

**TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS**

**CHAPTER 02 - BOARD OF ARCHITECTURE**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Board of Architecture intends to adopt the rule cited as 21 NCAC 02 .0109; amend the rules cited as 21 NCAC 02 .0108, .0201, .0204-.0206, .0208-.0209, .0213-.0215, .0301-.0303, .0701, and .0703; and repeal the rules cited as 21 NCAC 02 .0216 and .0219.*

**Proposed Effective Date:** November 1, 2010

**Public Hearing:**

**Date:** July 16, 2010

**Time:** 11:00 a.m.

**Location:** 127 W. Hargett Street, Suite 304, Raleigh, NC 27601

**Reason for Proposed Action:**

21 NCAC 02 .0109 – To add definitions to the code.

21 NCAC 02 .0108, .0201, .0204-.0206, .0208-.0209, .0213-.0215, .0301-.0303, .0701, .0703 – To clarify language related to firm practice, update administrative procedures, and update practice and exam procedures.

21 NCAC 02 .0216, .0219 – To remove language no longer necessary due to clarification in other rules.

**Procedure by which a person can object to the agency on a proposed rule:** *Objections may be submitted in writing to Cathe M. Evans, Executive Director, NC Board of Architecture, 127 W. Hargett Street, Suite 304, Raleigh, NC 27601. Additionally, objections may be made in person at the public hearing for these Rules.*

**Comments may be submitted to:** *Cathe M. Evans, Executive Director, NC Board of Architecture, 127 W. Hargett Street, Suite 304, Raleigh, NC 27601; fax (919) 733-1272; email cathe@ncbarch.org*

**Comment period ends:** August 30, 2010

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

**Fiscal Impact:**

- State
- Local
- Substantial Economic Impact (>\$3,000,000)
- None

**SECTION .0100 - GENERAL PROVISIONS**

**21 NCAC 02 .0108 FEES**

Fees required by the Board, are payable in advance and are set forth below:

Initial Registration Application by Exam

~~Individual~~

Residents and Non-Residents	\$ 50.00
Nonresidents	\$ 50.00
Corporate Firm	\$ 75.00

~~Examination~~ — At Cost (See Rule .0301)

~~Initial Exam~~ Application to take the Architectural Registration Exam \$ 50.00

~~Re-examination~~ \$ 25.00

Annual license renewal

Individual	\$ 50.00
<u>Corporate Firm</u>	\$100.00

Late renewal <del>Penalty Fee</del>	\$ 50.00
Reciprocal registration	\$150.00
Individual or <u>Firm</u> Reinstatement ( <del>application fee plus a prior year's renewal and late fees plus current renewal fee</del> )	\$250.00

~~Copies of the roster and other~~ Other publications and services provided by the Board are available at cost from the Board office.

Authority G.S. 83A-4; 83A-11.

## 21 NCAC 02 .0109 DEFINITIONS

In addition to the statutory definitions in G.S. 83A-1, as used in these Rules, the following terms shall have the following meanings:

- (1) "Delinquent" shall be the status of a license registration that has not been renewed in accordance with 21 NCAC 02 .0213(b) for individuals and 21 NCAC 02 .0214(d) for firms.
- (2) "Licensed" shall mean holding a license to practice architecture in the State of North Carolina as defined by G.S. 83A. "Registered" shall have the same meaning as licensed.
- (3) "Fictitious names" A fictitious name is any assumed name, style or designation other than the proper name of the entity using such name. The surname of a person, standing alone or coupled with words that describe the business, is not a fictitious business name. The inclusion of words that suggest additional owners, examples of such are, but not limited to "Company", "& Company", "& Sons", "& Associates", makes the name an assumed or fictitious name. For partnerships, the last name of all partners must be listed or the fictitious name definition applies.
- (4) "Responsible control" shall have the meaning described in Rule .0206(d).
- (5) "Firm" or "Architectural Firm" shall mean any entity approved by the Board and engaged in the practice of architecture.
- (6) "Procurement" shall mean purchasing or pricing of materials to construct a building or structure.
- (7) "Direct Supervision" as used in G.S. 83A shall mean responsible control.

Authority G.S. 83A-6.

## SECTION .0200 - PRACTICE OF ARCHITECTURE

### 21 NCAC 02 .0201 ARCHITECT AND FIRM CONTACT INFORMATION AS ON FILE WITH THE BOARD

- (a) Every individual ~~licensee, partnership, firm or corporation~~ licensee has the continuing responsibility of keeping the Board currently advised of his ~~his/her~~ or its proper and preferred current ~~mailing address~~ contact information, including but not limited to physical mailing address, email and phone numbers, principle place of business and electronic mail address and the name ~~or names under which he or it is practicing, of the firm where he/she is employed.~~
- (b) Each licensee or firm shall immediately within 30 days notify the Board in writing of any and all changes in ownership, of association, contact information, electronic email or physical address. Upon the dissolution of a professional relationship, firm, the architect member or members in responsible control of the firm at the time of dissolution thereof shall promptly notify the Board in writing concerning such dissolution, and of the succeeding status and addresses of the individual or firm. This requirement is in addition to registration, listing and renewal requirements set out elsewhere in these Rules.

Authority G.S. 83A-5; 83A-6.

### 21 NCAC 02 .0204 FORMS OF PRACTICE

~~The practice of architecture may be carried on by sole practitioners, partnerships, professional limited liability companies, registered limited liability partnerships or registered architectural corporations, provided all those who practice are duly licensed, and the firm is properly described and identified by its name or title. Whenever the practice of architecture is carried on by a partnership, all partners must be duly licensed in North Carolina.~~

- (a) The practice of architecture shall be carried out by one of the following types of entities:
  - (1) sole practitioners,
  - (2) professional limited liability companies, that shall be established under the provisions of G.S. 57C;
  - (3) limited liability partnerships, that shall be established under the provisions of G.S. 59-84.2;
  - (4) professional corporations, that shall be established under the provisions of G.S. 55B.
- (b) All individuals who practice through entities described in Subparagraphs (a)(1) through (a)(4) of this Rule shall be licensed to practice architecture.
- (c) The firm shall be properly described and identified by its name or title.

Authority G.S. 83A-4; 83A-6; 83A-8; 57C, 59-84.2, 55B.

### 21 NCAC 02 .0205 NAME OF FIRM

- (a) A licensee shall not engage in the practice of architecture under a ~~professional or~~ firm name which is misleading or deceptive in any way as to the legal form of the firm or the persons who are partners, officers, members, or shareholders in the firm. The Board shall approve all firm names to be used in this State. Examples of misleading or deceptive firm names ~~include~~ include, but are not limited to, the following:

  - (1) Use of the plural "architects" in any form when the number of architects in a firm does not warrant such use;

- (2) Use of the name of an employee unless that employee is a licensed partner, licensed officer, licensed member or licensed shareholder;
  - (3) Use of the name of a deceased architect in order to benefit from his reputation, when that architect was not a former partner, officer, member or shareholder in the present firm;
  - (4) Use of a name which is deceptively similar to that of existing firm name; and
  - (5) Use of a fictitious name by a sole ~~proprietor or partnership or limited liability partnership~~. proprietor.
- (b) ~~Names of all architectural firms shall be approved in writing by the Board before adopted or used by such firm. Provided, however, that this Rule shall not be construed to require any firm to seek approval of, or to change, any name adopted in conformity with Board rules in effect at the date of such adoption, other than a rule that is a violation of Subparagraph (a)(1) of this Rule. Failure of the firm to register a fictitious name shall be prima facie evidence of the name being misleading or deceptive.~~
- (c) ~~Only firms established pursuant to 21 NCAC 02 .0214 (professional corporations), 21 NCAC 02 .0215 (qualified foreign corporations), or 21 NCAC 02 .0218 (professional limited liability companies) may engage in the practice of architecture under a fictitious name; provided, however, a registered firm in good standing having obtained written approval of its fictitious name prior to the adoption of this Rule and having continuously used such name may continue to use the previously approved name only for so long as:~~
- (1) ~~said name complies with Paragraphs (a) and (b) of this Rule;~~
  - (2) ~~the firm's use of said name is continuous; and~~
  - (3) ~~the firm complies with any applicable statutes pertaining to the registration of fictitious names, including but not limited to G.S. 66, Article 14.~~

Authority G.S. 55B-5; 83A-6; 83A-9; 83A-12.

## 21 NCAC 02 .0206 REQUIREMENT FOR AND USE OF PROFESSIONAL SEAL

(a) As more fully set out in this Rule, an architect must seal ~~his~~ his/her work whether or not the work is for an exempt ~~project~~. project as defined in G.S. 83A-13. An architect shall not sign nor seal drawings, specifications, reports or other professional work which were not prepared by the architect or under ~~his~~ his/her ~~direct supervision~~. responsible control. Documents shall be sealed as follows:

- (1) ~~Provided, however, that the~~ An architect may sign or seal those portions of the professional work that:
  - (A) were prepared by or under the ~~direct supervision~~ responsible control of persons who are registered ~~under the architecture registration laws of this jurisdiction~~ architects in this state if the architect has reviewed in whole or in part such portions and has either coordinated their preparation or integrated them into his or her work; and
  - (B) are not required by law to be prepared by or under the responsible control of an architect if the architect has reviewed and adopted in whole or in part such portions and has integrated them into his or her work.
- (2) Individual Seal Design. Every licensed architect shall have an individual seal which shall be composed of two concentric circles with outer and inner circle diameters of approximately 1.5 inches and 1 inch respectively. The architect's name and primary place of business shall be between the inner and outer circles. The words "Registered Architect, North Carolina" shall be along the inside perimeter of the inner circle. The architect's North Carolina registration number shall be in the center of the inner circle. The original signature of the individual named on the seal and date is a required part of an individual seal and a seal image lacking said signature and date is incomplete and shall not be considered a "seal" for purposes of these Rules. (See facsimile on Board web site.)
- (3) ~~Corporate Firm~~ Seal Design. Every ~~corporation~~ firm which shall have obtained from the Board a certificate for ~~corporate practice~~ shall have a ~~corporate~~ firm seal, which shall be composed of two concentric circles with outer and inner circle diameters of approximately 1.5 inches and 1 inch respectively. The Architectural ~~Corporation's~~ Firm's approved North Carolina name and place of business shall be between the inner and outer circles.
  - (A) For a Professional Corporation ~~The~~ words "Registered Architectural Corporation, North Carolina" shall be along the inside perimeter of the inner circle. The ~~corporation's~~ firm's North Carolina registration number shall be in the center of the inner circle. (See facsimile on Board web site.)
  - (B) For a Professional Limited Liability Company the words "Registered Architectural Company" shall be along the inside perimeter of the inner circle. The firm's North Carolina registration number shall be in the center of the inner circle. (See facsimile on the Board web site.)
  - (C) For a Limited Liability Partnership the words "Registered Limited Liability Partnership" shall be along the inside perimeter of the inner circle. The firm's North Carolina registration number shall be in the center of the inner circle. (See facsimile on the Board web site.)
  - (D) For a Partnership the words "Registered Partnership" shall be along the inside perimeter of the inner circle. The firm's North Carolina registration number shall be in the center of the inner circle. (See facsimile on the Board web site.)
  - (E) A sole proprietorship shall not be required to have a firm seal and shall seal all work with the individual seal as set forth in Subparagraph (a)(2) of this Rule.
- (4) Seal Types. The seal required for use on ~~opaque~~ original technical submissions not intended for duplication shall be of a type which will produce an impression facsimile of the seal, or a rubber stamp which will produce an ink facsimile of the seal. The seal required for use on ~~transparent~~ original technical submissions intended for duplication shall be of a type which will produce an ink facsimile of the seal such as a rubber stamp, or a substantially similar electronic or digital representation of the design. The use of pre-printed documents bearing a pre-printed facsimile of the signed and dated seal is prohibited. ~~Technical submissions shall be defined to mean plans, drawings, specifications, studies, addenda and other technical reports prepared for use in this state in the course of practicing architecture.~~
- (5) Individual Seal, Signature and Date Required. Architects shall affix their seal on one original of all their drawings and sets of specifications prepared by them for use in this State as follows:

- (A) on the cover sheet of each design and on each drawing; drawing prepared by the architect for said design;
- (B) on the index page identifying each set of specifications; and
- (C) on the index page of all other technical submissions.

The original signature of the individual named on the seal shall be considered part of an individual seal and shall appear across the face of each original seal imprint along with the date of affixation. For the purposes of this Rule, the term "for use in this State" means drawings and sets of specifications prepared for bidding, procurement, permitting or for construction. For purposes of this Rule, "original" means the version of drawings and sets of specifications from which all lawful copies can be made.

- (6) ~~Presentation Documents.~~ Presentation documents (renderings, drawings used to communicate conceptual information only) are shall not required to be sealed or signed.
- (7) Technical submissions shall refer to plans, drawings, specifications, studies, addenda and other technical reports prepared for use in this state in the course of practicing architecture.
- ~~(7)(8) Incomplete Documents.~~ Documents considered incomplete by the architect may be released for interim review without the architect's seal or signature affixed, but shall be dated, bear the architect's name and be conspicuously marked to clearly indicate the documents are for interim review and not intended for bidding, procurement, permit, or construction purposes.
- ~~(8)(9) Sheets or Pages Prepared By Licensed Professional Consultants.~~ Those sheets or pages prepared by licensed professional consultants (~~such as~~, for example, structural, mechanical or electrical engineers) retained by the architect shall bear the seal and registration number of the consultant responsible therefore and shall not be sealed by the architect.
- ~~(9)(10) Original Signature.~~ The use of signature reproductions such as rubber ~~stamps or stamps~~, computer generated or other facsimiles shall not be permitted in lieu of actual handwritten and hand dated signatures; provided, however, a digital signature as defined in Paragraph ~~(f)~~ (e) of this Rule may be used in lieu of a handwritten ~~signature. signature and~~ handwritten date.
- ~~(10)(11) Security of Seal.~~ Authorized use of the prescribed seal is an individual act whereby the architect must personally sign over the imprint of the seal. The architect is responsible for security of the seal when not in use.
- ~~(11)(12) Use of Corporate Firm Seal.~~ The use of the corporate firm seal does not replace the statutory requirement for an architect's individual seal as required in Paragraph (d). The corporate firm seal must be affixed in addition to the individual seal on the cover ~~sheet and each page of the table of contents of specifications and drawings. sheet.~~

(b) ~~Standard Design Documents.~~ Standard design documents prepared by architects who are registered in this state or in their state of origin may be sealed by a succeeding licensed architect registered in North Carolina provided:

- (1) the seal of the original architect appears on the documents to authenticate authorship;
- (2) the words "standard design document" be placed on each sheet of the documents by the original architect;
- (3) the succeeding North Carolina architect clearly identifies all modifications to the standard design documents;
- (4) the succeeding North Carolina architect assumes responsibility for the adequacy of the design for the specific application in North Carolina and for the design conforming with applicable building codes; and
- (5) the succeeding North Carolina architect affixes ~~his~~ his/her seal to the standard design documents and a statement substantially as follows: "These documents have been properly examined by the undersigned. I have determined that they comply with existing local North Carolina codes, and I assume responsibility for the adequacy of the design for the specific application in North Carolina."

(c) ~~Record Drawings—~~ Post Construction record drawings prepared by an architect, but based upon representations of contractors, are not plans that are for "bidding, procurement, permit or construction purposes" and therefore ~~need shall~~ not be sealed by the architect as long as the documents bear the name of the architect and include language stating "these drawings are based in part upon the representations of others and are not for bidding, procurement, permit or construction purposes."

(d) Responsible Control. No architect shall affix ~~his~~ his/her seal and signature to contract documents developed by others not under his responsible control. Responsible control ~~includes;~~ includes that amount of control over and detailed professional knowledge of the content of technical submissions during their preparation as is ordinarily exercised by an architect applying the required professional standard of care, including but not limited to:

- (1) Dissemination of programmatic requirements;
- (2) Ongoing coordination and correlation of services with other aspects of the total design of the project;
- (3) Verification with consultant that owner's requirements are being met;
- (4) Authority over the services of those who assisted in the preparation of the documents;
- (5) Assumption of responsibility for the services; ~~and~~
- (6) Incorporation of services and technical submissions into design documents to be issued for permitting ~~purposes.~~ purposes;
- (7) Incorporation and integration of information from manufacturers, suppliers, installers, the architect's consultants, owners, contractors, or other sources the architect reasonably trusts that is incidental to and intended to be incorporated into the architect's technical submissions if the architect has coordinated and reviewed such information.

(e) For purposes of this Rule the term "Signature" shall mean handwritten or digital as follows:

- (1) A handwritten message identification containing the name of the person who applied it; or
- (2) A digital signature that is an electronic authentication process attached to or logically associated with an electronic document. The digital signature must be:
  - (A) Unique to the person using it;
  - (B) Capable of verification;
  - (C) Under the sole control of the person using it; and

- (D) Linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.
- (3) A digital signature that uses a process approved by the Board shall be presumed to meet the criteria set forth in Parts (e)(2)(A) through (e)(2)(D) of this Rule.
- (4) The architect is responsible for the security of the digital signature.

Authority G.S. 83A-6; 83A-10; 83A-12.

## 21 NCAC 02 .0208 DISHONEST CONDUCT

- (a) Deception. An architect shall not deliberately make a materially false statement or fail deliberately to disclose a material fact requested in connection with his application for registration renewal.
- (b) Contributions. An architect shall not ~~pay or~~ offer to pay, either directly or indirectly, any commission, political contribution, gift, or other consideration in order to secure ~~work, work.~~ Gifts of nominal value (including for example, reasonable entertainment and hospitality) and exclusive of securing salaried positions through employment ~~agencies.~~ agencies are permitted.
- (c) Registration of Others. An architect shall not assist the application for registration of a person known by the architect to be unqualified with respect to education, training, experience, or character.
- (d) Knowledge of Violation. An architect possessing knowledge of a violation of these Rules by another architect shall report such a violation to the Board.

Authority G.S. 14-353; 83A-6; 83A-14; 83A-15.

## 21 NCAC 02 .0209 UNPROFESSIONAL CONDUCT

In addition to those grounds as stated in G.S. 83A-15(3) the following acts or omissions, among others, may be deemed to be "unprofessional conduct" and to be cause for the levy of a civil penalty or for denial, suspension, or revocation of a license or certificate of registration to practice architecture:

- (1) Compliance With Laws. It shall be deemed unprofessional conduct for an architect, in the conduct of his or her professional practice, to knowingly violate any state or federal criminal law. A criminal conviction shall be deemed prima facie evidence of knowingly violating the law.
- (2) Compliance With Foreign Registration. It shall be deemed unprofessional conduct for an architect to knowingly violate the laws governing the practice of architecture or the rules promulgated by any other architectural licensing board in any United States jurisdiction. A finding by a foreign architectural registration board that an architect has violated a law or rule governing the practice of architecture shall be deemed prima facie evidence of knowingly violating the law or rule.
- (3) Product Specification. It shall be deemed unprofessional conduct for an architect to solicit or accept financial or other valuable consideration from material or equipment suppliers for specifying their products.
- (4) Advertising. It shall be deemed unprofessional conduct for an architect to engage in any false, deceptive, fraudulent, or misleading advertising.
- (5) False Statements. It shall be deemed unprofessional conduct for an architect to knowingly make false statements about the professional work of; or to maliciously injure the prospects, practice, or employment position of others active in the design and construction of the physical environment.
- (6) ~~Evasion.~~ Evasion shall be as follows:
  - (a) It shall be deemed unprofessional conduct for an architect, through employment by ~~building contractors, contractors (whether or not the contractors are licensed under G.S. 89),~~ or by another ~~individual or~~ entity not holding an individual or ~~corporate firm certificate registration~~ from the Board, to enable the employer to offer or perform architectural services, except as provided in G.S. 83A-13. In design/build arrangements, the architect shall not be an employee of a person or firm not ~~registered or licensed~~ holding a registration to practice architecture in North Carolina.
  - (b) It shall be deemed unprofessional conduct for an architect to furnish limited services in such manner as to enable owners, draftsmen, or others to evade the public health and safety requirements of Chapter 83A, G.S. 133-2, G.S. 153A-357, or G.S. 160A-417.
  - (c) When building plans are begun or contracted for by persons not licensed and qualified, it shall be deemed unprofessional conduct for an architect to take over, review, revise, or sign or seal such drawings or revisions thereof for such persons, or do any act to enable either such persons or the project owners, directly or indirectly, to evade the requirements of Chapter 83A, G.S. 133-2, G.S. 153A-357, or G.S. 160A-417.
- (7) Branch Office. It shall be deemed unprofessional conduct for an individual architect or firm to maintain or represent by sign, listing, or other manner that ~~he he/she~~ maintains an architectural office or branch office in North Carolina unless such office is ~~continuously staffed with a registered architect in charge.~~ has a registered resident architect in North Carolina whose principle place of business is in that office. ~~Provided, however, that this~~ This Rule does not apply to on-site project offices during ~~construction.~~ construction of a project.
- (8) Misrepresentation Regarding Prior Experience. An architect shall accurately represent to a prospective or existing client or employer ~~his his/her~~ qualifications and the scope of ~~his his/her~~ responsibility in connection with work for which he is claiming credit. Misrepresentation shall be as follows:
  - (a) It shall be the responsibility of each ~~registered~~ architect to state their prior professional experience ~~of the architect~~ and the firm the architect is representing ~~in~~ while presenting qualifications to prospective clients, both public and private. If an architect uses visual representations of prior projects or experience, all architects-of-

record must be clearly identified. Architect-of-record means persons or entities whose seals appear on plans, specifications and/or contract documents.

- (b) An architect who has been an employee of another architectural practice may not claim credit for projects contracted for in the name of the previous employer. The architect shall indicate, next to the listing for each project, that individual experience gained in connection with the project was acquired as an employee, and identify the previous architectural firm. The architect shall also describe the nature and extent of his/her participation in the project.
  - (c) An architect who was formerly a principal in a firm may make additional claims provided he/she discloses the nature of ownership in the previous architectural firm (e.g. stockholder or junior partner) and identifies with specificity his/her responsibilities for that project.
  - (d) An architect who presents a project that has received awards or public recognition must comply with the requirements in Subparagraph (8) of this Rule with regard to project presentation to the public and prospective clients.
  - (e) Projects which remain unconstructed and which are listed as credits shall be listed as "unbuilt" or a similar designation.
- (9) Fee Bidding on Public Projects. An architect shall not knowingly cooperate in a violation of any provisions of G.S. 143-64.31.
- (10) ~~Cooperation with Board.~~ An architect shall cooperate with the Board in connection with any inquiry it shall make. Cooperation includes but is not limited to responding in a timely manner to all inquiries of the Board or its representative ~~of the Board and claiming Board correspondence from the U.S. Postal Service, which is mailed in accordance with 21 NCAC 02 .0201.~~
- (11) Copyright Infringement. It shall be deemed unprofessional conduct for an architect to be found by a court to have infringed upon the copyrighted works of other architects or design professionals.

*Authority G.S. 83A-6; 83A-14; 83A-15.*

## **21 NCAC 02 .0213 INDIVIDUAL LICENSES**

(a) Renewal. ~~Licenses~~ License registration must be renewed on or before ~~the first day of July in June 30th~~ each year. No less than 30 days prior to the renewal date, the Board shall send a notice of renewal application shall be mailed to each individual licensee. The licensee shall complete the current license renewal documentation required form provided by the Board. ~~Board, including continuing education credit earned.~~ The licensee shall submit to the Board the completed form for license renewal, renewal documentation, along with the annual license renewal fee shall be forwarded to the Board. fee. The Board shall not accept incomplete renewal documentation. ~~If the application form is incomplete or the annual renewal fee is not paid, the application for renewal shall not be accepted. Also, if~~ if the accompanying draft or check in the amount of the renewal fee is dishonored by the architect's drawee bank for any reason, the Board shall suspend the license until the renewal fees and check charges are paid. annual license renewal shall be deemed to be not renewed. Once When the annual renewal has been completed according to the provisions of G.S. 83A-11, as well as Section .0900 of these Rules, the Executive Director shall ~~issue to the licensee a current license~~ approve renewal of the license for the current license for the ensuing year. Renewal fees are non-refundable.

(b) Late Renewal and Reinstatement. If the Board has not received the annual renewal fee and completed ~~application~~ renewal documentation on or before July 1st, on or before June 30th each year, the license shall expire and be ~~deemed~~ delinquent. The license may be renewed at any time within one ~~year, year of being deemed delinquent,~~ upon the return of the completed ~~application, renewal documentation,~~ the annual renewal fee and the late renewal ~~penalty fee and demonstration of~~ compliance with Section .0900 of these Rules. After one year from the date of ~~expiration for non-payment of the annual renewal fee delinquency~~ the license shall be deemed automatically revoked. Reinstatement shall occur according to the directives of G.S. 83A-11 and Section .0900 of these Rules.

*Authority G.S. 83A-6; 83A-11.*

## **21 NCAC 02 .0214 FIRM PRACTICE OF ARCHITECTURE**

(a) ~~Application Forms.~~ Prior to offering and rendering architectural services as set forth in G.S. 83A and 21 NCAC 02 .0204(a), all firms must submit an application for firm registration and be granted registration by the Board. Application for a corporate firm certificate of registration for the to practice of architecture within the State of North Carolina shall be made upon forms provided by the ~~Board.~~ Board and include the required application fee. Completed applications must be accompanied by the corporate application fee. Certificates for corporate firm practice may be issued only under the provisions of the ~~Professional Corporation Act, G.S. 55B,~~ except as provided in Subsection (b) of this ~~Rule.~~ Rule, G.S. 57C, and G.S. 59-84.2.

(b) Architectural Corporations Under G.S. 55, the Business Corporation Act. Applications for certificate of registration as exempt from the Professional Corporation Act under the provisions of G.S. 55B-15 shall be made upon forms provided by the Board. Completed applications must be accompanied by the corporate application fee. To be eligible as an exempt corporation under the provisions of G.S. 55B-15, the following conditions must exist:

- (1) The corporation must have been incorporated prior to June 5, 1969 as a business corporation;
- (2) Prior to and since June 5, 1969, the corporation must have been a bona fide architectural or architectural-engineering firm with services limited to the practice of architecture or architecture-engineering and such services as may be ancillary thereto within the State of North Carolina; and
- (3) The corporation must have applied to be an exempt corporation before October 1, 1979.

(c) Renewal of Certificate. ~~The renewal of corporate certificates of registration shall follow the same requirements as set out in Rule .0213 of this Section for individual licensees except that the corporate renewal shall expire on December 31st of each year.~~ Firm registration must

be renewed on or before December 31st each year. If the Board has not received the annual renewal fee and completed application on or before December 31st each year, the firm license shall expire and be delinquent. No less than 30 days prior to the renewal date, the Board shall send a notice of renewal to each registered firm. The firm must designate an officer to complete the renewal documentation required by the Board. The Board shall not accept incomplete renewal documentation. Renewal documentation must be accompanied by the renewal fee. If the accompanying draft or check in the amount of the renewal fee is dishonored by the firm's drawee bank for any reason, the Board shall suspend the firm registration until the renewal fees and returned check charges are paid. When the annual renewal has been complete according to the provision of G.S. 83A-11, the Executive Director shall approve renewal for the firm registration for the current renewal year. Renewal fees are non-refundable.

(d) Failure to Renew and Reinstatement. If the corporation fails to renew its corporate certificate of registration, it shall be subject to the same requirements for its failure to renew and reinstatement as apply to individual licensees under Rule .0213 of this Section. Within one year of the expiration the firm license may be renewed at any time, upon the return of the completed renewal documents, the annual renewal fee and the late renewal fees. After one year from the date of expiration for non-payment of the annual renewal fee the license shall be automatically revoked. The Board may reinstate the firms' certificate of registration, as allowed by G.S. 83A-11.

(e) Seal. Each registered corporation shall adopt a seal pursuant to 21 NCAC 2 .0206(b), 21 NCAC 02 .0206(a)(3).

(f) Approval of Name. In addition to the requirements and limitations of Chapter 55 and 55B of the General Statutes, G.S. 55 and 55B, the corporate firm name used by an architectural corporation shall conform with Rule .0205 and be approved by the Board before being used. Provided, however, that this This Rule shall not prohibit the continued use of any corporate name duly adopted in conformity with the General Statutes of North Carolina and Board Rules in effect at the date of such adoption.

*Authority G.S. 55B5; 55-B10; 55B-15; 83A-6; 83A-8.*

## **21 NCAC 02 .0215 OUT OF STATE FIRMS**

(a) Incorporation in Other States. Architectural corporations firms of from other states may be granted corporate firm certificates of registration for practice in this State on the upon receipt by the Board of a completed application, fees, the submission of a certified copy of their corporate firm charter, or other corresponding documents, amended as may be necessary to insure full compliance with all requirements of Chapter 55B, the Professional Corporation Act of the State of North Carolina, and the payment of the corporate firm application fee. In addition to the other requirements as set out in G.S. 83A-8, foreign corporations firms must, prior to registration, receive from the Secretary of State of North Carolina a certificate of authority to do business within the state. A certificate for filing for a certificate of authority must be obtained by the Board prior to submitting application to the Secretary of State. The registration requirements for foreign corporations firms cannot shall not be avoided by practice in North Carolina through an individual licensee.

(b) Designated Individuals. Foreign Corporations entities shall may be permitted to practice architecture within the State of North Carolina provided that it complies with G.S. 55B. If a foreign entity offers both architectural and engineering services, then the it must comply with requirements set forth in G.S. 89C. A foreign entity must have at least one officer, director and shareholder licensed as an individual in this state. two-thirds Two-thirds of the issued and outstanding shares of the foreign corporations are must be owned by licensed architects or engineers who are licensed to practice their profession in a jurisdiction of the United States. However, the corporation firm must designate at least one architect who is licensed in the State of North Carolina to be in responsible charge for the corporate firm practice of architecture within the State of North Carolina.

(c) Partnerships. An out of state architectural partnership may be permitted to practice architecture, if every partner in the firm is licensed as an individual in this state under Rule .0213 and the partnership complies with Paragraph (f) this Rule.

(d) Limited Liability Companies. An out of state Limited Liability Company may be permitted to practice architecture, if the Limited Liability Company complies with G.S. 57C and at least one member and one owner are licensed as in individuals under Rule .0213 and comply with Paragraph (a) of this Rule.

(e) Limited Liability Partnerships. An out of state Limited Liability Partnership may be permitted to practice architecture, if the Limited Liability Partnership complies with G.S. 59, and at least one partner is licensed as an individual under Rule .0213 and complies with Paragraph (f) of this Rule.

(f) Application Forms. Each partnership or limited liability partnership shall submit an application for a partnership certificate of registration for the practice of architecture within the State of North Carolina upon the forms provided by the Board. Each partnership or limited liability partnership shall also submit a non-refundable application fee.

(g) Failure to Renew and Reinstatement. If the Board has not received the annual firm renewal fee and completed application on or before December 31st each year the firm registration shall expire and be deemed delinquent. The firm registration may be renewed at any time within one year, upon the return of the completed application, the annual renewal fee and the late renewal fees. After one year from the date of expiration for non-payment of the annual renewal fee, the license shall be automatically revoked. The Board may reinstate the firm's certificate of registration, as allowed by G.S. 83A-11.

*Authority G.S. 55B-6; 83A-6; 83A-8.*

## **21 NCAC 02 .0216 ANNUAL LISTING OF PARTNERSHIP**

(a) By December 31 of each year, each partnership or registered limited liability partnership engaged in the practice of architecture in North Carolina shall submit a list of all resident and non-resident partners of the partnership.

(b) One annual listing by a representative of the partnership shall satisfy the requirements of Paragraph (a) of this Rule for all partners of the firm; however, each partner shall remain responsible for compliance with the rules.

(c) Changes in the information required by Paragraph (a) of this Rule shall be filed with the Board office within 30 days after the change occurs.

*Authority G.S. 83A-6; 83A-9.*

## 21 NCAC 02 .0219 REGISTERED LIMITED LIABILITY PARTNERSHIPS

~~Architects may practice in this state through duly registered limited liability partnerships only as provided under G.S. 59-84.2 and G.S. 59-84.3. Any registered limited liability partnership that offers to practice or practices architecture in this state must comply with the same requirements applicable to partnerships under Rules .0201, .0202, .0204, .0205, and .0216 of this Chapter.~~

*Authority G.S. 83A-6; 59-84.2; 59-84.3.*

## SECTION .0300 - EXAMINATION PROCEDURES

### 21 NCAC 02 .0301 APPLICATION FOR REGISTRATION BY EXAM

(a) ~~All persons desiring to submit an application applications for written examination to take the Architectural Registration Exam (ARE) must shall complete an the application for licensure by exam and submit the non-refundable application fee. fee as established in Rule .0108. All new applications and supporting documents for the Architectural Registration Examination (ARE) must be on file in the office of the Board not later than two months prior to the date of initial examination in order for the applicant's eligibility to be determined and in order that the applicant may receive proper instructions to prepare for the examination. If an application is in proper form and the applicant is otherwise qualified by statute and the rules of the Board to sit for the examination, the Board shall send notice of ARE eligibility will be mailed to the applicant, with detailed information as to the time, place and other requirements of the examination. applicant.~~

(b) ~~The fees for examination, or parts thereof, will shall be established by the Board in order that all costs for examination materials are recovered. National Council of Architecture Registration Boards. Fees will be published in a separate schedule and Fee information will be made available to all applicants for examination. examination on the Board web site and may be obtained from the National Council of Architecture Registration Boards. A non-refundable application fee as established in Rule .0108 of this Chapter must be submitted with each first time application in addition to the examination fee.~~

*Authority G.S. 83A-4; 83A-6; 83A-7.*

### 21 NCAC 02 .0302 EXAMINATION

(a) Licensure Examination. All applicants for architectural registration in North Carolina by examination must shall pass the Architectural Registration Examination (ARE), prepared by the National Council of Architectural Registration Boards (NCARB). Provided, applicants who have never been registered in any ~~state or territory~~ NCARB recognized jurisdiction may transfer credits for portions of the examination previously passed in another ~~state~~ jurisdiction if at the time of ~~taking initial approval to take the exam elsewhere in said jurisdiction~~ they otherwise qualified for taking the exam under the rules in this Chapter.

(1) ~~Description. The nature of the examination is to place the candidate in areas relating to actual architectural situations whereby his abilities to exercise competent value judgments will be tested and evaluated.~~

(2) ~~Qualifications. The prequalifications qualifications necessary for an applicant's admission eligibility to take the Architectural Registration examination (ARE) ARE are as follows:~~

(A)(1) ~~be of good moral character as defined in G.S. 83A-1(5);~~

(B)(2) ~~be at least 18 years of age;~~

(C)(3) ~~the professional education qualification is the NAAB (National Architectural Accrediting Board) accredited professional degree in architecture;~~

(D)(4) ~~all applicants who apply for architectural registration by exam shall be required to follow the Intern Development Program (IDP) through the National Council of Architectural Registration Boards NCARB or an equivalent program approved by the North Carolina Board of Architecture in order to satisfy the requirements of this Section.~~

(5) ~~The Board, in its discretion, may grant eligibility to take the exam, to those individuals who have obtained the required NAAB accredited degree, have enrolled in the NCARB IDP and have had verified by NCARB at least 2000 training units of the IDP as approved by NCARB. Upon successful completion of all sections of the ARE, fulfillment of the practical training requirement and fulfillment of all remaining IDP requirements an individual may submit the application and fee for licensure by exam and may then be granted a license to practice architecture.~~

(b) ~~Retention of Credit. credit for purposes of licensure by examination in North Carolina.~~

(1) ~~Passing grades scores received after July 1, 2006 on any part of the ARE shall remain valid for a period of time established by the exam provider, NCARB.~~

(2) ~~As of July 1, 2011, passing scores received on any part of the ARE prior to July 1, 1996 shall be invalid.~~

(3) ~~As of July 1, 2014, passing scores received on any part of the ARE after July 1, 1996 and prior to July 1, 2006 shall be invalid.~~

(c) ~~Practical Training. Practical training means practical experience and diversified training as defined by the Intern Development Program (IDP) IDP through the National Council of Architectural Registration Boards. NCARB. However, the Board reserves the right to judge each case on its own merits.~~

(d) Personal interview. During the application process, the applicant may be interviewed by the Board members. The purpose of the interview is to augment the evidence submitted in an application with regard to ~~education and experience. qualifications required in Subparagraph (a)(1) of this Rule.~~

(e) ~~Grading. The ARE shall be graded in accordance with the methods and procedures recommended by the NCARB. An exam candidate shall receive a passing grade in each division of the Architectural Registration Exam.~~

- (1) ~~An applicant must receive a passing grade in each division. Grades from the individual divisions shall not be averaged. A passing grade for any division on any examination taken after July 1, 1996 and before January 1, 2006, shall be valid only for five years prior to July 1, 1996.~~
  - (2) ~~Each candidate shall be assigned a number that will be unique for each candidate.~~
- (f) A person currently employed under the responsible control of an architect, who holds a ~~first~~ Professional Degree from a NAAB accredited program, and who is enrolled in and maintains ~~in~~ good standing or has successfully completed a National Council of Architectural Registration Boards Record in the Intern Development Program (IDP) may use the title "Architectural Intern" or "Intern Architect" in conjunction with ~~his~~ his/her current employment.

Authority G.S. 83A-1; 83A-6; 83A-7.

## 21 NCAC 02 .0303 LICENSURE BY RECIPROCITY

(a) ~~Registration by "Blue Cover." The only means of individual reciprocity recognized by the Board is for an An individual to who hold holds a current license in good standing from another state a National Council of Architecture Registration Boards (NCARB) recognized jurisdiction and a Certified Council Certificate (also known as "Blue Cover") issued by the National Council of Architectural Registration Boards (NCARB) NCARB or comply with the requirements of Paragraph (b) of this Rule. may qualify for licensure by reciprocity. Upon receipt of a verified application certified record from NCARB and the payment of the Board individual license application for licensure by reciprocity and fee, the Board may issue a license to an applicant without written examination as provided in G.S. 83A-7(b). Revocation of the "Blue Cover" certificate by NCARB shall automatically terminate suspend the architect's license to practice in North Carolina until such time as the "Blue Cover" certificate is reinstated by NCARB.~~

(b) ~~Registration other than "Blue Cover." Licensure by Direct Reciprocity with another NCARB recognized jurisdiction. The Board may grant a reciprocal certificate license to an individual who does not qualify for a "Blue Cover" but who submits an a non-certified NCARB "Buff Cover" record (also known as the "Buff Cover") or other verified evidence that he he/she meets the following requirements:~~

- (1) ~~the applicant has been continuously licensed in good standing in another jurisdiction; and~~
- (2) ~~the applicant otherwise met the requirements for the "Blue Cover" a certified NCARB record or North Carolina registration license in effect at the time of his his/her original registration licensure as an architect; and~~
- (3) ~~the applicant agrees to Board may, in its discretion request an interview with the Board or a designee applicant to satisfy the Board Board, or its designee that he the applicant has had sufficient recent architectural practice experience to be able to competently practice architecture in this state.~~

Authority G.S. 83A-6; 83A-7.

## SECTION .0700 - ADMINISTRATIVE HEARINGS: DECISIONS: RELATED RIGHTS

### 21 NCAC 02 .0701 CONTINUANCES FAILURE TO APPEAR

- (a) ~~The presiding officer may grant continuances Continuances and adjournments will be granted only in compelling circumstances.~~
- (b) ~~Should a party fail to appear at a hearing or fail to appear following the granting of a continuance adjournment, the hearing will be conducted in the party's absence.~~
- (c) ~~If a hearing is conducted and a decision is reached in an administrative hearing in the absence of a party, that party may file a written petition with the Board for a reopening of the case.~~
- (d) ~~Petitions for reopening a case will not be granted except when the petitioner can show that the reasons for his failure to appear were justifiable and unavoidable and that fairness requires reopening the case. Such petitions, however, will have no effect on the running of the 30-day period for seeking judicial review, which starts from the day the party is served with the final decision.~~

Authority G.S. 83A-6; 150B-11; 150B-38; 150B-40.

### 21 NCAC 02 .0703 SUBPOENAS

- (a) Requests for 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 made in writing to the Board, shall identify any document sought with specificity, and shall include the full name and home or business address of all persons to be subpoenaed and, if known, the date, time, and place for responding to the subpoena. The Board shall issue the requested subpoenas within five days of receipt of the request.
- (b) Subpoenas shall contain: the caption of the case; the name and address of the person subpoenaed; the date, hour and location of the hearing in which the witness is commanded to appear; a particularized description of the books, papers, records or objects the witness is directed to bring with him to the hearing, if any; the identity of the party on whose application the subpoena was issued; the date of issue; the signature of one of the members of the Board or the Board's Secretary; and a "return of service." The "return of service" form, as filled out, shows the name and capacity of the person serving the subpoena, the date on which service was made, the person on whom service was made, the manner in which service was made, and the signature of the person making service.
- (c) Subpoenas shall be served by the sheriff of the county in which the person subpoenaed resides, when the party requesting such subpoena prepays the sheriff's service fee. The subpoena shall be issued in duplicate, with a "return of service" form attached to each copy. A person serving the subpoena shall fill out the "return of service" form for each copy and properly return one copy of the subpoena, with the attached "return of service" form completed, to the Board.
- (d) Any person receiving a subpoena from the Board may object thereto by filing a written objection to the subpoena with the Board's office.
- (e) Such objection shall include a concise, but complete, statement of reasons why the subpoena should be revoked or modified. These reasons may include lack of relevancy of the evidence sought, or any other reason sufficient in law for holding the subpoena invalid, such as

that the evidence is privileged, that appearance or production would be so disruptive as to be unreasonable in light of the significance of the evidence sought, or other undue hardship.

(f) Any such objection to a subpoena must be served on the party who requested the subpoena simultaneously with the filing of the objection with the Board.

(g) The party who requested the subpoena, in such time as may be granted by the ~~Board~~, presiding officer, may file a written response to the objection. The written response shall be served by the requesting party on the objecting witness simultaneously with filing the response with the Board.

(h) After receipt of the objection and response thereto, if any, the ~~Board~~ presiding officer shall issue a notice to the party who requested the subpoena and the party challenging the subpoena, and may notify any other party or parties of an open hearing, to be scheduled as soon as practicable, at which time evidence and testimony may be presented, limited to the narrow questions raised by the objection and response.

(i) Promptly after the close of such hearing, a majority of the Board members hearing the contested case will rule on the challenge and issue a written decision. A copy of the decision will be issued to all parties and made a part of the record.

*Authority G.S. 83A-6; 150B-11; 150B-38; 150B-39.*