaining to the State Building Code or other State building laws shall be taken to the Commissioner of Insurance or the Commissioner's designee or other official specified in G.S. 143-139 by filing a written notice with the Commissioner and with the inspection department within a period of 10 days after the order, decision, or determination. Further appeals may be taken to the State Building Code Council or to the courts as provided by law.

§ 160D-1128 (EFFECTIVE JANUARY 1, 2021) FIRE LIMITS.

(a) County Fire Limits. - A county may by ordinance establish and define fire limits in any area within the county and not within a city. The limits may include only business and industrial areas. Within any fire limits, no frame or wooden building or addition thereto may be erected, altered, repaired, or moved, either into the fire limits or from one place to another within the limits, except upon the permit of the inspection department and approval of the Commissioner of Insurance. The governing board may make additional regulations necessary for the prevention, extinguishment, or mitigation of fires within the fire limits.

(b) Municipal Fire Limits. - The governing board of every incorporated city shall pass one or more ordinances establishing and defining fire limits, which shall include the principal business portions of the city and which shall be known as primary fire limits. In addition, the governing board may, in its discretion, establish and define one or more separate areas within the city as secondary fire limits.

(c) Restrictions Within Municipal Primary Fire Limits. - Within the primary fire limits of any city, as established and defined by ordinance, no frame or wooden building or structure or addition thereto shall hereafter be erected, altered, repaired, or moved, either into the limits or from one place to another within the limits, except upon the permit of the local inspection department approved by the governing board and by the Commissioner of Insurance or the Commissioner's designee. The governing board may make additional regulations for the prevention, extinguishment, or mitigation of fires within the primary fire limits.

(d) Restrictions Within Municipal Secondary Fire Limits. - Within any secondary fire limits of any city or town, as established and defined by ordinance, no frame or wooden building or structure or addition thereto shall be erected, altered, repaired, or moved, except in accordance with any rules and regulations established by ordinance of the areas.

(e) Failure to Establish Municipal Primary Fire Limits. - If the governing board of any city shall fail or refuse to establish and define the primary fire limits of the city as required by law, after having such failure or refusal called to their attention in writing by the State Commissioner of Insurance, the Commissioner shall have the power to establish the limits upon making a determination that they are necessary and in the public interest.

§ 160D-1129 (EFFECTIVE JANUARY 1, 2021) REGULATION AUTHORIZED AS TO REPAIR, CLOSING, AND DEMOLITION OF NONRESIDENTIAL BUILDINGS OR STRUCTURES; ORDER OF PUBLIC OFFICER.

(a) Authority. - The governing board of the local government may adopt and enforce regulations relating to nonresidential buildings or structures that fail to meet minimum standards of maintenance, sanitation, and safety established by the governing board. The minimum standards shall address only conditions that are dangerous and injurious to public health, safety, and welfare and identify circumstances under which a public necessity exists for the repair, closing, or demolition of such buildings or structures. The regulation shall provide for designation or appointment of a public officer to exercise the powers prescribed by the regulation, in accordance with the procedures specified in this section. Such regulation shall be applicable within the local government's entire planning and development regulation jurisdiction or limited to one or more designated zoning districts or municipal service districts.

(b) Investigation. - Whenever it appears to the public officer that any nonresidential building or structure has

not been properly maintained so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet the minimum standards established by the governing board, the public officer shall undertake a preliminary investigation. If entry upon the premises for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative search warrant in accordance with G.S. 15-27.2 or with permission of the owner, the owner's agent, a tenant, or other person legally in possession of the premises.

(c) Complaint and Hearing. - If the preliminary investigation discloses evidence of a violation of the minimum standards, the public officer shall issue and cause to be served upon the owner of and parties in interest in the nonresidential building or structure a complaint. The complaint shall state the charges and contain a notice that an administrative hearing will be held before the public officer, or his or her designated agent, at a place within the county scheduled not less than 10 days nor more than 30 days after the serving of the complaint; that the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

(d) Order. - If, after notice and hearing, the public officer determines that the nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards established by the governing board, the public officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order. The order may require the owner to take remedial action, within a reasonable time specified, subject to the procedures and limitations herein.

(e) Limitations on Orders. –

(1) An order may require the owner to repair, alter, or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards established by the governing board or to vacate and close the nonresidential building or structure for any use.

(2) An order may require the owner to remove or demolish the nonresidential building or structure if the cost of repair, alteration, or improvement of the building or structure would exceed fifty percent (50%) of its then current value. Notwithstanding any other provision of law, if the nonresidential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the governing board determines, after a public hearing as provided by ordinance, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the district, and the nonresidential building or structure has not been condemned as unsafe, the order may require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by the governing board.

(3) An order may not require repairs, alterations, or improvements to be made to vacant manufacturing facilities or vacant industrial warehouse facilities to preserve the original use. The order may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.

(f) Action by Governing Board Upon Failure to Comply With Order. –

(1) If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the nonresidential building or structure, the governing board may adopt an ordinance ordering the public officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the public officer found to be jeopardizing the health or safety of its occupants or members of the general public. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the

register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the public officer may cause the building or structure to be repaired, altered, or improved or to be vacated and closed. The public officer may cause to be posted on the main entrance of any nonresidential building or structure so closed a placard with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a Class 3 misdemeanor.

(2) If the owner fails to comply with an order to remove or demolish the nonresidential building or structure, the governing board may adopt an ordinance ordering the public officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the public officer found to be jeopardizing the health or safety of its occupants or members of the general public. No ordinance shall be adopted to require demolition of a nonresidential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by the governing board. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the public officer may cause the building or structure to be removed or demolished.

(g) Action by Governing Board Upon Abandonment of Intent to Repair. - If the governing board has adopted an ordinance or the public officer has issued an order requiring the building or structure to be repaired or vacated and closed and the building or structure has been vacated and closed for a period of two years pursuant to the ordinance or order, the governing board may make findings that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the local government in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the governing board may, after the expiration of the two-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

(1) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards is less than or equal to fifty percent (50%) of its then current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within 90 days.

(2) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards exceeds fifty percent (50%) of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within 90 days.

In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five years before the governing board may take action under this subsection. The ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the public officer shall effectuate the purpose of the ordinance.

(h) Service of Complaints and Orders. - Complaints or orders issued by a public officer pursuant to an ordinance adopted under this section shall be served upon persons either personally or by certified mail so long as the means used are reasonably designed to achieve actual notice. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is refused but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous

place on the premises affected. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the public officer in the exercise of reasonable diligence and the public officer makes an affidavit to that effect, the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the local government at least once no later than the time that personal service would be required under this section. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(i) Liens. -

(1) The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes.

(2) If the real property upon which the cost was incurred is located in an incorporated city, the amount of the costs is also a lien on any other real property of the owner located within the city limits except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.

(3) If the nonresidential building or structure is removed or demolished by the public officer, he or she shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the governing board to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(j) Ejectment. - If any occupant fails to comply with an order to vacate a nonresidential building or structure, the public officer may file a civil action in the name of the local government to remove the occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the nonresidential building or structure. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed 10 days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if at the hearing the public officer produces a certified copy of an ordinance adopted by the governing board pursuant to subsection (f) of this section to vacate the occupied nonresidential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the nonresidential building or structure be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered under this subsection by the magistrate may be taken as provided in G.S. 7A-228, and the execution of the judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a nonresidential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice, at least 30 days before the filing of the summary ejectment proceeding, that the governing board has ordered the public officer to proceed to exercise his or her duties under subsection (f) of this section to vacate and close or remove and demolish the nonresidential building or structure.

(k) Civil Penalty. - The governing board may impose civil penalties against any person or entity that fails to comply with an order entered pursuant to this section. However, the imposition of civil penalties shall not limit the use of any other lawful remedies available to

the governing board for the enforcement of any ordinances adopted pursuant to this section.

(*l*) Supplemental Powers. - The powers conferred by this section are supplemental to the powers conferred by any other law. An ordinance adopted by the governing board may authorize the public officer to exercise any powers necessary or convenient to carry out and effectuate the purpose and provisions of this section, including the following powers in addition to others herein granted:

(1) To investigate nonresidential buildings and structures in the local government's planning and development regulation jurisdiction to determine whether they have been properly maintained in compliance with the minimum standards so that the safety or health of the occupants or members of the general public are not jeopardized.

(2) To administer oaths, affirmations, examine witnesses, and receive evidence.

(3) To enter upon premises pursuant to subsection (b) of this section for the purpose of making examinations in a manner that will do the least possible inconvenience to the persons in possession.

(4) To appoint and fix the duties of officers, agents, and employees necessary to carry out the purposes of the ordinances adopted by the governing board.

(5) To delegate any of his or her functions and powers under the ordinance to other officers and agents.

(m) Appeals. - The governing board may provide that appeals may be taken from any decision or order of the public officer to the local government's housing appeals board or board of adjustment. Any person aggrieved by a decision or order of the public officer shall have the remedies provided in G.S. 160D-1208.

(n) Funding. - The governing board is authorized to make appropriations from its revenues necessary to carry out the purposes of this section and may accept and apply grants or donations to assist in carrying out the provisions of the ordinances adopted by the governing board.

(o) No Effect on Just Compensation for Taking by Eminent Domain. - Nothing in this section shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of property by the power of eminent domain under the laws of this State nor as permitting any property to be condemned or destroyed except in accordance with the police power of the State.

(p) Definitions. - As used in this section, the following definitions apply:

(1) Parties in interest. - All individuals, associations, and corporations who have interests of record in a nonresidential building or structure and any who are in possession thereof.

(2) Vacant industrial warehouse. - Any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one year and has not been converted to another use.

(3) Vacant manufacturing facility. - Any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one year and has not been converted to another use.

N.C. ADMINISTRATIVE CODE BOARD RULES AND REGULATIONS FOR VARIOUS APPLICABLE AGENCIES

The North Carolina State Building Codes do not include all additional requirements for buildings and structures that may be imposed by other State agencies, occupational licensing boards and commissions.

It shall be the responsibility of a permit holder, design professional, contractor or occupational license holder to determine whether any additional requirements exist.

The current language of the General Statutes may be viewed at home-page | NC OAH.

The following list, while extensive, may not include all applicable Administrative Code Board Rules and Regulations.

1. NC General Statutes for Pyrotechnics Training and Permitting § 58-82a-1-55
2. NC Board of Architecture and Registered Interior Designers, 21 NCAC 02.0101-.0910.
3. Laws And Regulations Applicable to General Contracting in The State of N.C.
4. NC State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors.
5. NC General Statutes for The NC Board of Examiners of Electrical Contractors.
6. NC Board of Examiners of Electrical Contractors Rules, NCAC Title 21 Chapter 18
7. NC State Board of Refrigeration Contractors General Statutes & Administrative Code.
8. NC Board of Examiners for Engineers and Surveyors Rules, Title 21, Chapter 56, NCAC.
9. Boiler And Pressure Vessel, NCAC 13 .0101-.0817 Chapter 13.
10. Standards For Storage, Handling, And Installation of LP Gas, NCAC 38 .0700.
11. NC Code Officials Qualification Board Laws & Rules, Title 11 NCAC Chapter 8 .0100-.0807.
12. NC Home Inspector Licensing Board Statutes and Rules
13. NC Manufactured Housing Board Rules 11 NCAC 08.0901 - .0913

N.C. Code Officials Qualification Board Administrative Code & Board Rules

Title 11 - Department of Insurance, Chapter 8 - Engineering and Building Codes

CHAPTER 08 – ENGINEERING AND BUILDING CODES DIVISION

Section .0100 – General Provisions

11 NCAC 08 .0101-.0104 *Repealed Eff. July 1, 1988.*

Section .0200 – North Carolina State Building Code

11 NCAC 08 .0201 NORTH CAROLINA BUILDING CODE COUNCIL

The North Carolina Building Code Council is established to adopt and amend the North Carolina State Building Code and hear appeals from state enforcement agencies. The Commissioner of Insurance of the State of North Carolina has responsibility for supervision of the State Building Code in cooperation with local officials appointed by city and county commissioner.

11 NCAC 08 .0202 NORTH CAROLINA STATE BUILDING CODE

All rules and regulations, code requirements, procedures for amendment or repeal of requirements and other pertinent information are contained in published volumes of the North Carolina State Building Code as described in this Section. For purposes of this Section the terms "building code" or "code" shall mean the North Carolina State Building Code.

11 NCAC 08 .0203 BUILDING CODE PUBLICATIONS: GENERAL INFORMATION

(a) All volumes of the North Carolina State Building Code are published by the North Carolina Department of Insurance under the direction of the North Carolina Building Code Council. Amendments to all volumes of the code are published at: https://ncdoi.com/OSFM/Engineering_and_Codes/Default.aspx?field1=Codes_-_Code_Book_Sales&user=State_Building_Codes.
(b) Copies of the various volumes of the Building Code may be obtained from: North Carolina Department of Insurance, Engineering & Codes, 325 North Salisbury Street, Raleigh, North Carolina 27603. Information regarding cost of the publications may be obtained at the same address. Costs are based upon the cost to the Department of publication, distribution, and annual revisions.

11 NCAC 08 .0204-.0210 *Repealed Eff. September 1,1987.*

Section .0300 – County Electrical Inspectors Certification

11 NCAC 08 .0301-.0307 *Repealed Eff. July 1,1988.*

Section .0400 – Approval of School Maintenance Electricians

11 NCAC 08 .0401 APPLICATION FORMS FURNISHED

The staff of the electrical section shall provide application forms for persons wishing to apply for approval as a school maintenance electrician.

11 NCAC 08 .0402 APPLICATION FOR SCHOOL MAINTENANCE ELECTRICIANS' APPROVAL

The application requires the applicant to furnish all of the following pertinent information and such other information as may be deemed necessary in determining the qualifications of the applicant, including but not limited to:

(1) date, school unit, name, address, telephone number, age, educational background, whether or not applicant has taken qualifying examinations previously, electrical experience background, whether or not employed full time by school unit, present responsibilities and title, signature of applicant, etc.;
(2) signature of superintendent or maintenance supervisor other than applicant requesting application be processed and the applicant be approved.

11 NCAC 08 .0403 METHODS OF APPROVAL OF SCHOOL MAINTENANCE ELECTRICIANS

Approved school maintenance electricians may be certified by two methods as set forth in 11 NCAC 08 .0404 and .0405.

11 NCAC 08 .0404 APPLICATION APPROVAL

An applicant will be approved as a school maintenance electrician if he has filed a completed application on a form furnished by the Commissioner and the applicant furnishes with his application satisfactory evidence that he has complied with one of the following conditions:

(1) The applicant has taken and passed a regular qualifying examination administered by the State Board of Examiners of Electrical Contractors; or
(2) The applicant has qualified for and obtained a journeyman electrician's certification from a duly established city or county journeyman electrician's examining board in the State of North Carolina; or
(3) The applicant was on May 29, 1957 (date of enactment of statute) regularly employed by a local school unit in the State of North Carolina for the purposes of installing electrical wiring or altering or adding to any existing wiring as prescribed in G.S. 115-150.1(2) and has had at least 10 years of experience in such electrical work.

11 NCAC 08 .0405 APPROVAL OF SCHOOL MAINTENANCE ELECTRICIANS BY EXAM

The Commissioner will certify an applicant as a school maintenance electrician if the applicant:

(1) furnishes with his application satisfactory evidence that he has had at least two years experience in the capacity of a journeyman electrician or in a capacity equivalent to or higher than that of a journeyman electrician classification, and
(2) takes and passes the qualifying examination prepared and administered by the Commissioner of Insurance.

11 NCAC 08 .0406 EXAMINATION INFORMATION

The qualifying examination shall be designed to test applicants knowledge of fundamentals of electricity, acceptable materials, devices, appliances and equipment, provisions contained in the current edition of the National Electrical Code; the requirements regarding emergency lighting as contained in the North Carolina State Building Code; and other pertinent statutory requirements.

The examination may contain multiple-choice, true-false, essay type and research type questions, as well as problems and questions requiring calculations. All of the questions and problems will be designed to cover typical electrical installations as found on the premises of school properties.

The examination may be of the open-book and closed-book type with the majority of the examination being of the open-book type. All reference books will be provided the examinee for use during the examination.

The passing grade on the examination will be a minimum of 75. There will be no examination fee charged.

Arrangements shall be made to conduct the examination twice yearly in the Raleigh area and may be conducted at other times and places as deemed desirable by the Commissioner.

Section .0500 – Qualification Board – Limited Certificate

11 NCAC 08 .0501 *Repealed Eff. February 1, 1991.*

11 NCAC 08 .0502 NATURE OF LIMITED CERTIFICATE

A limited certificate shall be issued to each code enforcement official who held such a position on June 13, 1977. This certificate will entitle the official to continue in the position held on that date; it will not entitle him to shift to another employer or to another position for the same employer. The limited certificate will be issued and renewed from year to year without examination, on application of the official and verification of his status. However, it will not be renewed beyond the applicable date specified in Rule .0508 unless the official has prior to that date completed in-service training prescribed by the Board.

On or after the appropriate "applicable date" specified in Rule .0510, a limited certificate will be issued to each code enforcement official who makes application in accordance with these regulations. Such certificate will authorize the official to continue in the position held on the "applicable date" in the same manner as a limited certificate issued to an official who held a position on June 13, 1977.

11 NCAC 08 .0503 APPLICATION FORM: AVAILABILITY

The Board shall provide, upon request, application forms for any person desiring a limited certificate, obtainable from the Division of Engineering and Building Codes of the Department of Insurance.

11 NCAC 08 .0504 APPLICATION FORM: CONTENTS

(a) The application form requires the applicant to furnish all of the following pertinent information necessary to determine the qualifications of the applicant for a limited certificate:
    (1) the date;
    (2) name, address, and telephone number where applicant can be reached;
    (3) age;
    (4) title of position held on June 13, 1977 or applicable date;
    (5) government unit by which employed on June 13, 1977 (or applicable date);
    (6) duties in position held on June 13, 1977 (or applicable date);
    (7) educational background;
    (8) employment record.

(b) Each application for a limited certificate authorizing continuation in a position held after June 13, 1977, shall be accompanied by a notarized certificate from the department head or higher-level supervisor of the code enforcement official that:
    (1) the official occupied that position on the applicable date;
    (2) that the duties and title of the position were as set forth in the application; and
    (3) that the supervisor understands that the limited certificate will become invalid if the code enforcement official fails within two years to complete in-service training required under Rule .0508 of these Regulations.

11 NCAC 08 .0505 APPLICATION: WHERE MADE AND FEE

The completed application shall be returned to the Board at P.O. Box 26387, Raleigh, North Carolina 27611. Each application shall be accompanied by payment of a twenty dollar ($20.00) fee, either in cash or by a check made payable to the North Carolina Code Officials Qualification Board.

11 NCAC 08 .0506 CERTIFICATE

If an application is found to be in order, the Board's staff shall mail a limited certificate to the applicant at the address specified on the application. The certificate shall describe with particularity the position which it authorizes the applicant to hold and the governmental unit for which he is authorized to hold such position. The certificate shall be effective for one year, as specified in the certificate.

11 NCAC 08 .0507 RENEWAL

To remain effective, a limited certificate must be renewed annually on or before the first day of July. Applications for renewal shall be made in the same manner as the original application for the certificate, on forms furnished by the Board. A ten dollar ($10.00) renewal fee shall accompany each such application. In the event that an application is not received by July 1, an additional late renewal fee of two dollars ($2.00) shall be charged. In accordance with 11 NCAC 08 .0712, continuing education requirements must be completed by June 30 for renewal of the limited certificate.

11 NCAC 08 .0508 REQUIRED IN-SERVICE TRAINING FOR RENEWAL

No code enforcement official may have a limited certificate authorizing continuation in a position he held on June 13, 1977, renewed after July 1, 1981 unless he shall have submitted valid evidence that he has completed in-service training as prescribed by the Board.

No code enforcement official may have a limited certificate authorizing continuation in a position he held on an "applicable date" as specified in 11 NCAC 8 .0510 renewed beyond two years following such date, fire prevention inspectors beyond July 1, 1993, unless he shall have submitted valid evidence that he has completed in-service training as prescribed by the Board; said training shall be identical to the training required of applicants for standard certificates for the types and levels of code enforcement duties performed.

11 NCAC 08 .0509 *Repealed Eff. February 1, 1991.*

11 NCAC 08 .0510 *Repealed Eff. February 1, 1991.*

Section .0600 – Qualification Board – Probationary Certificate

11 NCAC 08 .0601 *Repealed Eff. February 1, 1991.*

11 NCAC 08 .0602 NATURE OF PROBATIONARY CERTIFICATE

(a) A probationary certificate may be issued as a building inspector, electrical inspector, mechanical inspector, plumbing inspector, or fire inspector as set forth in 11 NCAC 08 .0706, without examination, to any newly employed or newly promoted code enforcement official who lacks a standard certificate that covers the new position. A probationary certificate shall be issued for three years only and shall not be renewed. During the three-year period, the official shall complete the requirements set forth in 11 NCAC 08 .0706 to qualify for the appropriate standard certificate. A probationary certificate shall authorize the official, during the effective period of the certificate, to hold the position of the type, level, and location specified. The certificate shall be conditioned on the applicant's completion of a high school diploma or a high school equivalency certificate and meeting one of the following:
   (1) working under supervision sufficient, as determined by a supporting letter provided for in 11 NCAC 08 .0706(b), to protect the public health and safety;
   (2) possessing a minimum of two years of design, construction, or inspection experience working under a certified inspector or under a licensed professional engineer, registered architect, or licensed contractor;
   (3) possessing one of the experience qualifications listed in 11 NCAC 08 .0706 in each area of code enforcement for which the probationary certificate is issued; or

(4) achieving a minimum score of 70 percent on the probationary prequalification exam administered by the Board in each area of code enforcement for which the probationary certificate is issued

(b) A probationary certificate as a residential changeout inspector set forth in 11 NCAC 08 .0734 may be issued to any employed code enforcement official, whose employment can be verified pursuant to 11 NCAC 08 .0734(d)(2), who lacks a standard certificate as a residential changeout inspector and who successfully completes a residential changeout inspections course set forth in 11 NCAC 08 .0734(d)(3). A probationary certificate shall be issued for three years only and shall not be renewed. During the three-year period, the official shall complete the requirements set forth in 11 NCAC 08 .0706 to qualify for the appropriate standard certificate. A probationary certificate as a residential changeout inspector shall authorize the official, during the effective period of the certificate, to hold the position set forth in 11 NCAC 08 .0734(a). The probationary certificate shall be conditioned on the applicant's completion of a high school diploma or a high school equivalency certificate and working under the direct supervision of a person who possesses, or persons who collectively possess, standard certificates as an electrical inspector III, mechanical inspector III, and plumbing inspector III or an individual holding a residential changeout inspector certificate and five years of code enforcement experience.

11 NCAC 08 .0603 APPLICATION FORM: AVAILABILITY

The Board shall provide, upon request, application forms for any person desiring a probationary certificate, obtainable from the Division of Engineering and Building Codes of the Department of Insurance.

11 NCAC 08 .0604 APPLICATION FORM: CONTENTS

The application form requires the applicant to furnish all of the following pertinent information necessary to determine the qualifications of the applicant for a probationary certificate:

(1) the date;
(2) name, address and telephone number where applicant can be reached;
(3) date of birth;
(4) education;
(5) work experience;
(6) certificates and other professional licenses, if any, held previously or currently;
(7) title of position to which appointed or promoted;
(8) date of appointment or promotion to position;
(9) governmental unit by which employed;
(10) duties in a new position, in sufficient detail to determine appropriate type and level of certification;
(11) name and title, certification, or other qualifications of persons to be responsible for supervision; and
(12) Social Security number.

11 NCAC 08 .0605 APPLICATION: WHERE MADE AND FEE

The completed application shall be returned to the Board at P.O. Box 26387, Raleigh, North Carolina 27611. Each application shall be accompanied by payment of a twenty-dollar ($20.00) fee, either in cash or by a check made payable to the North Carolina Code Officials Qualification Board.

11 NCAC 08 .0606 CERTIFICATE

If an application is found to be in order, the Board's staff shall mail a probationary certificate to the applicant at the address specified on the application. The certificate shall specify the type and level of code enforcement in which the applicant may engage and may be conditioned upon his having supervision from an official with specified certification or qualifications. The certificate shall be effective for the period specified in the certificate.

11 NCAC 08 .0607 RETURN OF CERTIFICATE WHEN LEAVE EMPLOYMENT

A probationary certificate shall remain valid only so long as the person certified is employed by the state or a local government as a code enforcement official of the type and level indicated on the certificate. When the person certified leaves such employment for any reason, he shall return the certificate to the Board. If the person subsequently returns to such employment, the Board shall re-issue the certificate to him, provided there is any period remaining of its effective life. In such event, the effective period shall be calculated as though the resumed employment followed immediately after the cessation of employment.

Section .0700 – Qualification Board – Standard Certificate

11 NCAC 08 .0701 *Repealed Eff. February 1, 1991.*

11 NCAC 08 .0702 NATURE OF STANDARD CERTIFICATE

(a) The Board shall issue one or more standard certificates to each code enforcement official demonstrating the qualifications set forth in 11 NCAC 08 .0706, .0707, and .0734. Standard certificates are available for each of the following types of qualified code enforcement officials:
    (1) building inspector;
    (2) electrical inspector;
    (3) mechanical inspector;
    (4) plumbing inspector;
    (5) fire inspector; and
    (6) residential changeout inspector.

(b) The holder of a standard certificate may practice code enforcement only within the inspection area and level described upon the certificate issued by the Board. A code enforcement official may qualify and hold more than one certificate. These certificates may be for different levels in different types of positions.

(c) A code enforcement official holding a certificate indicating a specified level of proficiency in a particular type of position may hold a position calling for that type of qualification anywhere in the State. A standard certificate must be renewed annually in order to remain valid.

11 NCAC 08 .0703 APPLICATION FORM: AVAILABILITY

The Board shall provide, upon request, application forms for any person desiring a standard certificate, obtainable from the Division of Engineering and Building Codes of the Department of Insurance.

11 NCAC 08 .0704 APPLICATION FORM: CONTENTS

The application form requires the applicant to furnish all of the following pertinent information necessary to determine the qualifications of the applicant for a standard certificate:
    (1) the date;
    (2) name, address, and telephone number where applicant can be reached;
    (3) date of birth;

(4) education;
(5) work experience;
(6) certificates and other professional licenses, if any, held previously or currently;
(7) type and level of certificate for which application is made;
(8) governmental unit by which currently employed;
(9) supporting data needed for verification of applicant's qualifications called for by Rule .0706 or .0707 of this Section;
(10) and
(11) Social Security number.

11 NCAC 08 .0705 APPLICATION: WHERE MADE AND FEE

The completed application and all required supplementary information shall be returned to the Board at P.O. Box 26387, Raleigh, North Carolina 27611. Each application (whether for one or several standard certificates for a single individual) shall be accompanied by payment of a twenty dollar ($20.00) fee, either in cash or by a check made payable to the North Carolina Code Officials Qualification Board.

11 NCAC 08 .0706 REQUIRED QUALIFICATIONS: TYPES AND LEVELS

(a) Qualification Levels
(1) With respect to all types of code enforcement officials, those with Level I, Level II, or Level III certificates shall be qualified to inspect and approve only those types and sizes of buildings specified in the following tables.
(2) Limitation on maximum number of stories and square feet (sf) of floor area of buildings for Building, Electrical, Mechanical, and Plumbing inspectors, Levels I, II, or III:

Occupancy Classification	Level I	Level II	Level III
Assembly	1 story/ 7,500sf	1 story/ 20,000sf	Unlimited

Business	1 story/ 20,000sf	1 story/ 60,000sf Multi-story: 4 stories max/20,000sf per floor	Unlimited
Education	1 story/ 7,500sf	1 story/ 20,000sf Multi-story: 2 stories max/20,000sf per floor	Unlimited
Hazardous	1 story/ 3,000sf	1 story/ 20,000sf Multi-story: 2 stories max/20,000sf per floor	Unlimited
Factory-Industrial	1 story/ 20,000sf	1 story/ 60,000sf Multi-story: 4 stories max/20,000sf per floor	Unlimited
Institutional	1 story/ 7,500sf	1 story/ 10,000sf Multi-story: 3 stories max/20,000sf per floor	Unlimited
Mercantile	1 story/ 20,000sf	1 story/ 60,000sf Multi-story: 4 stories max/20,000sf per floor	Unlimited
Residential Multi-unit	1 story/ 7,500sf	3 stories max/no restrictions on floor area	Unlimited
1 & 2 family dwellings, townhouses	Unlimited	Unlimited	Unlimited
Storage	1 story/ 20,000sf	1 story/ 60,000sf per floor Multi-story: 4 stories max/20,000sf per floor	Unlimited
Utility and Miscellaneous	Unlimited	Unlimited	Unlimited

See the Building Code for Occupancy classifications.

Note: *Electrical Inspector, Level I shall not be authorized to inspect wiring or equipment in hazardous locations as defined by Article 500 of the National Electrical Code with the exception of service stations and service pumps.

(3) Limitation on occupancy classifications of buildings for Fire Inspectors, Levels I, II and III:

CERTIFICATION LEVELS FOR FIRE INSPECTORS

LEVEL I: - OCCUPANCY:

Business

Assembly - 1 story, 20,000 sf

Mercantile

Residential

Storage S-2

Factory Industrial F-2

Utility and Miscellaneous

Excluding Highrise *

Note: A Level I fire inspector shall not conduct any plan review on any building, highrise or other.

LEVEL II: - OCCUPANCY:

Everything in Level I

Assembly - unlimited

Educational

Factory Industrial F-1

Storage S-1

Excluding Highrise *

Note: A level II fire inspector is authorized to conduct Plan Review of all occupancies in Level I and II.

LEVEL III: - OCCUPANCY:

Everything in Levels I and II

Hazardous

Institutional

Highrise

(Unlimited Occupancies)

Note: A Level III fire inspector is authorized to conduct Plan Review of all occupancies in Levels I, II and III.

* The term "excluding highrise" is listed because some of the acceptable occupancies for the levels could be located in a highrise building (defined in the Building Code).

(b) Whenever a provision of the Rules in this Section requires a supporting letter (maximum of two per level) from a supervisor, the letter(s) shall be notarized, shall state the supervisor's qualifications (i.e., what type and level of certificate or license the supervisor holds), shall state that the applicant has worked under the supervisor's direct supervision for a specified period of time, and shall recommend certification of the applicant as a specified type and level of inspector upon satisfaction of other required qualifications. The supervisor shall describe the name, floor area, and number of stories of the buildings worked on by the applicant and shall describe the work performed by the applicant.

(c) References in the rules in this Section to professional engineer or licensed engineer means engineers licensed by the North Carolina State Board of Examiners for Engineers and Surveyors pursuant to G.S. 89C. References in the rules in this Section to registered architect means architects licensed by the Board of Architecture pursuant to Chapter 83A of the North Carolina General Statutes. References to licensed building, residential, electrical, heating, plumbing, and fire sprinkler contractors means contractors licensed by the State Licensing Board for General Contractors, the N.C. State Board of Examiners of Electrical Contractors, or the N.C. State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors pursuant

to Chapter 87 of the North Carolina General Statutes. References to licensed "building" contractors do not include licensed "residential" contractors. Specialty licenses issued by these occupational licensing boards are not acceptable. Applicants with licenses from other states or countries must provide a copy of their license and documentation that the requirements of the other state are at least equivalent to the statewide licensing requirements of North Carolina occupational licensing boards.

(d) Whenever a provision of the rules in this Section requires the possession of an occupational license other than those certificates that are issued by the Board, if that license is inactive, the applicant must provide documentation from the appropriate occupational licensing board that the applicant previously held the license and that the license is currently inactive.

(e) Whenever a provision of the rules in this Section requires inspector experience on a minimum number of buildings or systems, the experience must include all the inspections typically performed by an inspector during construction of the building or system. Inspections do not have to be performed on the same building.

(f) Whenever a provision of the rules in this Section requires a high school education or other education and experience qualifications, the Board may approve equivalent qualifications. Whenever a provision of the Rules in this Section requires the possession of a diploma or degree from an accredited college, university, or trade school, accredited shall mean accreditation from a regional accrediting association, for example, Southern Association of Colleges and Schools.

(g) Every applicant shall:
   (1) provide documentation that the applicant possesses a minimum of a high school education or a high school equivalency certificate (GED); and
   (2) provide notarized certification by a city or county manager, clerk, or director of inspection department that the applicant will be performing "code enforcement", as defined in G.S. 143-151.8(a)(3), as an employee of that city or county; or provide certification by the head of the Engineering and Building Codes Division of the North Carolina Department of Insurance that the applicant will be performing "code enforcement", as defined in G.S. 143-151.8(a)(3), for a state department or agency; and
   (3) make a grade of at least 70 on courses developed by the Board. Successful completion is defined as attendance of a minimum of 80 percent of the hours taught and achieving a minimum score of 70 percent on the course exam. All applicants must successfully complete a law and administration course. Applicants for certification in building, electrical, fire prevention, mechanical, or plumbing inspection at levels I, II, or III must successfully complete a course in that area and level (or a higher level). For the purpose of entry into the state examination, courses must be completed within five years of the exam in Subparagraph (g)(4) of this Rule. These courses shall be administered and taught in the N.C. Community College System or other educational agencies accredited by a regional accrediting association; for example, Southern Association of Colleges and Schools; and
   (4) achieve a passing grade of 70 percent on the written examination administered by the Board in each level of certification unless exempt by 11 NCAC 08.0707.

(h) **Building Inspector, Level I.** A standard certificate, building inspector, Level I, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:
   (1) a one year diploma in building construction from an accredited college or an equivalent apprenticeship or trade school program in building construction;
   (2) a four-year degree from an accredited college or university;
   (3) at least six months of building inspection experience with a probationary Level I building inspection certificate on a minimum of two Level I buildings while working under the direct supervision of a standard certified building inspector I, II, or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
   (4) at least one year of building design, construction, or inspection experience on a minimum of two Level I buildings while working under the direct supervision of a licensed engineer, registered architect, or licensed building contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
   (5) a license as a building contractor;

(6) at least two years of building construction or inspection experience while working under a licensed building contractor;
(7) at least two years of experience with a probationary Level I building inspection certificate inspecting building construction on a minimum of two Level I buildings;
(8) at least two years of experience as an owner, manager or supervisor of a residential construction company and who has a license as a residential contractor and who has construction experience on a minimum of two Level I buildings(this does not include a business partner providing monetary backing for the company); or
(9) at least two years of construction experience as a subcontractor or employee of a residential contractor in the building trades or work in building construction on a minimum of two Level I buildings and under the direct supervision of a licensed residential contractor who at that time had at least three years of experience.

(i) **Building Inspector, Level II**. A standard certificate, building inspector, Level II, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:
(1) a license as a professional engineer or registered architect;
(2) a four year degree from an accredited college or university in architecture, civil or architectural engineering, or building construction;
(3) a four-year degree from an accredited college or university and at least two years of design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified building inspector II or III, licensed engineer, registered architect, or intermediate or unlimited licensed building contractor;
(4) a two year degree from an accredited college or university in architecture, civil or architectural engineering, or building construction and at least two years of building design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified building inspector II or III, licensed engineer, registered architect, or intermediate or unlimited licensed building contractor;
(5) an intermediate or unlimited license as a building contractor with building construction experience on a minimum of two Level II buildings;
(6) at least three years of building inspection experience including one year of inspection experience with a probationary Level II building inspection certificate on a minimum of two Level II buildings while working under the direct supervision of a certified building inspector II or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
(7) at least three years of building design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a licensed engineer, registered architect, or licensed intermediate or unlimited building contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule; or
(8) at least two years of experience with a probationary Level II building inspection certificate inspecting construction of a minimum of two Level II buildings.

(j) **Building Inspector, Level III**. A standard certificate, building inspector, Level III, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:
(1) a license as a professional engineer or registered architect with design, construction, or inspection experience on Level III buildings and specialization in architecture, civil or architectural engineering, or fire protection engineering;
(2) a four-year degree from an accredited college or university in architecture, civil or architectural engineering, or building construction and at least one year of building design, construction, or inspection experience while working under the direct supervision of a certified building inspector III, licensed engineer, registered architect, or licensed unlimited building contractor, at least at the level of supervisor in responsible charge of a minimum of two Level III buildings;
(3) a two-year degree from an accredited college or university in architecture, civil or architectural engineering or building construction and at least three years of building design, construction, or inspection experience while working under the

direct supervision of a certified building inspector III, licensed engineer, registered architect, or licensed unlimited building contractor with at least one year at the level of supervisor in responsible charge of a minimum of two Level III buildings;

(4) an unlimited license as a building contractor with experience on a minimum of two Level III buildings;

(5) at least four years of inspection experience including one year of building inspection experience with a probationary Level III building inspection certificate on a minimum of two Level III buildings while working under the direct supervision of a certified building inspector III, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;

(6) at least four years of building design, construction, or inspection experience while working under the direct supervision of a licensed engineer, registered architect, or licensed unlimited building contractor, two years of which have been performed at the level of supervisor in responsible charge of a minimum of two Level III buildings with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule; or

(7) at least one year of experience with a probationary Level III building inspection certificate inspecting the construction of a minimum of two Level III buildings.

(k) **Electrical Inspector, Level I.** A standard certificate, electrical inspector, Level I, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

(1) a one-year diploma in electrical construction from an accredited college or an equivalent apprenticeship or trade school program in electrical construction;

(2) a four-year degree from an accredited college or university;

(3) at least six months of electrical inspection experience with a probationary Level I electrical inspection certificate on a minimum of two Level I buildings while working under the direct supervision of a standard certified electrical inspector I, II, or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;

(4) at least one year of electrical design, construction, or inspection experience on a minimum of two Level I buildings while working under the direct supervision of a licensed engineer or licensed electrical contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;

(5) a restricted (one family dwelling) license or license as an electrical contractor;

(6) at least two years of electrical installation or inspection experience while working under a licensed electrical contractor; or

(7) at least two years of experience with a probationary Level I electrical inspection certificate inspecting electrical installations on a minimum of two Level I buildings.

(l) **Electrical Inspector, Level II**. A standard certificate, electrical inspector, Level II, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

(1) a license as a professional engineer;

(2) a four-year degree from an accredited college or university in electrical engineering or electrical construction;

(3) a four-year degree from an accredited college or university and at least two years of electrical design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified electrical inspector II or III, licensed engineer, or intermediate or unlimited licensed electrical contractor;

(4) a two-year degree from an accredited college or university in electrical engineering or electrical construction and at least two years of electrical design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified electrical inspector II or III, licensed engineer, or intermediate or unlimited licensed electrical contractor;

(5) an intermediate or unlimited license as an electrical contractor with experience on a minimum of two Level II buildings;

(6) at least three years of electrical inspection experience including one year of inspection experience with a probationary Level II electrical inspection certificate on a minimum of two Level II buildings while working under the direct supervision of a certified electrical inspector II or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
(7) at least three years of electrical design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a licensed engineer or licensed intermediate or unlimited electrical contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule; or
(8) at least two years of experience with a probationary Level II electrical inspection certificate inspecting electrical installations on a minimum of two Level II buildings.

(m) **Electrical Inspector, Level III.** A standard certificate, electrical inspector, Level III, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:
(1) a license as a professional engineer with design, construction, or inspection experience on Level III buildings and specialization in electrical engineering;
(2) a four year degree from an accredited university in electrical engineering or electrical construction and at least one year of electrical design, installation, or inspection experience while working under the direct supervision of a certified electrical inspector III, licensed engineer, or licensed unlimited electrical contractor at least at the level of supervisor in responsible charge of a minimum of two Level III buildings;
(3) a two-year degree from an accredited college or university in electrical engineering or electrical construction and at least three years of electrical design, installation, or inspection experience while working under the direct supervision of a certified electrical inspector III, licensed engineer, or licensed unlimited electrical contractor with at least one year at the level of supervisor in responsible charge of a minimum of two Level III buildings;
(4) an unlimited license as an electrical contractor with experience on a minimum of two Level III buildings;
(5) at least four years of electrical inspection experience including one year of inspection experience with a probationary Level III electrical inspection certificate on a minimum of two Level III buildings while working under the direct supervision of a certified electrical inspector III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
(6) at least four years of electrical design, construction, or inspection experience while working under the direct supervision of a licensed engineer or licensed unlimited electrical contractor, two years of which have been performed at the level of supervisor in responsible charge of a minimum of two Level III buildings with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule; or
(7) at least one year of experience with a probationary Level III electrical inspection certificate inspecting the electrical installations of a minimum of two Level III buildings.

(n) **Mechanical Inspector, Level I**. A standard certificate, mechanical inspector, Level I, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:
(1) a one-year diploma in mechanical construction from an accredited college or an equivalent apprenticeship or trade school program in mechanical construction;
(2) a four-year degree from an accredited college or university;
(3) at least six months of mechanical inspection experience with a probationary Level I mechanical inspection certificate on a minimum of two Level I buildings while working under the direct supervision of a standard certified mechanical inspector I, II, or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;

(4) at least one year of mechanical design, construction, or inspection experience on a minimum of two Level I buildings while working under the direct supervision of a licensed engineer or licensed Class I mechanical contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
(5) an H-1, H-2, or H-3 Class I license as a mechanical contractor;
(6) at least two years of mechanical installation or inspection experience while working under a Class I H-1, H-2, or H-3 licensed mechanical contractor; or
(7) at least two years of experience with a probationary Level I mechanical inspection certificate inspecting mechanical installations a minimum of two Level I buildings.

(o) **Mechanical Inspector, Level II.** A standard certificate, mechanical inspector, Level II, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:
(1) a license as a professional engineer;
(2) a four-year degree from an accredited college or university in mechanical engineering or mechanical construction;
(3) a four-year degree from an accredited college or university and at least two years of mechanical design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified mechanical inspector II or III, licensed engineer, or licensed Class I mechanical contractor;
(4) a two-year degree from an accredited college or university in mechanical engineering or mechanical construction and at least two years of mechanical design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified mechanical inspector II or III, licensed engineer, or licensed Class I mechanical contractor;
(5) an H-1, H-2, or H-3 Class I license as a mechanical contractor with experience on a minimum of two Level II buildings;
(6) at least three years of mechanical inspection experience including one year of inspection experience with a probationary Level II mechanical inspection certificate on a minimum of two Level II buildings while working under the direct supervision of a certified mechanical inspector II or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
(7) at least three years of mechanical design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a licensed engineer or licensed Class I H-1, H-2, or H-3 mechanical contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule; or
(8) at least two years of experience with a probationary Level II mechanical inspection certificate inspecting mechanical installations on a minimum of two Level II buildings.

(p) **Mechanical Inspector, Level III.** A standard certificate, mechanical inspector, Level III shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:
(1) a license as a professional engineer, with design, construction, or inspection experience on Level III buildings and specialization in mechanical engineering;
(2) a four-year degree from an accredited university in mechanical engineering or mechanical construction and at least one year of mechanical design, installation, or inspection experience while working under the direct supervision of a certified mechanical inspector III, licensed engineer, or licensed Class I H-1, H-2, and H-3 mechanical contractor at least at the level of supervisor in responsible charge of a minimum of two Level III buildings;
(3) a two-year degree from an accredited college or university in mechanical engineering or mechanical construction and at least three years of mechanical design, installation, or inspection experience while working under the direct supervision of a certified mechanical inspector III, licensed engineer, or licensed Class I H-1, H-2, and H-3 mechanical contractor with at least one year at the level of supervisor in responsible charge of a minimum of two Level III buildings;
(4) H-1, H-2, and H-3 Class I licenses as a mechanical contractor with experience on a minimum of two Level III buildings;

(5) at least four years of mechanical inspection experience including one year of inspection experience with a probationary Level III mechanical inspection certificate on a minimum of two Level III buildings while working under the direct supervision of a certified mechanical inspector III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
(6) at least four years of mechanical design, construction, or inspection experience while working under the direct supervision of a licensed engineer or licensed Class I H-1, H-2, and H-3 mechanical contractor, two years of which have been performed at the level of supervisor in responsible charge of a minimum of two Level III buildings with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule; or
(7) at least one year of experience with a probationary Level III mechanical inspection certificate inspecting the mechanical installations of a minimum of two Level III buildings.

(q) **Plumbing Inspector, Level I.** A standard certificate, plumbing inspector, Level I, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:
(1) a one-year diploma in plumbing construction from an accredited college or an equivalent apprenticeship or trade school program in plumbing construction;
(2) a four-year degree from an accredited college or university;
(3) at least six months of plumbing inspection experience with a probationary Level I plumbing inspection certificate on a minimum of two Level I buildings while working under the direct supervision of a standard certified plumbing inspector I, II, or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
(4) at least one year of plumbing design, construction, or inspection experience on a minimum of two Level I buildings while working under the direct supervision of a licensed engineer or licensed Class I plumbing contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
(5) a Class I license as a plumbing contractor;
(6) at least two years of plumbing installation or inspection experience while working under a licensed Class I plumbing contractor; or
(7) at least two years of experience with a probationary Level I plumbing inspection certificate inspecting plumbing installations a minimum of two Level I buildings.

(r) **Plumbing Inspector, Level II**. A standard certificate, plumbing inspector, Level II, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:
(1) a license as a professional engineer;
(2) a four-year degree from an accredited college or university in mechanical engineering or mechanical or plumbing construction;
(3) a four-year degree from an accredited college or university and at least two years of plumbing design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified plumbing inspector II or III, licensed engineer, or licensed Class I plumbing contractor;
(4) a two year degree from an accredited college or university in mechanical engineering or mechanical or plumbing construction and at least two years of plumbing design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified plumbing inspector II or III, licensed engineer, or licensed Class I plumbing contractor;
(5) a Class I license as a plumbing contractor with experience on a minimum of two Level II buildings;
(6) at least three years of plumbing inspection experience including one year of inspection experience with a probationary Level II plumbing inspection certificate on a minimum of two Level II buildings while working under the direct supervision of a certified plumbing inspector II or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;

(7) at least three years of plumbing design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a licensed engineer or licensed Class I plumbing contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule; or
(8) at least two years of experience with a probationary Level II plumbing inspection certificate inspecting plumbing installations on a minimum of two Level II buildings.

(s) **Plumbing Inspector, Level III.** A standard certificate, plumbing inspector, Level III shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:
(1) a license as a professional engineer with design, construction, or inspection experience on Level III buildings and specialization in mechanical engineering;
(2) a four-year degree from an accredited university in mechanical engineering or mechanical or plumbing construction and at least one year of plumbing design, installation, or inspection experience while working under the direct supervision of a certified plumbing inspector III, licensed engineer, or licensed Class I plumbing contractor at least at the level of supervisor in responsible charge of a minimum of two Level III buildings;
(3) a two-year degree from an accredited college or university in mechanical engineering or plumbing construction and at least three years of plumbing design, installation, or inspection experience while working under the direct supervision of a certified plumbing inspector III, licensed engineer, or licensed Class I plumbing contractor with at least one year at the level of supervisor in responsible charge of a minimum of two Level III buildings;
(4) a Class I license as a plumbing contractor with experience on a minimum of two Level III buildings;
(5) at least four years of plumbing inspection experience including one year of inspection experience with a probationary Level III plumbing inspection certificate on a minimum of two Level III buildings while working under the direct supervision of a certified plumbing inspector III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
(6) at least four years of plumbing design, construction, or inspection experience while working under the direct supervision of a licensed engineer or licensed Class I plumbing contractor, two years of which have been performed at the level of supervisor in responsible charge of a minimum of two Level III buildings with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule; or
(7) at least one year of experience with a probationary Level III plumbing inspection certificate inspecting the plumbing installations of a minimum of two Level III buildings.

(t) **Fire Inspector, Level I**. A standard certificate, fire inspector, Level I, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:
(1) a one year diploma in fire science from an accredited college or an equivalent apprenticeship or trade school program in fire science;
(2) a four-year degree from an accredited college or university;
(3) at least six months of fire inspection experience with a probationary Level I fire inspection certificate on a minimum of two Level I buildings while working under the direct supervision of a standard certified fire inspector I, II, or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
(4) at least one year of fire protection design, construction, or inspection experience on a minimum of two Level I buildings while working under the direct supervision of a licensed engineer, registered architect, or licensed building, electrical, or fire sprinkler contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
(5) a license as a fire sprinkler contractor;
(6) at least two years of construction or inspection experience in fire protection systems while working under a licensed building, electrical, or fire sprinkler contractor;

(7) at least two years of experience with a probationary Level I fire inspection certificate conducting fire inspections on a minimum of two Level I buildings;
(8) at least four years of experience in fire suppression activities for a city, county, volunteer, or other governmental fire department; or
(9) Firefighter Level II certification under the North Carolina State Fire and Rescue Commission with at least one year of fire inspection experience in Level I buildings.

(u) **Fire Inspector, Level II**. A standard certificate, fire inspector, Level II, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:
(1) a license as a professional engineer or registered architect;
(2) a four year degree from an accredited college or university in architecture, civil or architectural engineering, building construction, or fire science;
(3) a four-year degree from an accredited college or university and at least two years of fire protection design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified fire inspector II or III, licensed engineer, registered architect, intermediate or unlimited licensed building contractor, or licensed fire sprinkler contractor;
(4) a two-year degree from an accredited college or university in architecture, civil or architectural engineering, building construction, or fire science and at least two years of fire protection design, construction, or inspection experience on a minimum of two Level II building fire protection systems while working under the direct supervision of a certified fire inspector II or III, licensed engineer, registered architect, intermediate or unlimited licensed building contractor, or licensed fire sprinkler contractor;
(5) a license as a fire sprinkler contractor with experience on a minimum of two Level II buildings;
(6) at least three years of fire inspection experience including one year of inspection experience with a probationary Level II fire inspection certificate on a minimum of two Level II buildings while working under the direct supervision of a certified fire inspector II or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
(7) at least three years of fire protection system design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a licensed engineer, registered architect, licensed intermediate or unlimited building contractor, or licensed fire sprinkler contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
(8) at least two years of experience with a probationary Level II fire inspection certificate conducting fire inspections on a minimum of two Level II buildings; or
(9) completion of the basic, intermediate, and advanced classes of the North Carolina Fire Prevention School with at least three years of fire inspection experience in Level II buildings.

(v) **Fire Inspector, Level III.** A standard certificate, fire inspector, Level III, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:
(1) a license as a professional engineer or registered architect with design, construction, or inspection experience on Level III buildings and specialization in architecture, civil or architectural engineering, or fire protection engineering;
(2) a four-year degree from an accredited college or university in civil, architectural, or fire protection engineering and at least one year of fire inspection experience while working under a certified fire inspector III, licensed engineer, registered architect, or licensed fire sprinkler contractor on a minimum of two Level III buildings;
(3) a two-year degree from an accredited college or university in civil, architectural, or fire protection engineering and at least three years of fire protection design, installation, or inspection experience while working under the direct

supervision of a certified fire inspector III, licensed engineer, registered architect, licensed unlimited building contractor, or licensed fire sprinkler contractor with at least one year in responsible charge of a minimum of two Level III buildings;

(4) a license as a fire sprinkler contractor with experience on a minimum of two Level III buildings;

(5) at least four years of fire inspection experience in fire protection systems including one year of inspection experience with a probationary Level III fire inspection certificate on a minimum of two Level III buildings while working under the direct supervision of a certified fire inspector III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;

(6) at least four years of fire protection system design, construction, or inspection experience while working under the direct supervision of a licensed engineer, registered architect, licensed intermediate or unlimited building contractor, or licensed fire sprinkler contractor, two years of which have been performed at the level of supervisor in responsible charge of a minimum of two Level III buildings with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule; or

(7) at least one year of experience with a probationary Level III fire inspection certificate conducting fire inspections on a minimum of two Level III buildings.

11 NCAC 08 .0707 SPECIAL CIRCUMSTANCES

(a) Licensed County Electrical Inspector. Certificates issued pursuant to G.S. 143-151.13(e) shall be for the electrical inspector level corresponding to the level at which the applicant is currently certified.

(b) Registered Architect, Licensed General Contractor, Licensed Plumbing or Heating Contractor, Licensed Electrical Contractor, Registered Professional Engineer. Applicants for certification under G.S. 143-151.13(f) shall successfully complete the Board's prescribed short course, as set out in 11 NCAC 08 .0706(g)(3), concerning State Building Code rules and code enforcement administration prior to being certified. Applicants under this Paragraph shall be currently registered or licensed (as of June 13, 1977) by the State of North Carolina as an architect, a general contractor, a plumbing or heating contractor, an electrical contractor, or a professional engineer to receive certification. The standard certificate shall authorize the person to practice as a qualified code enforcement official of the type and at the performance level determined by the Board to be appropriate, in accordance with 11 NCAC 08 .0706, in light of the applicant's education, training, and experience.

(c) Certified Code Enforcement Official From Another State. Pursuant to G.S. 143.151.14(a), the Board may, without requiring an examination, issue a standard certificate to any person who successfully completes the Board's prescribed short course concerning State Building Code rules and code enforcement administration and who holds a currently valid certificate as a qualified code enforcement official from another state or territory whose standards are acceptable to the Board and not lower than those required of North Carolina applicants, under Article 9C of the North Carolina General Statutes and all applicable administrative rules governing Code Enforcement Officials.

(d) Certified Code Enforcement Official with International Code Council Certification. Applicants for certification pursuant to G.S. 143-151.14(b) shall successfully complete the short course required by G.S. 143-151.14(c) as set out in 11 NCAC 08 .0706(g)(3).

(e) Comity Applicants. Comity applicants as set out in in Paragraphs (c) and (d) of this Rule shall meet the experience requirements specified in 11 NCAC 08 .0706 to be eligible for comity consideration. The successful completion of a law and administration course and a standard technical course, as set out in 11 NCAC 08 .0706(g)(3), in the area and level of the standard certificate must be completed within three years to maintain any standard certificate issued due to comity. Standard certificates issued under comity shall expire if required courses are not completed within the three-year period.

11 NCAC 08 .0708 CERTIFICATE

(a) If an application meets the requirements of Rules .0704 and .0706 of this Section, the application fee has been paid, and the applicant qualified for a particular type and level of certificate, the Board's staff shall mail a standard certificate of that type and level to the applicant at the address specified on the application. The certificate shall be effective until the renewal date specified in G.S. 143-151.16(b).

(b) If the applicant does not meet the criteria for the certificate for which he or she applied, the applicant shall be given written notice of the criterion that the applicant fails to meet and offered a choice of:
   (1) accepting a certificate for a lower level for which the applicant is qualified;
   (2) submitting additional evidence in support of the application;
   (3) withdrawing the application; or
   (4) appealing the decision to the Board.

If an appeal is filed, the Board shall conduct a hearing and render a decision in accordance with Article 3A of G.S. 150B.

11 NCAC 08 .0709 RENEWAL

To remain effective, a standard certificate must be renewed in accordance with G.S. 143-151.16(b). Applications for renewal shall be made on forms furnished by the Division of Engineering and Building Codes of the Department of Insurance. A ten dollar ($10.00) renewal fee shall accompany each such application. In the event that an application for renewal is not received by July 1, an additional late-renewal fee of two dollars ($2.00) shall be charged. Any person who fails to renew a certificate for a period of two consecutive years shall take and pass the same examination as unlicensed applicants for that type and level of certificate before that person shall be allowed to renew the certificate. In accordance with 11 NCAC 08 .0712, continuing education requirements must be completed by June 30 for renewal of the standard certificate.

11 NCAC 08 .0710 RETURN OF CERTIFICATE WHEN LEAVE EMPLOYMENT

A standard certificate issued by the Board shall remain valid only so long as the person certified is employed by the State of North Carolina or any political subdivision thereof as a code enforcement official. When the person certified leaves such employment for any reason, he shall return the certificate to the Board. If the person subsequently obtains employment as a code enforcement official in any of such governmental jurisdictions, the Board shall re-issue the certificate to him, subject to the provisions of Rule .0709, provided, however, that if there is time remaining on the re-issued certificate, no additional fee will be charged.

11 NCAC 08 .0711 PRE-QUALIFICATION PROGRAM

The Board may prequalify, as an inspector, an applicant who is not an employee of a city, county, or state inspection department. The Board shall accept applicants who meet the same education, experience, and other requirements listed in Rules .0702 through .0707 of this Section. The Board shall prequalify the applicant at the area and level of certification when the applicant completes these requirements. The Board shall issue a standard inspection certificate when the prequalified applicant is employed by a city, county, or state inspection department.

11 NCAC 08 .0712 CONTINUING EDUCATION - GENERAL

As a condition of certificate renewal, holders of active standard and limited certificates must meet continuing education (CE) requirements in accordance with 11 NCAC 08 .0713 through 08 .0733. Courses and sponsors must meet the requirements in 11 NCAC 08 .0713 through 08 .0733.

11 NCAC 08 .0713 CONTINUING EDUCATION REQUIREMENTS

a. To be eligible to renew a certificate, whether active standard or active limited, a Code Enforcement Official (CEO) shall have completed the requisite number of credit hours by June 30, 2007, and each June 30 thereafter.
b. A credit hour is 50 minutes of class contact course instruction or 50 minutes of distance learning time.

c. A CEO with an active limited certificate shall complete six hours of continuing education courses per renewal year in each technical area for which the limited certificate is valid. A CEO with an active standard certificate shall complete six hours of continuing education courses per renewal year for each standard certificate. A CEO with a limited and a standard certificate valid for the same technical area shall complete only six hours for that technical area.
d. A CEO with only a probationary certificate and no standard or limited certificate is not required to complete any continuing education courses.
e. If a course exceeds the number of credit hours specified for renewal of a technical area certificate, the excess credit hours may be carried forward into the following renewal year of that technical area certificate. The number of carry-forward credit hours shall not exceed six.

11 NCAC 08 .0714 INACTIVE CODE ENFORCEMENT OFFICIALS

a. A CEO either who is no longer employed by a local inspection department or who remains employed by a local inspection department but no longer has Code enforcement responsibility shall be inactive. Inactive CEOs shall not be subject to certificate renewal requirements nor continuing education requirements.
b. When an inactive CEO wishes to become reemployed as an active CEO, the CEO shall complete continuing education courses within one year after reemployment to re-activate certificates in addition to completing the courses required for renewal of certificates as follows:
   (1) A CEO who has been on inactive status for more than two years and who has not been continuously employed by a local inspection department during the period of inactive status shall complete continuing education courses of six hours for each technical area in which the CEO is certified.
   (2) A CEO who has been on inactive status for more than two years and who has been continuously employed by a local inspection department during the period of inactive status shall complete continuing education courses of three hours for each technical area in which the CEO is certified.
   (3) A CEO who has been on inactive status for two years or less shall complete CE courses of two hours for each technical area in which the CEO is certified.

11 NCAC 08 .0715 FAILURE TO COMPLETE CONTINUING EDUCATION

Any active CEO who fails to complete the required continuing education courses by June 30 of the current renewal year shall have his or her certificates suspended until the CE requirement is met. A CEO without a currently valid certificate shall not perform Code enforcement.

11 NCAC 08 .0716 COMPLIANCE

(a) General CEO compliance with annual CE requirements may be determined through an audit process conducted by the Board's staff. Determination of individuals to be audited shall be accomplished either through a random selection process or based on information available to the Board's staff. Individuals selected for auditing shall provide the Board's staff with documentation of the CE activities claimed for the renewal period, including attendance verification records in the form of transcripts, completion certificates, and any other documents supporting evidence of attendance.
(b) Attendance records shall be maintained by CEOs for a period of three years following the applicable certificate renewal date for audit verification purposes.

11 NCAC 08 .0717 EXTENSIONS OF TIME

Upon petition to the Board staff, extensions of time to complete continuing education courses shall be granted to CEOs for good cause only, such as military service, physical disability, illness, and similar hardship if the period of hardship exceeded 90

consecutive days. Supporting documentation such as military orders or a letter from a physician must be furnished to the Board's staff. The Board staff shall determine whether the extension shall be granted within 10 calendar days of receipt of the petition and shall notify the CEO of its determination.

11 NCAC 08 .0718 COURSE SPONSORS

(a) A course sponsor is an organization or individual that has submitted an application and has been approved by the Board to provide courses and instructors for continuing education. No retroactive approval of a sponsor shall be granted by the Board for any reason.
(b) A prospective sponsor of a CE course shall obtain written approval from the Board to conduct the course before offering or conducting the course and before advertising or otherwise representing that the course is or may be approved for continuing education credit.
(c) Sponsors may include community colleges; colleges and universities; CEO associations; trade associations; providers of self-paced or internet based training programs; city, county, and state inspection departments or other agencies; and private instructors. A prospective sponsor shall be approved by the Board as a course sponsor if, upon submission of a completed application under Paragraph (d) of this Rule, the Board determines that at least one course proposed to be offered by the prospective sponsor meets the criteria for course approval under 11 NCAC 08 .0720, each instructor that is to offer course instruction for the prospective sponsor satisfies the requirements of Paragraph (e) of this Rule, and there are no other grounds under the laws of North Carolina on the basis of which approval should not be granted to the sponsor.
(d) Each course sponsor shall submit an application for continuing education course sponsor approval to the Board on a form provided by the Board. The application shall include:
    (1) The name of the sponsor;
    (2) The sponsor contact person, address and telephone number;
    (3) The course contact hours;
    (4) A description of the courses or types of courses the sponsor proposes to offer and the schedule of courses, if established, including dates, time and locations; and
    (5) The identity and qualifications and experience of each instructor.
(e) Instructors shall have a minimum of one year of experience in architecture; engineering; construction; inspection; installation of equipment, building materials, or components; or other Code-related areas which shall be pertinent to the nature and purpose of the course(s) for which they will provide instruction. Instructors shall possess the ability to:
    (1) Communicate through speech, with the ability to speak clearly, and with voice inflection, using proper grammar and vocabulary;
    (2) Present instruction in a thorough, accurate, logical, orderly and understandable manner;
    (3) Use varied instructional techniques in addition to straight lecture, such as class discussion, role-playing, or other techniques; and
    (4) Use instructional aids, such as projectors and computers to enhance learning.

Instructors shall assure that class sessions are started on time and are conducted for the full amount of time that is scheduled. Instructors shall also assure that each CE course is taught according to the course outline and plan that was approved by the Board, including the furnishing of approved student materials.

11 NCAC 08 .0719 CONTINUING EDUCATION COORDINATOR

Each sponsor of a CE course shall designate one person to serve as the Continuing Education Coordinator for all Board-approved continuing education courses offered by the sponsor. The designated Coordinator shall serve as the official contact person for the sponsor and shall be responsible for signing the course completion certificates provided by the sponsor to CEOs completing courses and submitting to the Board's staff all required rosters, sign-in sheets, reports, and other information.

11 NCAC 08 .0720 APPROVED COURSES

(a) To be approved for credit in the continuing education program, a course shall be directly related to State Building Codes, inspection, administration, or enforcement of State Building Codes; construction or design of buildings or electrical, mechanical, plumbing, or fire prevention systems; or certification courses approved for CEOs.
(b) Credit shall be given only for courses that have been approved by the Board. Continuing education courses for other State occupational licenses must be specifically approved to satisfy the Board's continuing education requirements. Courses from approved sponsors must be specifically approved before being offered.
(c) Some courses shall be approved for credit in more than one area of certification. A CEO with multiple certificates may apply the credit to any certificate for which the course is approved. If the course hours are greater than required for one certificate, the remaining hours may be applied to other certificates for which the course is approved or the remaining hours may be carried over in accordance with 11 NCAC 08 .0713(e).
(d) A CEO shall only receive credit for the same course once within any three-year period.
(e) A course shall contain a minimum of one credit hour.
(f) A CEO may select a course other than one offered by an approved sponsor. In order to obtain approval for the course, the CEO shall, upon completion of the course, submit an application for approval on a form provided by the Board. The application shall include:
    (1) the topic;
    (2) content of lecture material;
    (3) date, time, and location of the course;
    (4) name and qualifications of the instructor; and
    (5) the number of course contact hours received upon completion of the course.

In lieu of the form, the CEO may submit a course brochure that contains all of the information required by the form. The CEO shall also provide verification of attendance from the course instructor. The Board shall not accept any applications for course approval under this paragraph after April 30 of each year.

(g) Instructors shall receive twice the number of course credit hours for each instructional hour in an approved course. An instructor shall only receive twice the number of course credit hours for the same course once within any two-year period.

11 NCAC 08 .0721 COURSE ACCREDITATION REQUIREMENTS

(a) Sponsors of prospective CE courses shall apply for approval from the Board by submitting the following information to the Board's staff for consideration:
    (1) course title and outline;
    (2) nature and purpose of the course;
    (3) outline of the course, including the number of training hours for each segment; and
    (4) copies of handouts and materials to be furnished to students.
(b) To determine if a course is approved, the Board's staff shall review the course to determine if the course meets the requirements of 11 NCAC 08 .0720 and its stated objectives. The Board's staff shall issue written approval to the course sponsor for all courses deemed to be acceptable. The Board's staff shall notify the course sponsor of any course found not to be acceptable, providing specific reasons for the disapproval. A course sponsor may appeal the Board's staff's disapproval of a course to the Board, and such appeal shall be heard at the next scheduled meeting of the Board.

11 NCAC 08 .0722 DISTANCE EDUCATION COURSES

A distance education course is a continuing education course in which instruction is accomplished through the use of media and methods whereby instructor and student are separated by distance and sometimes by time. In addition to fulfilling all course accrediting requirements, a sponsor requesting approval of a distance education course must demonstrate that the proposed distance education course satisfies the following criteria:

(1) The course shall be designed to assure that students have defined learning objectives. If the nature of the subject matter is such that the learning objectives cannot be reasonably accomplished without some direct interaction between the instructor and students, then the course must be designed to provide for such interaction.
(2) A course that does not provide the opportunity for continuous audio and visual communication between instructor and all students during the course presentation shall utilize testing processes to assure student understanding of the subject material.
(3) A course that involves students completing the course on a self-paced study basis shall be designed so that the time required for a student of average ability to complete the course will be equivalent to a similar course taught in a classroom setting. The sponsor shall utilize a system that assures that students have actually performed all tasks required for completion and understanding of the subject material.
(4) The sponsor shall provide technical support to enable students to satisfactorily complete the course.
(5) The course instructors shall be available to respond in a timely manner to student questions about the subject matter of the course. Instructors shall have training in the proper use of the instructional delivery method utilized in the course, including the use of computer hardware and software or other applicable equipment and systems.
(6) The sponsor shall provide students with an information package containing all pertinent information regarding requirements unique to completing a distance education course, including any special requirements with regard to computer hardware and software or other equipment, and outlining in detail the instructor and technical support that will be available when taking the course.
(7) The sponsor shall use procedures that provide reasonable assurance that the student receiving continuing education credit for completing the course actually performed all the work required to complete the course. For courses that involve independent study by students, certification that the student personally completed all required course work shall be provided by the student to the sponsor, either by a signed statement (on a form provided by the sponsor) or, in the case of internet or computer based courses, by electronic means that are indicated in the software or on the website. Signed course completion statements or records of electronic certification shall be retained by the sponsor together with any other course records required by the rules in this Section.
(8) Sponsors seeking approval of distance education courses must submit to the Board's staff a complete copy of the course in the medium that is to be used, including all computer software that will be used in presenting the course and administering tests. If the course is to be internet based, the Board's staff must be provided access to the course via the internet and shall not be charged a fee for such access.
(9) Distance education courses shall comply with requirements for course completion reporting. Students shall not be reported for continuing education credit for distance education courses until the signed form from the student or electronic certification as described in Item (7) of this Rule has been received by the sponsor.

11 NCAC 08 .0723 DENIAL OR WITHDRAWAL OF APPROVAL OF SPONSOR OR COURSE

The Board may deny, suspend or terminate approval of sponsors or courses offered by a sponsor if the Board finds a failure to comply with the Board's rules or the course outline, or for misstatements as to content or participation.

11 NCAC 08 .0724 SPONSOR AND COURSE CHANGES

(a) Course sponsors shall obtain prior approval from the Board's staff for any proposed changes in the content or number of hours for approved CE courses. Requests for approval of changes shall be in writing. The Board's staff shall approve the changes if they satisfy the accreditation requirements as provided in 11 NCAC 08 .0721. Changes in course content that are

solely for the purpose of assuring that information provided in a course is current, such as updating to address code amendments or changes in regulations, need not be submitted for approval.

(b) Course sponsors shall give prior written notice to the Board's staff in writing of any change in business name, Continuing Education Coordinator, address, or business telephone number.

11 NCAC 08 .0725 NOTICE OF SCHEDULED COURSES

(a) A sponsor shall provide the Board's staff with written notice of each scheduled course offering no later than 20 calendar days before a scheduled course date. The notice shall include the name and assigned number for the sponsor, the name and assigned number for the course, and the scheduled date, time, and location of the course.

(b) A sponsor shall notify any registered CEOs and the Board's staff of any schedule changes or course cancellations at least five calendar days before the original scheduled course date. If a change or cancellation becomes necessary after the five-day deadline, the sponsor shall notify the Board's staff and any registered CEOs as soon as the sponsor effects the change or cancellation.

11 NCAC 08 .0726 ADVERTISING AND PROVIDING COURSE INFORMATION

(a) Course sponsors shall not use false or misleading advertising.

(b) Any flyers, brochures, or other medium used to promote a CE course shall describe the fee to be charged and the sponsor's cancellation and fee refund policies.

(c) A sponsor of a CE course shall provide a description of the course content to the CEO.

11 NCAC 08 .0727 FEE FOR CE COURSES

The sponsor of an approved CE course shall establish the amount of any fee to be charged to CEOs taking the course. The fee shall be all-inclusive. No separate or additional fee shall be charged to CEOs for providing course materials, providing course completion certificates, reporting course completion to the Board's staff, or for recouping administrative expenses. The total amount of any fees to be charged shall be included in any advertising or promotional materials for the course.

11 NCAC 08 .0728 CANCELLATION AND REFUND POLICIES

If a scheduled course is canceled, a sponsor shall immediately notify preregistered CEOs of the cancellation. All prepaid fees received from preregistered CEOs shall be refunded within 30 days after the date of cancellation. Failure to provide a refund shall result in revocation of sponsor approval.

11 NCAC 08 .0729 COURSE ATTENDANCE

(a) Course instructors shall monitor attendance to assure that all CEOs have completed the course. A CEO shall not be reported to the Board's staff as having completed a course unless the CEO satisfies the attendance requirement.

(b) Any CEO providing false information to a course sponsor shall not receive CE credits for the course, shall not be entitled to a refund of course fees, and may be subject to disciplinary action by the Board.

11 NCAC 08 .0730 ACCOMMODATIONS FOR PERSONS WITH DISABILITIES

Course sponsors and instructors shall comply with the Americans with Disabilities Act or other laws requiring accommodation of persons with disabilities.

11 NCAC 08 .0731 COURSE COMPLETION REPORTING

(a) Each sponsor shall submit to the Board's staff a report verifying completion of a CE course for each CEO who completes the course. A sponsor shall submit this report to the Board's staff within 15 calendar days following the course completion. Reports shall be submitted electronically on forms provided by the Board. Reports shall include the sponsor name and the sponsor identifying number, the name and the identifying number of the CEO who completed the course, the date of course completion, the course name and course identifying number, the trade area to which the course applies, the instructor name, the standard or limited certificate number to which to credit the course, and the number of credit hours, and the renewal year to apply the course credit.
(b) Course sponsors shall provide CEOs enrolled in each CE course an opportunity to complete an evaluation on a form provided by the Board of each approved CE course. Sponsors shall submit the completed evaluation forms to the Board's staff. The evaluation form may be provided on the internet at the option of the provider.
(c) Course sponsors shall provide each CEO who completes an approved CE course with a course completion certificate. Sponsors shall provide the certificates to CEOs within 15 calendar days following the course completion. The certificate shall be retained for three years by the CEO as proof of having completed the course.

11 NCAC 08 .0732 RETENTION OF COURSE RECORDS

All course sponsors shall retain records of student registration, attendance, and course completion for CE courses for at least three years. All course sponsors shall make these records available to the Board's staff upon request.

11 NCAC 08 .0733 BOARD MONITORS

A course sponsor shall admit representatives of the Board to monitor any CE class without prior notice. Board representatives shall not be required to register or pay any fee and shall not be reported as having completed the course.

11 NCAC 08 .0734 RESIDENTIAL CHANGEOUT INSPECTOR

(a) Qualifications and types:

(1) A residential changeout inspector shall be authorized to inspect the replacement of a residential appliance as described in Subparagraph (2) of this Paragraph for one-and-two family dwellings, and individual residential units of condominiums and apartments provided the individual residential appliance serves only that residential dwelling unit.
(2) A residential changeout inspector may inspect the replacement of heating and air conditioning appliances and water heaters, provided that all of the following apply:
   A. the new appliance requires no alterations to the existing ducting, fuel type, venting, or piping systems other than that required for transitioning to the new appliance;
   B. the new appliance does not require relocation, excluding minor adjustments in the same general vicinity;
   C. the installation of the new appliance does not require the relocation or addition to the existing electrical system, except the replacement of the appliance's branch circuit overcurrent device, or the replacement of the appliance's branch circuit where such circuit does not pass through a rated assembly shall be allowed; and
   D. the electrical branch circuit serving the appliance is single phase.

(b) The inspection performance log referenced in this Rule is available on the Office of State Fire Marshal website. The inspection performance log shall describe the criteria for authenticating the applicant and supervisors' qualifications, and the inspections performed.

(c) Every applicant shall:

(1) provide documentation that the applicant possesses a minimum of a high school education or a high school equivalency certificate;
(2) provide notarized certification by a city or county manager, clerk, or director of inspection department that the applicant will be performing "code enforcement," as defined in G.S. 143-151.8(a)(3), as an employee of that city or county; or provide certification by the head of the Engineering and Building Codes Division of the North Carolina Department of Insurance that the applicant will be performing "code enforcement," as defined in G.S. 143-151.8(a)(3), for a State department or agency;
(3) successfully complete courses developed by the Board. All applicants must successfully complete a law and administration course and a residential changeout inspections course. For the purpose of entry into the written examination administered by the Board, courses must be completed within five years of the exam in Subparagraph (4) of this Paragraph. These courses shall be administered and taught in the N.C. Community College System or other educational agencies accredited by a regional accrediting association. The North Carolina Department of Insurance, Office of State Fire Marshal may administer and teach certification courses for the purposes of developing program content and professional development. For the purposes of this Rule, "successful completion" is defined as attendance of a minimum of 80 percent of the hours taught and achieving a minimum score of 70 percent on the course exam; and
(4) achieve a passing grade of 70 percent on the written examination administered by the Board.

(d) Residential Changeout Inspector. A standard certificate, residential changeout inspector, shall be issued to any applicant who possesses a probationary residential changeout inspection certificate pursuant to Rule 11 NCAC 08 .0602, complies with Paragraph (c) of this Rule, and one of the following education and experience qualifications:
(1) possess any level standard certificate as an electrical inspector, mechanical inspector, or plumbing inspector; or
(2) all the following:
A. at least six months of conducting residential changeout inspections with a probationary residential changeout inspection certificate; and
B. completion and submission of an inspection performance log as administered by the North Carolina Department of Insurance, Office of State Fire Marshal.

11 NCAC 08 .0735 TEMPORARY CERTIFICATE

(a) A temporary certificate shall be issued without examination or additional application to any code enforcement official (CEO) who currently possesses a probationary certificate that expires between March 12, 2020 and December 31, 2020. The application the CEO initially submitted to obtain the probationary certificate shall provide the basis for issuing the temporary certificate.
(b) A temporary certificate shall authorize the CEO, during the effective period of the certificate, to hold the position of the type, level, and location that corresponds to the probationary certificate the applicant previously received. The certificate shall specify the type and level of code enforcement in which the CEO may engage and may be conditioned upon his or her having supervision from an official with the specified certification or qualifications included on the CEO's probationary certificate application.
(c) The temporary certificate shall be effective for one year only for the period of March 12, 2020 through March 12, 2021 and shall not be renewed. During the one-year period, the official shall complete the requirements set forth in 11 NCAC 08 .0706 to qualify for the appropriate standard certificate.
(d) A CEO who is issued a temporary certificate that the CEO no longer needs or wants shall return the temporary certificate, within 30 days, to the Engineering and Codes Division of Department of Insurance for cancellation.
(e) A temporary certificate shall remain valid only so long as the person certified is employed by the State or a local government as a code enforcement official of the type and level indicated on the certificate. If the person certified leaves such employment for any reason, he or she shall return the certificate to the Board.
(f) A CEO with only a temporary certificate and no standard or limited certificate is not required to complete any continuing education courses.

Section .0800 – Disciplinary Actions: Other Contested Matters

11 NCAC 08 .0801 DISCIPLINARY POWERS

(a) As used in this Section "Board" and "Code" have the same meanings as those terms are defined in G.S. 143-151.8(a); and "official" means a qualified Code-enforcement official as defined in G.S. 143-151.8(5).
(b) Any person who believes that an official is or has been in violation of G.S. 143-151.17(a) may file a complaint against that official. Copies of this Section and G.S. 143-151.17 shall be mailed to any person requesting complaint information from the Board.
(c) The complaint must specifically refer to one or more of the grounds in G.S. 143-151.17(a). The name of the official, if known, and the name of the local inspection department must be listed. If the official is unknown, the complaint must refer to "the inspector who performed the building (or electrical, mechanical, plumbing, or fire prevention) inspection."
(d) Supporting information must be included to justify the complaint. If the complaint involves violations of the Code that the official did not discover, a list of those violations must be submitted with the complaint. Such information may be provided by the complainant, an architect, professional engineer, licensed contractor, certified inspector, or other person with knowledge of the Code. Supporting information must refer to specific violations of the Code or of the General Statutes.
(e) The complaint must be in writing, signed by the complainant, and dated. The complaint must include the complainant's mailing address and a daytime phone number at which the complainant may be reached. The street address of the structure must be included. There must be a notarized verification at the end of the complaint.

11 NCAC 08 .0802 *Repealed Eff. July 18, 2002.*

11 NCAC 08 .0803

11 NCAC 08 .0804 *Repealed Eff. September 1, 1991.*

11 NCAC 08 .0805 HEARING OFFICER

In all contested case hearings before the Board, the Chairman of the Board shall serve as presiding officer. In the absence of the Chairman, the Vice-Chairman shall serve as presiding officer, or a presiding officer shall be elected by the Board.

11 NCAC 08 .0806-.0814 *Repealed Eff. September 1, 1991.*

11 NCAC 08 .0815 FINAL BOARD ORDER

(a) If after the close of a contested case hearing the Board decides that an official's conduct does not justify the suspension or revocation of his certificate but that his conduct does fail to conform to the standards of good code enforcement practice, the Board may issue a letter of reprimand or a letter of caution to the official in which the Board may summarize those deficiencies and make appropriate recommendations.
(b) If a final board order is to suspend, revoke, or refuse to issue a certificate, the order shall set forth the conditions, if any, that must be met in order to remove the suspension, to re-issue the certificate, or to issue the certificate.

11 NCAC 08 .0816-.0818 *Repealed Eff. September 1, 1991.*

11 NCAC 08 .0819 GENERAL

Governed by the principles of fairness, uniformity, and punctuality, the following general rules apply:

(1) The Rules of Civil Procedure as contained in G.S. 1A-1, the General Rules of Practice for the Superior and District Courts as authorized by G.S. 7A-34 and found in the Rules Volume of the North Carolina General Statutes apply in contested cases before the Board unless another specific statute or rule of the Board provides otherwise.
(2) The Board may supply, at the cost of reproduction, forms for use in contested cases.
(3) Every document filed with the hearing officer or the Board shall be signed by the author of the document, and shall contain his name, address, telephone number, and North Carolina State Bar number if the author is an attorney. An original and one copy of each document shall be filed.
(4) Except as otherwise provided by statute, the rules contained in this Section govern the conduct of contested case hearings under G.S. 143-151.17.
(5) The content and the manner of service of the notice of hearing shall be as specified in G.S. 150B-38(b) and (c).
(6) Venue in a contested case shall be determined in accordance with G.S. 150B-38(e).
(7) Hearings shall be conducted, as nearly as practical, in accordance with the practice in the Trial Division of the General Court of Justice.
(8) Ex parte communications in a contested case are governed by G.S. 150B-40(d).
(9) This Section and copies of all matter adopted by reference herein are available from the Board at the cost established in 11 NCAC 1 .0103.
(10) The rules of statutory construction contained in Chapter 12 of the General Statutes apply in the construction of this Section.
(11) Unless otherwise provided in the rules of the Board or in a specific statute, time computations in contested cases before the Board are governed by G.S. 1A-1, Rule 6.

11 NCAC 08 .0820 DEFINITIONS

The definitions contained in G.S. 150B-2, including subsequent amendments, are incorporated herein by reference. In addition to the definitions in 11 NCAC 8 .0801(a), the following definitions apply to this Section:

(1) "File or filing" means to place the paper or item to be filed into the care and custody of the hearing officer, and acceptance thereof by him, except that the Board may permit the papers to be filed with the Board, in which event the Board shall note thereon the filing date. All documents filed with the hearing officer or the Board, except exhibits, shall be duplicate in letter size 8" by 11".
(2) "Hearing officer" means the presiding officer specified in 11 NCAC 8 .0805.
(3) "Party" means the Board, the official, or an intervenor who qualifies under 11 NCAC 8 .0831. "Party" does not include a complainant unless the complainant is allowed to intervene under 11 NCAC 8 .0831.
(4) "Service or serve" means personal delivery or, unless otherwise provided by law or rule, delivery by first class United States Postal Service mail or a licensed overnight express mail service, addressed to the person to be served at his or her last known address. A Certificate of Service by the person making the service shall be appended to every document requiring service under these Rules. Service by mail or licensed overnight express mail is complete upon addressing, enveloping, and placing the item to be served, in an official depository of the United State Postal Service or delivering the item to an agent of an overnight express mail service.

11 NCAC 08 .0821 ORDER FOR PREHEARING STATEMENTS

The hearing officer may serve all parties with an order for prehearing statements together with, or after service of, the notice of hearing. Every party thus served shall, within 30 days after service, file the requested statements setting out the party's present position on the following:

(1) The nature of the proceeding and the issues to be resolved;
(2) A brief statement of the facts and reasons supporting the party's position on each matter in dispute;
(3) A list of proposed witnesses with a brief description of his or her proposed testimony;
(4) A description of what discovery, if any, the party will seek to conduct prior to the contested case hearing and an estimate of the time needed to complete discovery;
(5) Venue considerations;
(6) Estimation of length of the hearing;
(7) The name, address, and telephone number of the party's attorney, if any; and
(8) Other special matters.

11 NCAC 08 .0822 DUTIES OF THE HEARING OFFICER

In conjunction with the powers in this Section and in G.S. 143-151.17, the hearing officer shall perform the following duties, consistent with law:

(1) Hear and rule on motions;
(2) Grant or deny continuances;
(3) Issue orders regarding prehearing matters, including directing the appearance of the parties at a prehearing conference;
(4) Examine witnesses when deemed to be necessary to make a complete record and to aid in the full development of material facts in the case;
(5) Make preliminary, interlocutory, or other orders as deemed to be appropriate;
(6) Recommended a summary disposition of the case or any part thereof when there is no genuine issue as to any material fact or recommend dismissal when the case or any part thereof has become moot or for other reasons; and
(7) Apply sanctions in accordance with 11 NCAC 8 .0829.

11 NCAC 08 .0823 CONSENT ORDER; SETTLEMENT; STIPULATION

Informal disposition may be made of a contested case or an issue in a contested case by stipulation, agreement, or consent order at any time during the proceedings. Parties may enter into such agreements on their own or may ask for a settlement conference with the hearing officer to promote consensual disposition of the case.

11 NCAC 08 .0824 SETTLEMENT CONFERENCE

(a) A settlement conference is for the primary purpose of assisting the parties in resolving disputes and for the secondary purpose of narrowing the issues and preparing for hearing.
(b) Upon the request of any party, the hearing officer shall assign the case to another Board member for the purpose of conducting a settlement conference. Unless the parties and the other Board member agree, a unilateral request for a settlement conference does not constitute good cause for a continuance. The conference shall be conducted at a time and place agreeable to all parties and the hearing officer. It shall be conducted by telephone if any party would be required to travel more than 50 miles to attend, unless that party agrees to travel to the location set for the conference. If a telephone conference is scheduled, the parties must be available by telephone at the time of the conference.
(c) All parties shall attend or be represented at a settlement conference. Parties or their representatives shall be prepared to participate in settlement discussions.
(d) The parties shall discuss the possibility of settlement before a settlement conference if they believe that a reasonable basis for settlement exists.
(e) At the settlement conference, the parties shall be prepared to provide information and to discuss all matters required in 11 NCAC 8 .0821.

(f) If, following a settlement conference, a settlement has not been reached but the parties have reached an agreement on any facts or other issues, the Board member presiding over the settlement conference shall issue an order confirming and approving, if necessary, those matters agreed upon. The order is binding on the hearing officer who is assigned to hear the case.

11 NCAC 08 .0825 PREHEARING CONFERENCE

(a) The purpose of the prehearing conference is to simplify the issues to be determined; to obtain stipulations in regard to foundations for testimony or exhibits; to obtain stipulations of agreement on nondisputed facts or the application of particular laws; to consider the proposed witnesses for each party; to identify and exchange documentary evidence intended to be introduced at the hearing; to determine deadlines for the completion of any discovery; to establish hearing dates and locations if not previously set; to consider such other matters that may be necessary or advisable; and, if possible, to reach a settlement without the necessity for further hearing. Any final settlement shall be set forth in a settlement agreement or consent order and made a part of the record.
(b) Upon the request of any party or upon the hearing officer's own motion, the hearing officer may hold a prehearing conference before a contested case hearing. The hearing officer may require the parties to file prehearing statements in accordance with 11 NCAC 8 .0821. A prehearing conference on the simplification of issues, amendments, stipulations, or other matters may be entered on the record or may be made the subject of an order by the hearing officer. Venue for purposes of a prehearing conference shall be determined in accordance with G.S. 150B-38(e).

11 NCAC 08 .0826 CONSOLIDATION OF CASES

(a) The hearing officer may order a joint hearing of any matters at issue in contested cases involving common questions of law or fact or multiple proceedings involving the same or related parties, or may order the cases consolidated or make other orders to reduce costs or delay in the proceedings.
(b) A party requesting consolidation shall serve a petition for consolidation on all parties to the cases to be consolidated and shall file the original with the hearing officer, together with a certificate of service showing service on all parties as herein required. Any party objecting to the petition shall serve and file his objections within 10 days after service of the petition for consolidation.
(c) Upon determining whether cases should be consolidated, the hearing officer shall serve a written order on all parties that contains a description of the cases for consolidation and the reasons for the decision.
(d) Nothing contained in this Rule prohibits the parties from stipulating and agreeing to a consolidation, which shall be granted upon submittal of a written stipulation, signed by every party, to the hearing officer.
(e) Following receipt of a notice of or order for consolidation, any party may petition for severance by serving it on all other parties and filing with the hearing officer at least seven days before the first scheduled hearing date. If the hearing officer finds that the consolidation will prejudice any party, he shall order the severance or other relief that will prevent the prejudice from occurring.

11 NCAC 08 .0827 DISCOVERY

(a) Discovery methods are means designed to assist parties in preparing to meet their responsibilities and protect their rights during hearings without unduly delaying, burdening or complicating the hearings process and with due regard to the rights and responsibilities of other parties and persons affected. Accordingly, parties are obligated to exhaust all less formal opportunities to obtain discoverable material before utilizing this Rule.

(b) Any means of discovery available pursuant to the North Carolina Rules of Civil Procedure, G.S. 1A-1, is allowed. If the party from whom discovery is sought objects to the discovery, the party seeking the discovery may file a motion with the hearing officer to obtain an order compelling discovery. In the disposition of the motion, the party seeking discovery shall have the burden of showing that the discovery is needed for the proper presentation of the party's case, is not for purposes of delay, and that the issues in controversy are significant enough to warrant the discovery. In ruling on a motion for discovery, the hearing officer shall recognize all privileges recognized at law.
(c) When a party serves another party with a request for discovery, that request need not be filed with the hearing officer but shall be served upon all parties.
(d) The parties shall immediately commence to exchange information voluntarily, to seek access as provided by law to public documents, and to exhaust other informal means of obtaining discoverable material.
(e) All discovery shall be completed no later than the first day of the hearing. The hearing officer may shorten or lengthen the period for discovery and adjust hearing dates accordingly and, when necessary, allow discovery during the pendency of the hearing.
(f) No later than 15 days after receipt of a notice requesting discovery, the receiving party shall:
(g) move for relief from the request;
(h) provide the requested information, material or access; or
(i) offer a schedule for reasonable compliance with the request.
(j) Sanctions for failure of a party to comply with an order of the hearing officer made pursuant to this Rule shall be as provided for by G.S. 1A-1, Rule 37, to the extent that a hearing officer may impose such sanctions, and 11 NCAC 8 .0829.

11 NCAC 08 .0828 SUBPOENAS

(a) Subpoenas for the attendance and testimony of witnesses or for the production of documents, either at a hearing or for the purposes of discovery, shall be issued in accordance with G.S. 150B-39(c) and G.S. 1A-1 Rule 45.
(b) A subpoena shall be served in the manner provided by G.S. 150B-39(c) and G.S. 1A-1, Rule 45. The cost of service, fees, and expenses of any witnesses subpoenaed shall be paid by the party at whose request the witness appears. A party seeking an order imposing sanctions for failure to comply with any subpoena issued under this Rule must prove proper service of the subpoena.
(c) Objections to subpoenas shall be heard in accordance with G.S. 150B-39© and G.S. 1A-1, Rule 45.

11 NCAC 08 .0829 SANCTIONS

(a) If a party fails to appear at a hearing or fails to comply with an interlocutory order of the hearing officer, the hearing officer may:
(b) Find that the allegations of or the issues set out in the notice of hearing or other pleading may be taken as true or deemed to be proved without further evidence;
(c) Dismiss or grant the motion or petition;
(d) Suppress a claim or defense; or
(e) Exclude evidence.
(f) In the event that any party, attorney at law, or other representative of a party engages in behavior that obstructs the orderly conduct of proceedings or would constitute contempt if done in the General Court of Justice, the hearing officer may enter a show cause order returnable in Superior Court for contempt proceedings in accordance with G.S. 150B-40(c)(6).

11 NCAC 08 .0830 MOTIONS

(a) Any application to the hearing officer for an order shall be by motion, which shall be in writing unless made during a hearing, and must be filed and served upon all parties not less than 10 days before the hearing, if any, is to be held either on the motion or the merits of the case. The nonmoving party has 10 days after the date of service of the motion to file a response,

which must be in writing. Motions practice in contested cases before the Board are governed by Rule 6 of the General Rules of Practice for the Superior and District Court.

(b) If any party desires a hearing on the motion, he shall make a request for a hearing at the time of the filing of his motion or response. A response shall set forth the nonmoving party's objections. All motions in writing shall be decided without oral argument unless an oral argument is directed by the hearing officer. When oral argument is directed by the hearing officer, a motion shall be considered submitted for disposition at the close of the argument. A hearing on a motion will be directed by the hearing officer only if it is determined that a hearing is necessary to the development of a full and complete record on which a proper decision can be made. All orders on such motions, other than those made during the course of a hearing, shall be in writing and shall be served upon all parties of record not less than five days before a hearing, if any, is held.

11 NCAC 08 .0831 INTERVENTION

(a) Any person not named in the notice of hearing who desires to intervene in a contested case as a party shall file a timely motion to intervene and shall serve the motion upon all existing parties. Timeliness will be determined by the hearing officer in each case based on circumstances at the time of filing. The motion shall show how the movant's rights, duties, or privileges may be determined or affected by the contested case; shall show how the movant may be directly affected by the outcome or show that the movant's participation is authorized by statute, rule, or court decision; shall set forth the grounds and purposes for which intervention is sought; and shall indicate movant's statutory right to intervene if one exists.

(b) Any party may object to the motion for intervention by filing a written notice of objections with the hearing officer within five days after service of the motion if there is sufficient time before the hearing. The notice of objection shall state the party's reasons for objection and shall be served upon all parties. If there is insufficient time before the hearing for a written objection, the objection may be made at the hearing.

(c) When the hearing officer deems it to be necessary to develop a full record on the question of intervention, he may conduct a hearing on the motion to determine specific standards that will apply to each intervenor and to define the extent of allowed intervention.

(d) The hearing officer shall allow intervention upon a proper showing under this Rule, unless he finds that the movant's interest is adequately represented by one or more parties participating in the case or unless intervention is mandated by statute, rule, or court decision. An order allowing intervention shall specify the extent of participation permitted the intervenor and shall state the hearing officer's reason. An intervenor may be allowed to:
    (1) File a written brief without acquiring the status of a party;
    (2) Intervene as a party with all the rights of a party; or
    (3) Intervene as a party with all the rights of a party but limited to specific issues and to the means necessary to present and develop those issues.

11 NCAC 08 .0832 CONTINUANCES

(a) A request for a continuance of a hearing shall be granted upon a showing of good cause. Unless time does not permit, a request for a continuance of a hearing shall be made in writing to the hearing officer and shall be served upon all parties of record. In determining whether good cause exists, due regard shall be given to the ability of the party requesting a continuance to proceed effectively without a continuance. A request for a continuance filed within five days before a hearing shall be denied unless the reason for the request could not have been ascertained earlier.

(b) "Good cause" includes death or incapacitating illness of a party, representative, or attorney of a party; a court order requiring a continuance; lack of proper notice of the hearing; a substitution of the representative or attorney of a party if the substitution is shown to be required; a change in the parties or pleadings requiring postponement; and agreement for a continuance by all parties if either more time is clearly necessary to complete mandatory preparation for the case, such as authorized discovery, and the parties and the hearing officer have agreed to a new hearing date or the parties have agreed to a settlement of the case that had been or is likely to be approved by the final decision maker.

(c) "Good cause" does not include: intentional delay; unavailability of counsel or other representative because of engagement in another judicial or administrative proceeding unless all other members of the attorney's or representative's firm familiar with the case are similarly engaged, or if the notice of the other proceeding was received subsequent to the notice of the hearing for which the continuance is sought; unavailability of a witness if the witness' testimony can be taken by deposition; or failure of the attorney or representative to properly utilize the statutory notice period to prepare for the hearing.
(d) During a hearing, if it appears in the interest of justice that further testimony should be received and sufficient time does not remain to conclude the testimony, the hearing officer shall either order the additional testimony taken by deposition or continue the hearing to a future date for which oral notice on the record is sufficient.
(e) A continuance shall not be granted if granting it would prevent the case from being concluded within any statutory or regulatory deadline.

11 NCAC 08 .0833 RIGHTS AND RESPONSIBILITIES OF PARTIES

(a) A party has the right to present evidence, rebuttal testimony, and argument with respect to the issues of law and policy, and to cross-examine witnesses, including the author of a document prepared by, on behalf of, or for use of the Board and offered in evidence.
(b) A party shall have all evidence to be presented, both oral and written, available on the date for hearing. Requests for subpoenas, depositions, or continuances shall be made within a reasonable time after their needs become evident to the requesting party. In cases when the hearing time is expected to exceed one day, the parties shall be prepared to present their evidence at the date and time ordered by the hearing officer or agreed upon at a prehearing conference.
(c) The hearing officer shall send copies of all orders or decisions to all parties simultaneously. Any party sending a letter, exhibit, brief, memorandum, or other document to the hearing officer shall simultaneously send a copy to all other parties.
(d) All parties have the continuing responsibility to notify the hearing officer of their current address and telephone number.
(e) A party need not be represented by an attorney. If a party has notified other parties of that party's representation by an attorney, all communications shall be directed to that attorney.
(f) With the approval of the hearing officer, any person may offer testimony or other evidence relevant to the case. Any nonparty offering testimony or other evidence may be questioned by parties to the case and by the hearing officer.
(g) Before issuing a recommended decision, the hearing officer may order any party to submit proposed findings of fact and written arguments.

11 NCAC 08 .0834 WITNESSES

Any party may be a witness and may present witnesses on the party's behalf at the hearing. All oral testimony at the hearing shall be under oath or affirmation and shall be recorded. At the request of a party or upon the hearing officer's own motion, the hearing officer may exclude witnesses from the hearing room so that they cannot hear the testimony of other witnesses.

11 NCAC 08 .0835 EVIDENCE

(a) The North Carolina Rules of Evidence as found in Chapter 8C of the General Statutes govern in all contested case proceedings, except as provided otherwise in this Section and G.S. 150B-41.
(b) The hearing officer may admit all evidence that has probative value. Irrelevant, incompetent, immaterial, or unduly repetitious evidence shall be excluded. The hearing officer may, in his discretion, exclude any evidence if its probative value is substantially outweighed by the risk that its admission will require undue consumption of time or create substantial danger of undue prejudice or confusion.
(c) Contemporaneous objections by a party or a party's attorney are not required in the course of a hearing to preserve the right to object to the consideration of evidence by the hearing officer in reaching a decision or by the court upon judicial review.

(d) All evidence to be considered in the case, including all records and documents or true and accurate photocopies thereof, shall be offered and made a part of the record in the case. Except as provided in Paragraph (f) of this Rule, factual information or evidence that is not offered shall not be considered in the determination of the case. Documentary evidence incorporated by reference may be admitted only if the materials so incorporated are available for examination by the parties.
(e) Documentary evidence in the form of copies or excerpts may be received in the discretion of the hearing officer or upon agreement of the parties. Copies of a document shall be received to the same extent as the original document unless a genuine question is raised about the accuracy or authenticity of the copy or, under the circumstances, it would be unfair to admit the copy instead of the original.
(f) The hearing officer may take notice of judicially cognizable facts by entering a statement of the noticed fact and its source into the record. Upon a timely request, any party shall be given the opportunity to contest the facts so noticed through submission of evidence and argument.
(g) A party may call an adverse party; or an officer, director, managing agent, or employee of the State or any local government, of a public or private corporation, or of a partnership or association or body politic that is an adverse party; and may interrogate that party by leading questions and may contradict and impeach that party on material matters in all respects as if that party had been called by the adverse party. The adverse party may be examined by that party's counsel upon the subject matter of that party's examination in chief under the rules applicable to direct examination, and may be cross-examined, contradicted, and impeached by any other party adversely affected by the testimony.

11 NCAC 08 .0836 OFFICIAL RECORD

(a) The official record of a contested case is available for public inspection upon reasonable request. The hearing officer may, upon good cause shown and consistent with law, order part or all of an official record sealed.
(b) The official record shall be prepared in accordance with G.S. 150B-42.
(c) Contested case hearings shall be recorded either by a recording system or a professional court reporter using stenomask or stenotype.
(d) Transcript costs incurred by the Board shall be apportioned equally among the party(ies) requesting a transcript.
(e) Any other costs incurred by the Board when using a professional court reporter shall be apportioned equally among the requesting party(ies).
(f) A 24-hour cancellation notice is required in all cases. The party(ies) responsible for the cancellation shall be liable for any cancellation fees.
(g) Transcripts of proceedings during which oral evidence is presented will be made only upon request of a party. Transcript costs shall include the cost of an original for the Board. An attorney requesting a transcript on behalf of a party is a guarantor of payment of the cost. Cost shall be determined under supervision of the hearing officer who, in cases deemed to be appropriate by him, may require an advance security deposit to cover the prospective cost. The security deposit shall be applied to the actual cost and any excess shall be returned to the party that submitted it.
(h) Copies of tapes are available upon written request at a cost of five dollars ($5.00) per tape.
(i) Copies of Board hearings tapes or Non-Board certified transcripts therefrom are not part of the official record.
(j) Note: Rule 5.3(B) of the Rules of Professional Conduct permits an attorney to advance or guarantee expenses of litigation provided the client remains ultimately liable for such expenses.

MANUFACTURED HOUSING BOARD NC ADMINISTRATIVE RULES 11 NCAC 08.0901-.0913

11 NCAC 08 .0901 MANUFACTURED HOUSING BOARD

The North Carolina Manufactured Housing Board is established to provide for a comprehensive framework for regulation of all segments of the manufactured housing industry. The Commissioner of Insurance or his designee shall serve as chairman of a nine-member board representing the industry and the public.

11 NCAC 08 .0902 ADDRESS

The mailing address for the North Carolina Manufactured Housing Board is: North Carolina Manufactured Housing Board, c/o North Carolina Department of Insurance, 1202 Mail Service Center, Raleigh, NC 27699-1202.

11 NCAC 08 .0903 RULE-MAKING AND HEARING PROCEDURES

Copies of Standards and rules adopted by the Manufactured Housing Board or the Commissioner of Insurance may be obtained by writing or calling:

North Carolina Manufactured Housing Board
Manufactured Building Division
1202 Mail Service Center
Raleigh, North Carolina 27699-1202
Phone (919) 647-0000

The Manufactured Building Division is located at:

325 North Salisbury Street
Raleigh, North Carolina 27603.

11 NCAC 08 .0904 FORMS

(a) An application for a license as a manufactured housing manufacturer or manufactured housing dealer shall include the following:
  (1) the name of the person or business applicant;
  (2) the business address of the applicant;
  (3) the state under whose laws the applicant firm or corporation is organized or incorporated;
  (4) a resume of each owner, partner, and officer of the applicant firm or corporation. Each resume shall state his or her education and a complete job history, as well as a listing of residences for the last seven years;
  (5) the type of license applied for;
  (6) a signature of the person with authority to legally obligate the applicant; and
  (7) a statement that the appropriate bond is attached.

(b) An application for a license as a manufactured set-up contractor shall include the following:
  (1) the name of the person or business applicant;
  (2) the business address of the applicant;
  (3) the state under whose laws the applicant firm or corporation is organized or incorporated;
  (4) a resume of each owner, partner, or officer of the applicant firm or corporation. Each resume shall state his or her education and a complete job history, as well as a listing of residences for the last seven years;
  (5) the type of license applied for;
  (6) a signature of the person with authority to legally obligate the applicant;
  (7) a statement that the appropriate bond is attached;
  (8) a criminal history record check consent form signed by each owner, partner, and officer of the applicant firm or corporation with their initial application and other documentation or materials required by G.S. 143-143.10A; and
  (9) the social security number for each owner.

(c) An application for a license as a manufactured housing salesperson shall include the following:
  (1) the name of the applicant;

(2) the applicant's address;
(3) the name and business address of the dealer employing the applicant;
(4) the name and address of previous employers of the applicant for the past three years;
(5) three personal references;
(6) a wallet size photograph;
(7) a criminal history record check consent form signed by each applicant with their initial application and other documentation or materials required by G.S. 143-143.10A; and
(8) The applicant's social security number.

(d) Corporate surety bonds, as specified in 11 NCAC 08 .0905, shall include the name of the applicant, the name of the surety, the amount of the bond, and the terms of cancellation.

(e) The Board shall provide applications for renewal of licenses, which shall include the name and address of the applicant, the type of license, the date the license expires, the amount of the license renewal fee, and instructions for completion.

(f) A request for cancellation of license shall include the name and address of the licensee, the effective date of the cancellation, the specific reason for the cancellation, and the signature of the person with authority to legally obligate the licensee.

(g) All applications pursuant to this Rule shall use a form provided by the Manufactured Housing Board. Each application and form required by this Rule may be obtained from the North Carolina Manufactured Housing Board, c/o North Carolina Department of Insurance, Manufactured Building Division, 1202 Mail Service Center, Raleigh, NC 27699-1202.

11 NCAC 08 .0905 LICENSING

(a) Any person employed by a dealer whose occupational activity is that of selling on behalf of the retail dealership shall be licensed as a salesperson. Each salesperson's license shall be conspicuously displayed at all times by the dealership employing the salesperson.

(b) The following shall not be required to be licensed as a manufactured housing dealer:
(1) Receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under the judgment or order of any court;
(2) Public officials while performing their official duties;
(3) Persons disposing of manufactured homes acquired for their own use, provided that said home is not used for the purpose of avoiding the provisions of G.S. 143-143.11;
(4) Licensed real estate salesmen or brokers who negotiate or sell a manufactured home for any individual who is the owner of not more than three manufactured homes;
(5) Banks and finance companies who sell repossessed manufactured homes who do not maintain a sales lot or building with one or more employed retail salespersons.

(a) Licenses shall be issued by the Board whenever the application is in compliance with the applicable laws and regulations. Such license shall entitle the licensee to conduct the specified business for a period of one year from date of issuance or the first day of July, whichever is earlier. The Board may, if it deems necessary, cause an investigation to be made to ascertain if all the requirements set forth in the application are true and shall not issue a license to the applicant until it is satisfied as to the accuracy of the application.

(b) Manufactured housing manufacturers, dealers, and set-up contractors shall conspicuously display their licenses at all times at their place of business.

(c) Whenever a bond is required by G.S. 143-143.12, before any license shall be issued by the Board, the applicant shall deliver to the Board a corporate surety bond, cash bond or fixed value equivalent. The bond shall be to the Board and in favor of any person who shall suffer any loss as a result of any violation of the law or administrative rules governing manufactured housing. The bond shall be for the license period and a new bond or proper continuation certificate shall be delivered to the Board at the beginning of each license period. The bond for one type of license may not be considered as the bond for another type of license.

(d) License fees are as follows:

(1) three hundred dollars ($300.00) per Certificate of Origin plant for manufactured housing manufacturers;
(2) two hundred fifty dollars ($250.00) per county of operation for manufactured housing dealers;
(3) one hundred dollars ($100.00) per county for supplemental manufactured housing dealer locations;
(4) twenty-five dollars ($25.00) for retail manufactured housing salesperson; and
(5) two hundred fifty dollars ($250.00) per business location for set-up contractors.

11 NCAC 08 .0906 DUTIES AND RESPONSIBILITIES OF BOARD

(a) The Board shall be required to keep minutes and records of all its transactions, proceedings and meetings, and duly certified copies thereof shall be sufficient to comply with the rules of evidence.
(b) The Board may investigate on its own initiative or upon receipt of inquiries or complaints (See 11 NCAC 8 .0910) any allegation of a wrongful act or acts involving manufactured housing manufacturers, suppliers, dealers, salesmen, or set-up contractors. Violation of the laws or administrative rules governing the manufactured housing industry shall be grounds for revocation or suspension of licenses issued by the Board or for the civil penalties prescribed by G.S. 143-143.13.

11 NCAC 08 .0907 UNFAIR COMPETITION AND DECEPTIVE PRACTICES

Unfair methods of competition or unfair or deceptive commercial acts or practices shall include, but not be limited to:
(1) Failure to perform repairs, alterations and/or additions completely or in a workmanlike and competent manner.
(2) Repeated failure to give timely notice of inability to appear for a scheduled repair.
(3) Representing used manufactured homes, appliances, or fixtures as new or failure to identify used appliances, fixtures and/or equipment in new manufactured homes.
(4) Repeated failure to respond promptly to consumer complaints and inquiries.
(5) Failure to give clear and conspicuous notice that the wheels, axles, and/or tongue are not included in the sales price, when such is the case. An example of clear and conspicuous notice is a sticker or printed notice in bold face type stating "The purchase price does not include the wheels, axles, and tongue of this manufactured home."
(6) Failure to give clear and conspicuous notice of the significance of leveling a manufactured home and when releveling becomes the customer's responsibility. An example of clear and conspicuous notice is a sticker or printed notice in bold face type stating "Proper set-up, leveling and anchoring of your manufactured home is necessary in order to assure proper functioning and safe operation of your manufactured home."
(7) Misrepresenting the model year or size of a manufactured home. Size shall be calculated as follows:
(a) length means the distance from the exterior of the front wall (nearest to the drawbar and coupling mechanism) to the exterior of the rear wall (at the opposite end of the home) where such walls enclose living or other interior space, but not bay windows, porches, drawbars, couplings, hitches, wall and roof extensions, or other attachments;
(b) width means the distance from the exterior of one side wall to the exterior of the opposite side wall where such walls enclose living or other interior space, but not bay windows, porches, wall and roof extensions, or other attachments;
(c) measurements may be represented to the nearest foot.

11 NCAC 08 .0908 SUSPENSION OF IMMINENT SAFETY HAZARD PERIOD

(a) Suspension of the five day period to remedy imminent safety hazards in the event of widespread defects or damages resulting from adverse weather conditions or other natural catastrophes authorized by G.S. 143-143.18 may be ordered by the Board in emergency meeting or telephone conference by a quorum of the Board.

(b) Such suspension order shall be in writing and shall specify an expiration date for the suspension.

11 NCAC 08 .0909 MAINTENANCE OF RECORDS

(a) Every manufactured housing manufacturer, supplier, dealer, and set-up contractor shall maintain for at least five years all service records.
(b) Every manufactured housing manufacturer, supplier, dealer, or set-up contractor shall maintain a record of all written complaints listing the name and address of the complainant, the nature of the complaint, and the disposition of the complaint. This record shall be retained for at least five years.
(c) Nothing in this Rule shall be construed to prohibit use of electronic or photographic processes to store such records.

11 NCAC 08 .0910 COMPLAINT HANDLING AND INSPECTION PROCEDURE

(a) Complaints received by telephone shall be confirmed in writing over the signature of the owner or his or her agent; however, this shall not delay any action to resolve the complaint. Complaints shall be processed as follows:
    (1) The Manufactured Building Division shall forward complaints to the manufactured housing manufacturer, dealer, or set-up contractor as appropriate.
    (2) If the complaint is not resolved, the Manufactured Building Division shall schedule an on-site inspection or the deputy commissioner shall arrange a conference to discuss the problem. Unless otherwise agreed, concerned parties shall be given at least 72 hours notice, orally, in writing, or electronically, of the time and place of the inspection or conference and the opportunity to attend the inspection or conference.
    (3) If the complaint is not resolved, the deputy commissioner shall refer the complaint to the Board. The secretary of the Board may recommend legal action be taken to ensure compliance with the applicable statutes and rules. Such action may include the convening of a public hearing.

(b) The Manufactured Building Division shall not knowingly attempt to resolve a complaint which is also the subject matter of a pending lawsuit filed by the complainant or on the complainant's behalf by the complainant's attorney unless authorized by the Board, which authorization shall occur upon mutual assent of all parties to the lawsuit, whether through the parties themselves or attorneys for the parties. If no lawsuit has been filed but the complainant has retained an attorney, the Manufactured Building Division shall, upon request by the complainant or the complainant's attorney, investigate a complaint, which investigation shall consist of inspecting the home for violations of the Code, as defined in G.S. 143-143.9, providing a copy of the inspection report to all the parties, and attempting to resolve the matter between the parties.

11 NCAC 08 .0911 SALESMAN EXAM; TEMPORARY LICENSE; LICENSE TRANSFER; FEES

(a) A salesman's license shall be issued to any applicant after the Board has approved the applicant's criminal history record check upon receipt by the Board of a properly executed application, receipt of the applicant of a passing grade (70 percent of a possible 100 percent) on a written examination administered by the Board, and qualification of the applicant for licensure, except as follows:
    (1) Those persons holding a Registered Housing Specialist certification from the North Carolina Manufactured Housing Institute on or before June 30, 1992, are exempt from the examination requirement.
    (2) Any salesman who has been tested and licensed under this Section and whose license has lapsed is not required to be re-tested if he re-applies for licensing within 12 months after the expiration of the lapsed license.
(b) A temporary salesman's license shall be issued prior to the Board's approval of the applicant's criminal history record check for a period of 90 days to a person upon request of the employing dealer. The holder of a valid salesman's or temporary salesman's license may sell manufactured homes only for the dealer with whom he is employed as shown on the application. A temporary salesman's license shall not be renewed.

(c) A salesman's license is valid only as long as the person remains employed with the dealer shown on the application. A salesman must apply for a new salesman's license if he changes or transfers from one dealer to another. In lieu of applying for a new license, the salesman may transfer his license from one dealership to another upon application from the new dealer and the salesman and approval of the Board. When a salesman leaves employment with a dealer, the dealer shall report this fact to the Board within 10 days thereafter.
(d) The fee for a salesman's or temporary salesman's license shall be twenty five dollars ($25.00). The temporary salesman's license fee shall apply toward the salesman's license fee if both licenses are issued in the same license year. The fee for a salesman's license transfer application shall be fifteen dollars ($15.00).
(e) A criminal history record check fee in the amount of fifty five dollars ($55.00) shall be submitted with each applicant application.

11 NCAC 08 .0912 SET-UP CONTRACTOR EXAMS

(a) Definitions. The definitions contained in G.S. 143-143.9 are incorporated into this Rule by reference. As used in this Rule, "qualifier" means an individual taking the examination on behalf of an applicant that is not an individual.
(b) Examination Required. Each applicant for a set-up contractor's license shall pass a written examination administered by the Board before the Board will issue a license to the applicant. Every applicant shall pass the examination with a grade of at least 70 percent. An applicant who does not pass the examination shall be allowed to retake the examination.
(c) Time and Place of Examinations. The Board shall administer examinations in its offices in Raleigh. The Board shall announce the time and place for each examination at least 10 days before the date of the examination.
(d) Application Process. Each applicant shall complete an application on a form provided by the Board. If the applicant is not an individual, the applicant shall identify on the application any individuals who will take the examination for the applicant. In order to take an examination on a particular date, an applicant shall file a completed application no later than 30 days before the scheduled date of the examination.
(e) Person Taking Examination. A qualifier shall be associated with the applicant, and shall be actively engaged in the work of the applicant for a minimum of 20 hours per week, or a majority of the hours operated by the applicant, whichever is less. Each licensee shall notify the Board in writing within 10 days after any qualifier no longer meets the preceding requirements. If one qualifier fails, and another passes, the license shall be granted to that applicant. An individual shall not serve as a qualifier for more than one license. The applicant may have more than one individual serve as a qualifier.
(f) General Requirements. All applicants scheduled for an examination shall bring a form of identification with a current picture. No visitors shall be allowed in the testing room.
(g) Special Arrangements for the Disabled. If an applicant has a disability which will require special arrangements to take an examination, the applicant shall request in writing that appropriate special arrangements be made. The Board shall make reasonable accommodations for applicants requesting assistance pursuant to this Rule.
(h) Cheating and Related Misconduct. Applicants shall not cheat or attempt to cheat on an examination by any means, including both giving and receiving assistance, and shall not communicate in any manner for any purpose with any person other than staff members for the Board during an examination.
(i) Notification of Results. The examination results shall be mailed to the applicant at the address on the application form within 30 days after the examination. Passing applicants shall receive only a grade of "pass."
(j) Review of Examinations. Upon the applicant's written request, made within 30 days after the written notification of the examination results, an applicant who did not pass the examination shall be allowed to review his examination. The review shall be at the Board's offices, at a time schedule by the Board's staff. An applicant shall review his examination in the presence of a staff member of the Board and shall not be accompanied by any other individual at a review session. No other individual shall review an examination on behalf of the applicant. An applicant shall not be permitted to copy a question or answer contained in the examination report or alter an examination paper in any way. An applicant who has passed the examination shall not be permitted to review his examination. If the applicant is not an individual, the review of the examination shall be made by the applicant's qualifier.

11 NCAC 08 .0913 EXPIRED - EXTENSION OF TEMPORARY LICENSE FOR MANUFACTURED HOUSING SALESPERSON

History Note: Authority G.S. 143-143.10(b)(1); 143-143.10(b)(4); 143-143.11;
Emergency Adoption Eff. April 20, 2020;
Emergency Adoption Expired June 30, 2020;
Temporary Adoption Eff. August 28, 2020;
Temporary Adoption Expired Eff. June 12, 2021.