

CHAPTER 2 - BOARD OF ARCHITECTURE

SECTION .0100 - GENERAL PROVISIONS

21 NCAC 02 .0101 AUTHORITY: NAME AND LOCATION OF BOARD

The "North Carolina Board of Architecture," subsequently herein referred to as the "Board," is established and authorized by Chapter 83A of the General Statutes of North Carolina. Unless otherwise directed, all communications shall be addressed to the Board at 127 West Hargett Street, Suite 304, Raleigh, North Carolina 27601.

History Note: Authority G.S. 83A-2; 83A-6;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. June 1, 1995; May 1, 1989; November 1, 1979.

21 NCAC 02 .0102 ORGANIZATION OF BOARD AND OFFICERS

In addition to the annual meeting as prescribed in G.S. 83A-2, other meetings of the Board may be called by the president or any three Board members. The officers of the Board shall be elected at the annual meeting for terms of one year and until a successor is elected. Vacancies in the officers' terms, occurring from death, resignation, disability or expiration of Board service, shall be filled by election at the next Board meeting following the vacancy.

History Note: Authority G.S. 83A-2; 83A-6;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. May 1, 1989; November 1, 1979.

21 NCAC 02 .0103 DUTIES OF OFFICERS

21 NCAC 02 .0104 PROCEDURE

21 NCAC 02 .0105 DISCIPLINARY ACTION AND PROCEDURE

History Note: Authority G.S. 83A-6; 83-14;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. May 1, 1991; May 1, 1989; November 1, 1979;
Repealed Eff. June 1, 1995.

21 NCAC 02 .0106 SEAL OF BOARD

The Board has adopted a seal, which is circular in shape and contains the words, "North Carolina Board of Architecture." The seal is maintained in the Board's office under the care, custody and charge of the Executive Director. The seal shall be used at the direction of the Board to authenticate any official action or report of the Board. The absence of the seal shall not automatically imply the lack of authentication of any document issued by the Board.

History Note: Authority G.S. 83-5; 83A-6;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. May 1, 1989.

21 NCAC 02 .0107 FORMS

Any forms referred to or required by these rules are available upon request made in person or by writing to the Board.

*History Note: Authority G.S. 83A-6;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. May 1, 1989; November 1, 1979.*

21 NCAC 02 .0108 FEES

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

Initial Registration Application	
Individual	
Residents	\$ 50.00
Nonresidents	\$ 50.00
Corporate	\$ 75.00
Examination At Cost (See Rule .0301)	
Initial Exam Application	\$ 50.00
Re-examination	\$ 25.00
Annual license renewal	
Individual	\$ 50.00
Corporate	\$100.00
Late renewal Penalty	\$ 50.00
Reciprocal registration	\$150.00
Individual Reinstatement (application fee plus a prior year's renewal and late fees plus current renewal fee)	\$250.00

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

*History Note: Authority G.S. 83A-4; 83A-11;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. June 1, 1995; December 1, 1992; May 1, 1991; May 1, 1989; July 1, 1987.*

SECTION .0200 - PRACTICE OF ARCHITECTURE

21 NCAC 02 .0201 BOARD LISTING OF INDIVIDUAL AND FIRM NAMES

Every individual licensee, partnership, firm or corporation has the continuing responsibility of keeping the Board currently advised of his or its proper and current mailing address and the name or names under which he or it is practicing. Each licensee or firm shall immediately notify the Board in writing of any and all changes of association or address. Upon the dissolution of a professional relationship, the architect member or members 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.

*History Note: Authority G.S. 83A-5; 83A-6;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. June 1, 1995.*

21 NCAC 02 .0202 APPLICABILITY OF BOARD RULES

The Executive Director shall mail a copy of Chapter 83A of the North Carolina General Statutes and the rules of the Board adopted hereunder to each licensed architect in and out of the state to whom a new license has been issued, by virtue of having successfully completed the prescribed examination and having otherwise met the Board's requirements for registration.

Rules adopted and published by the Board under the provisions of Chapter 83A and Chapter 150B shall be binding upon every individual holding a license from the Board, and upon all professional corporations legally authorized to offer or to perform architectural services in this state. All licensees of the Board are charged with having knowledge of the existence of the Board rules and shall be deemed to be familiar with their several provisions and to understand them. Each licensed person and entity shall affirm in their renewals that they have read the current architectural laws and rules.

*History Note: Authority G.S. 83A-6;
 Eff. February 1, 1976;
 Readopted Eff. September 29, 1977;
 Amended Eff. June 1, 1995; May 1, 1989.*

21 NCAC 02 .0203 GENERAL OBLIGATIONS OF PRACTICE

As a primary obligation and responsibility, the architect shall conduct his office and all aspects of his practice in such manner as to "safeguard life, health and property" as provided in G.S. 83A-12. In addition, an architect is also charged with the following personal and professional obligations of good practice:

- (1) The concern and purpose of the profession of architecture are the creation of a physical environment of use, order, and beauty through the resources of design, economics, technology, and management. The physical environment includes a spectrum of elements serving man, from the artifact and the building to the community and the region.
- (2) The profession of architecture calls for individuals of the highest integrity, judgment, business capacity and artistic and technical ability. An architect's honesty of purpose must be above suspicion. An architect acts as professional adviser to his client and his advice must be unprejudiced.

*History Note: Authority G.S. 83A-6;
 Eff. February 1, 1976;
 Readopted Eff. September 29, 1977;
 Amended Eff. May 1, 1989; November 1, 1979.*

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.

*History Note: Authority G.S. 83A-4; 83A-6; 83A-8;
 Eff. February 1, 1976;
 Readopted Eff. September 29, 1977;
 Amended Eff. June 1, 1995.*

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. Examples of misleading or deceptive firm names include the following:

- (1) Use of the plural 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 partner, member or 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.

(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.

(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.

*History Note: Authority G.S. 55B-5; 83A-6; 83A-9; 83A-12;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. July 1, 2006; June 1, 1995, April 1, 1991; May 1, 1989.*

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 work whether or not the work is for an exempt project. An architect shall not sign nor seal drawings, specifications, reports or other professional work which were not prepared by the architect or under his direct supervision. Documents shall be sealed as follows:

- (1) Provided, however, that the architect may sign or seal those portions of the professional work that:
 - (A) were prepared by or under the direct supervision of persons who are registered under the architecture registration laws of this jurisdiction 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 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 signature of the individual named on the seal is a required part of an individual seal and a seal image lacking said signature is incomplete and shall not be considered a "seal" for purposes of these Rules.
- (3) Corporate Seal Design. Every corporation which shall have obtained from the Board a certificate for corporate practice shall have a corporate 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 approved North Carolina name and place of business shall be between the inner and outer circles. The words "Registered Architectural Corporation, North Carolina" shall be along the inside perimeter of the inner circle. The corporation's North Carolina registration number shall be in the center of the inner circle.

- (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 seal is prohibited. Technical submissions shall be defined to mean plans, drawings, specifications, studies 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 each design and each drawing;
 - (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 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, 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 not required to be sealed or signed.
 - (7) 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, permit, or construction purposes.
 - (8) 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) Original Signature. The use of signature reproductions such as rubber stamps or computer generated or other facsimiles shall not be permitted in lieu of actual signatures; provided, however, a digital signature as defined in Paragraph (e) of this Rule may be used in lieu of a hand written signature.
 - (10) 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) Use of Corporate Seal. The use of the corporate seal does not replace the statutory requirement for an architect's individual seal as required in Paragraph (d). The corporate 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.
- (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 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, permit or construction purposes" and therefore need 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, permit or construction purposes".
- (d) Responsible Control. No architect shall affix his seal and signature to contract documents developed by others not under his responsible control. Responsible control includes:

- (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 into design documents to be issued for permitting purposes.
- (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.

History Note: Authority G.S. 83A-6; 83A-10; 83A-12;
 Eff. February 1, 1976;
 Readopted Eff. September 29, 1977;
 Amended Eff. July 1, 2006; October 1, 1995; July 1, 1993; May 1, 1989; October 1, 1985.

21 NCAC 02 .0207 DENIAL: SUSPENSION OR REVOCATION OF LICENSE

History Note: Authority G.S. 83A-1; 83A-6; 83A-7; 83A-15;
 Eff. February 1, 1976;
 Readopted Eff. September 29, 1977;
 Amended Eff. October 1, 1989; May 1, 1989; November 1, 1979;
 Repealed Eff. June 1, 1995.

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 offer to pay, either directly or indirectly, any commission, political contribution, gift, or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies.
- (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.

History Note: Authority G.S. 14-353; 83A-6; 83A-14; 83A-15;
 Eff. February 1, 1976;
 Readopted Eff. September 29, 1977;
 Amended Eff.; July 1, 2006; December 1, 1995; June 1, 1995; October 1, 1989; May 1, 1989.

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, or by another not holding an individual or corporate certificate 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 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 architect to maintain or represent by sign, listing, or other manner that he maintains an architectural office or branch office unless such office is continuously staffed with a registered architect in charge. Provided, however, that this Rule does not apply to on-site project offices during construction.
- (8) **Misrepresentation Regarding Prior Experience.** An architect shall accurately represent to a prospective or existing client or employer his qualifications and the scope of his 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 prior professional experience of the architect and the firm the architect is representing in 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 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 responding in a timely manner to all inquiries of the Board or representative of the Board and claiming Board correspondence from the U.S. Postal Service.
- (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.

*History Note: Authority G.S. 83A-6; 83A-14; 83A-15;
Eff. February 1, 1976;
Amended Eff. February 24, 1976;
Readopted September 29, 1977;
Amended Eff. July 1, 2006; June 1, 1995; July 1, 1992; October 1, 1989; May 1, 1989.*

21 NCAC 02 .0210 INCOMPETENCE

- (a) In practicing architecture, an architect shall act with reasonable care and competence and shall apply the technical knowledge and skill which is ordinarily applied by architects of good standing, practicing in the same locality.
- (b) In designing a project, an architect shall take into account all applicable state and municipal building laws and rules. While an architect may rely on the advice of other professionals (e.g., attorneys, engineers and other qualified persons) as to the intent and meaning of such laws and rules, once having obtained such advice, an architect shall not design a project in violation of such laws and rules.
- (c) An architect shall undertake to perform professional services only when he, together with those whom the architect may engage as consultants, are qualified by education, training and experience in the specific technical areas involved.
- (d) No person shall be permitted to practice architecture if such person's professional competence is substantially impaired by physical or mental disabilities.
- (e) Architects preparing plans for building permits for projects not exempt under G.S. 83A- 13 shall submit plans that are complete and buildable. Such plans shall conform with the State Building Code and local plan submission requirements. Professional judgment shall be exercised to reflect sufficient documentation necessary for plan approval. Provided, however, this Rule does not alter any standard of liability applicable to licensees.

*History Note: Authority G.S. 83A-6; 83A-14; 83A-15;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. July 1, 2006; June 1, 1995; May 1, 1989; November 1, 1979.*

21 NCAC 02 .0211 UNAUTHORIZED PRACTICE

- (a) Interpretations of certain of the exemptions found in G.S. 83A-13 are set forth in this Rule. Nothing in this Rule exempts any activity from the requirements contained in G.S. 89C:
 - (1) Family Residence Exemption, as set forth in G.S. 83A-13(c)(1). Grade level exit means an exit which provides ingress and egress on a level which exits on grade. To be exempt, each unit in the building must exit on grade level.
 - (2) Farm Building Exemption is as set forth in G.S. 83A-13(c)(2).
 - (3) Ninety Thousand Dollar Exemption, as used in G.S. 83A-13(c)(3), means that the ninety thousand dollar (\$90,000) value is the probable completed construction cost and does not include the land value. Change orders may not be used to increase the cost and scope of the project from exempt to non-exempt status.
 - (4) 2,500 Gross Floor Area Exemption, as used in G.S. 83A-13(c)(4), means the total gross floor area, both heated and unheated, within the inside perimeter of the exterior walls with no deduction for corridors, stairs, closets, thickness of interior walls, columns or other features, exclusive of areas

open and unobstructed to the sky. Open eaves, overhangs, canopies, awnings, or similar open elements are not included.

- (5) Alteration, Remodeling and Renovation Exemption, as set forth in G.S. 83A-13(c)(5):
- (A) In order to qualify for the existing building exemption in G.S. 83A-13(c)(5), a certificate of occupancy for the building must have been issued. The value of the building, as used in G.S. 83A-13(c)(5), is the undepreciated tax value of an existing building as accepted by the U.S. Internal Revenue Service, or where not applicable, a value computed on the same basis as undepreciated tax value, or the property tax value, whichever value is higher, shall be used to determine existing building value.
- (B) The seal of an architect, or professional engineer, as appropriate, is required if the alteration, remodeling or renovation alters or affects the structural system of a non-exempt building. Structural system, as used in G.S. 83A-13(c)(5), means the essential elements that form the support system of the building and, includes, but is not limited to, the fire protection and fire suppression systems of the building. Alter, as used in G.S. 83A-13(c)(5), means changes in the structural system of the building. Affect, as used in G.S. 83A-13(c)(5), means an imposition of live loads, dead loads or seismic mass which was not contemplated in the original design of the structural system.
- (6) Shop Drawings, as used in G.S. 83A-13(c)(6), means those drawings prepared in-house by subcontractors and other specialists under the nonsupervisory control of the architect.
- (b) The exemption for preparing one's own plans or data, as set forth in G.S. 83A-13(d), does not exempt the preparation of specifications required to obtain a building permit in the construction of a building not exempt under G.S. 83A-13(c). Specifications means a description of the quality, size and strengths of the materials being used in a building.
- (c) Under G.S. 83A-13(e), in addition to the requirement to sign the plans, the name of the preparer must be legibly printed. If the design is prepared by a corporation, then the corporate officer assuming responsibility for the preparation must disclose his relationship to the corporation in addition to signing the sheets and disclosing the corporate address. An architect who prepares a design for an exempt project must seal and date that design, in compliance with G.S. 83A-10, even though the project may otherwise be classified as exempt under G.S. 83A-13.

*History Note: Authority G.S. 83A-1(7); 83A-6; 83A-10; 83A-12; 83A-13; 83A-17;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. December 1, 1991; May 1, 1989; November 1, 1979.*

21 NCAC 02 .0212 INDEPENDENT JUDGMENT AND DISCLOSURE

- (a) When acting as the interpreter of building contract documents and the judge of contract performance, an architect shall render decisions impartially, favoring neither party to the contract.
- (b) If, in the course of his work on a project, an architect becomes aware of a decision taken by his employer or client, against the architect's advice, which violates applicable state or municipal building laws and regulations and which will, in the architect's judgment, materially affect adversely the safety to the public of the finished project, the architect shall:
- (1) report the decision to the local building inspector or other public official charged with the enforcement of the applicable state or municipal building laws and regulations;
 - (2) refuse to consent to the decision;
 - (3) in circumstances where the architect reasonably believes that other such decisions will be taken notwithstanding his objection, terminate his services with reference to the project; and
 - (4) in the case of termination in accordance with clause in Subparagraph (b)(3) of this Rule, the architect shall have no liability to his client or employer on account of such termination.
- (c) If an architect has any business association or direct or indirect financial interest which is substantial enough to influence his judgment in connection with the performance of professional services, the architect shall fully disclose in writing to his client or employer the nature of the business association or financial interest, and if the client or employer

objects to such association or financial interest, the architect will either terminate such association or interest or offer to give up the commission or employment.

(d) An architect making public statements on architectural questions shall disclose when he is being compensated for making such statements.

*History Note: Authority G.S. 83A-6; 83A-16; 83A-17;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. June 1, 1995; May 1, 1989; November 1, 1979.*

21 NCAC 02 .0213 INDIVIDUAL LICENSES

(a) **Renewal.** Licenses 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 mailed to each individual licensee. The licensee shall complete the current license renewal form provided by the Board, including continuing education credit earned. The completed form for license renewal, along with the annual license renewal fee shall be forwarded to the Board. If the application form is incomplete or the annual renewal fee is not paid, the application for renewal shall not be accepted. Also, 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 annual license renewal shall be deemed to be not renewed. Once 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 for the ensuing year.

(b) **Late Renewal and Reinstatement.** If the Board has not received the annual renewal fee and completed application on or before July 1st, the license shall expire and be deemed delinquent. The license may be renewed at any time within one year, upon the return of the completed application, the annual renewal fee and the late renewal penalty and compliance with Section .0900 of these Rules. After one year from the date of expiration for non-payment of the annual renewal fee 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.

*History Note: Authority G.S. 83A-6; 83A-11;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. July 1, 2006; July 1, 1999; May 1, 1989; November 1, 1979.*

21 NCAC 02 .0214 CORPORATE PRACTICE OF ARCHITECTURE

(a) **Application Forms.** Application for a corporate certificate of registration for the practice of architecture within the State of North Carolina shall be made upon forms provided by the Board. Completed applications must be accompanied by the corporate application fee. Certificates for corporate 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.

(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.

(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.

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

(f) Approval of Name. In addition to the requirements and limitations of Chapter 55 and 55B of the General Statutes, the corporate name used by an architectural corporation shall conform with Rule .0205 and be approved by the Board before being used. Provided, however, that 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.

History Note: Authority G.S. 55B-5; 55B-10; 55B-15; 83A-6; 83A-8;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. July 1, 1993; May 1, 1989; November 1, 1979.

21 NCAC 02 .0215 FOREIGN CORPORATIONS

(a) Incorporation in Other States. Architectural corporations of other states may be granted corporate certificates for practice in this State on the receipt by the Board of a completed application, the submission of a certified copy of their corporate charter, 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 application fee. In addition to the other requirements as set out in G.S. 83A-8, foreign corporations must, prior to registration, receive from the Secretary of State of North Carolina a certificate of authority to do business within the state. The registration requirements for foreign corporations cannot be avoided by practice in North Carolina through an individual licensee.

(b) Designated Individuals. Foreign corporations shall be permitted to practice architecture within the State of North Carolina provided that at least two-thirds of the issued and outstanding shares of the foreign corporations are owned by licensed architects or engineers who are licensed to practice their profession in a jurisdiction of the United States. However, the corporation must designate at least one architect who is licensed in the State of North Carolina to be in responsible charge for the corporate practice of architecture within the State of North Carolina.

History Note: Authority G.S. 55B-6; 83A-6; 83A-8;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. June 1, 1995; July 1, 1993; May 1, 1989; November 1, 1979.

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.

History Note: Authority G.S. 83A-6; 83A-9;
Eff. May 1, 1991;
Amended Eff. June 1, 1995.

21 NCAC 02 .0217 ARCHITECT EMERITUS

Resident architects who have been registered in this state who are retired from active practice or other related professional activities in any jurisdictions whatsoever, may apply for "Emeritus Status" by submitting a form provided by the Board showing compliance with the requirements of this Section. "Retired" means that the architect no longer practices architecture in that he/she no longer seals and certifies documents with his/her seal or otherwise offers to practice or practices architecture as defined in G.S. 83A-1 as amended. Nonresident architects who have been continuously certified by NCARB who are

retired from active practice [or other related professional activities] in any jurisdictions whatsoever, and who are "emeritus", inactive or retired in every other jurisdiction in which they are licensed may also apply for "Emeritus Status" by submitting a form provided by the Board showing compliance with the requirements of this Section. Any such "architect emeritus" must renew that status on forms provided by the Board on or before the first day of July in each year. Any reference to an architect on "Emeritus Status" on any letter, title, sign, card or device shall list such architect as "Architect Emeritus".

History Note: Authority G.S. 83A-4; 83A-6; 83A-11; 83A-12;
Eff. November 1, 1991;
Amended Eff. July 1, 2006.

21 NCAC 02 .0218 LIMITED LIABILITY COMPANIES

Architects may practice in this state through duly authorized limited liability companies only as provided under G.S. 57C-2-01(c). Any limited liability company that offers to practice or practices architecture in this state must comply with the same requirements applicable to professional corporations under Rules .0201, .0202, .0204, .0205, .0214, and .0215 of this Chapter.

History Note: Authority G.S. 57C-2-01; 83A-6;
Eff. June 1, 1995.

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.

History Note: Authority G.S. 83A-6; 59-84.2; 59-84.3;
Eff. June 1, 1995.

SECTION .0300 - EXAMINATION PROCEDURES

21 NCAC 02 .0301 APPLICATION FOR EXAMINATION OR REGISTRATION

(a) All persons desiring to submit applications for written examination must complete an application and submit the application fee. 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, notice will be mailed to the applicant, with detailed information as to the time, place and other requirements of the examination.

(b) The fees for examination, or parts thereof, will be established by the Board in order that all costs for examination materials are recovered. Fees will be published in a separate schedule and will be made available to all applicants for examination. 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.

History Note: Authority G.S. 83A-4; 83A-6; 83A-7;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. July 1, 1996; December 1, 1992; May 1, 1989.

21 NCAC 02 .0302 EXAMINATION

(a) Licensure Examination. All applicants for architectural registration in North Carolina by examination must 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 may transfer credits for portions of the examination previously passed in another state if at the time of taking the exam elsewhere 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 necessary for an applicant's admission to the Architectural Registration examination (ARE) are as follows:
 - (A) be of good moral character as defined in G.S. 83A-1(5);
 - (B) be at least 18 years of age;
 - (C) the professional education qualification is the NAAB (National Architectural Accrediting Board) accredited professional degree in architecture;
 - (D) all applicants who apply for architectural registration shall be required to follow the Intern Development Program (IDP) through the National Council of Architectural Registration Boards or an equivalent program approved by the North Carolina Board of Architecture in order to satisfy the requirements of this Section.

(b) Retention of Credit. Passing grades on any part of the ARE shall remain valid for a period of time established by the exam provider, NCARB.

(c) Practical Training. Practical training means practical experience and diversified training as defined by the Intern Development Program (IDP) through the National Council of Architectural Registration Boards. 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.

(e) Grading. The ARE shall be graded in accordance with the methods and procedures recommended by the NCARB.

- (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.
- (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 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" in conjunction with his current employment.

*History Note: Authority G.S. 83A-1; 83A-6; 83A-7;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. July 1, 2006; July 1, 2000; July 1, 1996; June 1, 1995; December 1, 1992;
July 1, 1991.*

21 NCAC 02 .0303 REGISTRATION BY RECIPROCITY WITHOUT WRITTEN EXAMINATION

(a) Registration by "Blue Cover." The only means of individual reciprocity recognized by the Board is for an individual to hold a current license in good standing from another state and a Council Certificate (also known as "Blue Cover") issued by the National Council of Architectural Registration Boards (NCARB) or comply with the requirements of Paragraph (b) of this Rule. Upon receipt of a verified application from NCARB and the payment of the individual license application 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 the architect's license to practice in North Carolina until such time as the "Blue Cover" is reinstated by NCARB.

(b) Registration other than "Blue Cover." The Board may grant a reciprocal certificate to an individual who does not qualify for a "Blue Cover" but who submits an NCARB "Buff Cover" or other verified evidence that he 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" or North Carolina registration in effect at the time of his original registration as an architect; and
- (3) the applicant agrees to an interview with the Board or a designee to satisfy the Board that he has had sufficient recent architectural practice experience to be able to competently practice architecture in this state.

History Note: Authority G.S. 83A-6; 83A-7;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. July 1, 2006; July 1, 2000; October 1, 1995; May 1, 1989; October 1, 1984; September 1, 1982.

21 NCAC 02 .0304 ALIEN APPLICANTS

History Note: Authority G.S. 83-4;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Repealed Eff. November 1, 1979.

SECTION .0400 - RULES: PETITIONS: HEARINGS

21 NCAC 02 .0401 RULE-MAKING PETITIONS

(a) A person may petition the Board to adopt a new rule or change or amend an existing rule by sending a rule-making petition to the Board at the Board's address set out in Rule .0101. The petition must be titled "Petition for Rule-making" and must include the following information:

- (1) the name and address of the person submitting the petition;
- (2) a citation to any rule for which a change or repeal is requested;
- (3) a draft of any proposed rule or amended rule;
- (4) an explanation of why the new rule, amendment, or repeal is requested and the effects of the new rule, amendment, or repeal on the Board's procedure or the persons regulated by the Board;
- (5) any other information the person submitting the petition considers relevant.

(b) The Board must decide whether to grant or deny a petition for rule-making within 120 days of receiving the petition. In making its decision, the Board will consider the information submitted with the petition and any other relevant information.

(c) When the Board denies a petition for rule-making, it must send written notice of the denial to the person who submitted the request. The notice must state the reason for the denial. When the Board grants a rule-making petition, it must initiate rule-making proceedings and send written notice of the proceedings to the person who submitted the request.

History Note: Authority G.S. 150B-6;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. May 1, 1989.

21 NCAC 02 .0402 NOTICE OF RULE-MAKING HEARINGS

Upon a determination to hold a rule-making proceeding, either in response to a petition or otherwise, the Board shall give notice to all interested persons pursuant to the procedure established in Article 3A of Chapter 150B of the North Carolina General Statutes.

History Note: Authority G.S. 83A-6; 150B-12;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;

Amended Eff. June 1, 1995; May 1, 1989.

21 NCAC 02 .0403 NOTICE MAILING LIST

Any person desiring to be placed on the mailing list for Board rule-making notices may file such request in writing, furnishing his name and mailing address to the Board. The letter of request should state those subject areas within the authority of the Board for which the person wants notice. The Board may require reasonable postage and stationery cost to be paid by persons receiving such notice.

*History Note: Authority G.S. 83A-6; 150B-12;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. May 1, 1989.*

21 NCAC 02 .0404 SUBMISSION OF DATA

Any person desiring to present data, views or arguments on a proposed rule must comply with the statement of procedure as contained in the Notice of Hearing for the rule. Any person desiring to make an oral presentation to the Board prior to or at the hearing is encouraged to submit a written copy of the presentation to the Board prior to or at the hearing.

*History Note: Authority G.S. 83A-6; 150B-12;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. May 1, 1989.*

21 NCAC 02 .0405 PRESIDING OFFICER: POWERS AND DUTIES

The presiding officer at a rule-making hearing shall have complete control of the proceedings, including recognition of the speakers, time allotments for presentations, the right to question speakers, direction of the discussion and management of the hearing. The presiding officer, at all times, shall take care that each person participating in the hearing is given a fair opportunity to present views, data and comments.

*History Note: Authority G.S. 83A-6; 150B-12;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. June 1, 1995; May 1, 1989.*

21 NCAC 02 .0406 RECORD OF PROCEEDINGS

A record of all rule-making proceedings will be maintained in the Board office for as long as the rule is in effect. This record shall contain: the original petition (if any), the notice, all written comments submitted, statements of explanation made to any interested party, and the minutes of the proceedings.

*History Note: Authority G.S. 83A-6; 150B-12;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. May 1, 1989.*

21 NCAC 02 .0407 REQUEST TO PARTICIPATE

21 NCAC 02 .0408	CONTENTS OF REQUEST: GENERAL TIME LIMITATIONS
21 NCAC 02 .0409	RECEIPT OF REQUEST: SPECIFIC TIME LIMITS
21 NCAC 02 .0410	WRITTEN SUBMISSIONS
21 NCAC 02 .0411	PRESIDING OFFICER: POWER AND DUTIES
21 NCAC 02 .0412	STATEMENT OF REASONS FOR DECISION
21 NCAC 02 .0413	RECORD OF PROCEEDINGS
21 NCAC 02 .0414	EMERGENCY RULES

History Note: Authority G.S. 83-4; 150A-11; 150A-12(a); 150A-12(d); 150A-12(e); 150A-12(6); 150A-13; 150A-14;
 Eff. February 1, 1976;
 Readopted Eff. September 29, 1977;
 Repealed Eff. May 1, 1989.

SECTION .0500 - DECLARATORY RULINGS

21 NCAC 02 .0501 PROCEDURE FOR DECLARATORY RULING

(a) The Board shall decide whether to grant or deny a request to make a declaratory ruling on the validity of a rule or on the applicability of particular facts to a statute or to a rule or order of the Board within 60 days of receiving the petition. The Board shall deny a request for a declaratory ruling when the Board deems the petition undesirable. The Board will ordinarily refuse to grant a petition for a declaratory ruling when there has been a similar factual determination in a contested case or one is likely to be made in a pending contested case or investigation.

(b) The Board will presume that its current rules are valid unless this presumption is rebutted by persuasive evidence as offered in the petition for the declaratory ruling. When the Board determines that a rule is invalid, the Board shall initiate rule-making proceedings and send written notice of the proceeding to the person who submitted the request.

History Note: Authority G.S. 83A-6; 150B-17;
 Eff. February 1, 1976;
 Readopted Eff. September 29, 1977;
 Amended Eff. May 1, 1989.

21 NCAC 02 .0502	SUBMISSION OF REQUEST FOR RULING
21 NCAC 02 .0503	DISPOSITION OF REQUESTS
21 NCAC 02 .0504	RECORD OF DECISION
21 NCAC 02 .0505	EFFECTIVE DATE

History Note: Authority G.S. 83-4; 150A-11; 150A-17;
 Eff. February 1, 1976;
 Readopted Eff. September 29, 1977;
 Repealed Eff. May 1, 1989.

SECTION .0600 - ADMINISTRATIVE HEARINGS: PROCEDURES

21 NCAC 02 .0601 PROFESSIONAL STANDARDS COMMITTEE

(a) The Professional Standards Committee ("Committee") shall be appointed by the President of the Board. Complaints regarding violations of the law or board rules shall be referred to the Committee.

- (b) The Committee shall determine whether a complaint warrants further investigation or, if proven, constitutes probable cause and justifies contested case proceedings.
- (c) If probable cause is found by the Committee, the staff and board counsel shall serve a Notice of Hearing for a contested case proceeding. However, a Consent Agreement resolving the complaint may be negotiated and recommended to the Board by the Committee, either before or after service of the Notice of Hearing.
- (d) If probable cause is not found, the Committee may dismiss such a matter with or without prejudice.

History Note: Authority G.S. 83A-6; 83A-14; 83A-15; 150B-41;
Eff. March 1, 1984;
Amended Eff. November 1, 1991; May 1, 1989.

21 NCAC 02 .0602 RIGHT TO HEARING

History Note: Authority G.S. 83A-6; 150B-11; 150B-38;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Recodified from 21 NCAC 2 .0601;
Amended Eff. May 1, 1989;
Repealed Eff. June 1, 1995.

21 NCAC 02 .0603 REQUEST FOR HEARING

- (a) Any time an individual believes he is a person aggrieved by the Board's administrative action, but has not received notice of a right to an administrative hearing, that individual may file a formal request for a hearing.
- (b) Before an individual may file a request, that individual is encouraged to exhaust all reasonable efforts to resolve the issue informally with the Board.
- (c) Subsequent to such informal action, if still dissatisfied, the individual shall submit a request to the Board's office, with the request bearing the notation: REQUEST FOR ADMINISTRATIVE HEARING. The request must contain the following information:
- (1) name and address of the petitioner;
 - (2) a concise statement of the action taken by the Board which is challenged;
 - (3) a concise statement of the way in which the petitioner has been aggrieved; and
 - (4) a clear and specific statement of request for a hearing.
- (d) The request shall be acknowledged promptly and, if deemed appropriate by the Board in accordance with Rule .0604 of this Section, a hearing will be scheduled.

History Note: Authority G.S. 83A-6; 150B-11; 150B-38;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Recodified from 21 NCAC 2 .0602;
Amended Eff. June 1, 1995; June 1, 1989.

21 NCAC 02 .0604 GRANTING OR DENYING HEARING REQUESTS

- (a) The Board shall grant a request for a hearing if it determines that the party requesting the hearing is a "person aggrieved" within the meaning of G.S. 150B-2(6).
- (b) The denial of request for a hearing shall be issued no later than 60 days after the submission of the request. Such denial shall contain a statement of the reasons for the denial of the request.
- (c) Approval of a request for a hearing will be signified by the issuing of a notice as required by General Statutes 150B-38(b) and explained in Rule .0605 of this Section.

History Note: Authority G.S. 83A-6; 150B-11; 150B-38;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Recodified from 21 NCAC 2 .0603;
Amended Eff. May 1, 1989.

21 NCAC 02 .0605 NOTICE OF HEARING

(a) The Board shall give the party or parties in a contested case a notice of hearing not less than 15 days before the hearing. Said notice shall contain the following information, in addition to the items specified in G.S. 150B-38(b):

- (1) the name, position, address and telephone number of a person at the offices of the Board to contact for further information or discussion;
- (2) the date, time, and place for a pre-hearing conference, if any; and
- (3) any other information deemed relevant to informing the parties as to the procedure of the hearing.

(b) The Board shall give notice to all parties with a notice of hearing either personally or by certified mail or, if those methods are unavailable, in accordance with G.S. 1A-1, Rule 4(j1). In the event that notice is accomplished by certified mail, the delivery date on the return receipt shall be the date of the service of notice.

(c) If the Board determines that the public health, safety or welfare requires such action, it may issue an order summarily suspending a license or registration. Upon service of the order, the licensee or registrant to whom the order is directed shall immediately cease the practice of architecture in North Carolina. The Board shall promptly give notice of hearing pursuant to G.S. 150B-38 following service of the order. The suspension shall remain in effect pending issuance by the Board of a final agency decision pursuant to G.S. 150B-42.

History Note: Authority G.S. 83A-6; 150B-3(c); 150B-11; 150B-38;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Recodified from 21 NCAC 2 .0604;
Amended Eff. May 1, 1989.

21 NCAC 02 .0606 WHO SHALL HEAR CONTESTED CASES

All contested case hearings will be conducted by the full Board or by a panel consisting of at least a majority of the members of the Board. When required by Chapter 150B of the North Carolina Statutes, the Board shall apply to the Office of Administrative Hearings for the designation of an administrative law judge to hear the case pursuant to G.S. 150B-40(e).

History Note: Authority G.S. 83A-6; 150B-11; 150B-38; 150B-40;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Recodified from 21 NCAC 2 .0605;
Amended Eff. May 1, 1989.

21 NCAC 02 .0607 PETITION FOR INTERVENTION

(a) A person desiring to intervene in a contested case must file a written petition with the Board. The request must bear the notation: PETITION TO INTERVENE IN THE CASE OF (name of case).

(b) The petition must include the following information:

- (1) the name and address of petitioner;
- (2) the business or occupation of petitioner, where relevant;
- (3) a full identification of the hearing in which petitioner is seeking to intervene;

- (4) the statutory or non-statutory grounds for intervention;
 - (5) any claim or defense in respect of which intervention is sought;
 - (6) a summary of the arguments or evidence petitioner seeks to present.
- (c) If the Board determines to allow intervention, notice of that decision will be issued promptly to all parties and to the petitioner. In cases of discretionary intervention, such notification will include a statement of any limitations of time, subject matter, evidence, or whatever else is deemed necessary that are imposed on the intervenor.
- (d) If the Board's decision is to deny intervention, the petitioner shall be notified promptly. Such notice shall be in writing, identifying the reasons for the denial, and shall be issued to the petitioner and all parties.

History Note: Authority G.S. 83A-6; 150B-11; 150B-38;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Recodified from 21 NCAC 2 .0606;
Amended Eff. May 1, 1989.

21 NCAC 02 .0608 TYPES OF INTERVENTION

- (a) Intervention of Right. A petition to intervene of right, as provided in the North Carolina Rules of Civil Procedure, Rule 24, will be granted if the petitioner meets the criteria of that Rule and his petition is timely.
- (b) Permissive Intervention. A petition to intervene permissively as provided in the North Carolina Rules of Civil Procedure, Rule 24, will be granted if the petitioner meets the criteria of that Rule and the Board determines that:
- (1) There is sufficient legal or factual similarity between the petitioner's claimed rights, privileges, or duties and those of the parties to the hearings; and
 - (2) Permitting intervention by the petitioner as a party would aid the purpose of the hearing.
- (c) Discretionary Intervention. The Board may allow discretionary intervention, with whatever limits and restrictions are deemed appropriate.

History Note: Authority G.S. 83A-6; 150B-11; 150B-38;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Recodified from 21 NCAC 2 .0607;
Amended Eff. May 1, 1989.

21 NCAC 02 .0609 INFORMAL PROCEDURES

- (a) The Board and the party or parties may agree in advance to simplify the hearing by: decreasing the number of issues to be contested at the hearing; accepting the validity of certain proposed evidence; accepting the findings in some other case with relevance to the case at hand; or agreeing to such other matters as may expedite the hearing.
- (b) Informal disposition may be made of any contested case or any issue therein by stipulation, agreement, or consent order at any time after Notice of Hearing or during the proceedings.

History Note: Authority G.S. 83A-6; 150B-11; 150B-38;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Recodified from 21 NCAC 2 .0608;
Amended Eff. May 1, 1989.

21 NCAC 02 .0610 DISQUALIFICATION OF BOARD MEMBERS

(a) Self-disqualification. If for any reason a Board member determines that personal bias or other factors render that member unable to conduct the hearing and perform all duties in an impartial manner, that Board member shall voluntarily decline to participate in the hearing or decision.

(b) Petition for Disqualification. If for any reason any party in a contested case believes that a Board member is personally biased or otherwise unable to conduct the hearing and perform all duties in an impartial manner, the party may file a sworn, notarized affidavit with the Board. The title of such affidavit must bear the notation: AFFIDAVIT OF DISQUALIFICATION OF BOARD MEMBER IN THE CASE OF (name of case).

(c) Contents of Affidavit. The affidavit must state all facts the party deems to be relevant to the disqualification of the Board member.

(d) Timeliness of Affidavit. An affidavit of disqualification will be considered timely if filed ten days before commencement of the hearing. Any other affidavit will be considered timely provided it is filed at the first opportunity after the party becomes aware of facts which give rise to a reasonable belief that a Board member may be disqualified under this Rule.

(e) Procedure for Determining Disqualification:

- (1) The Board will appoint a Board member to investigate the allegations of the affidavit.
- (2) The investigator will report to the Board the findings of the investigation.
- (3) The Board shall decide whether to disqualify the challenged individual.
- (4) The person whose disqualification is to be determined will not participate in the decision but may be called upon to furnish information to the other members of the Board.
- (5) A record of proceedings and the reasons for any decision reached will be maintained as part of the contested case record.
- (6) When a Board member is disqualified prior to the commencement of the hearing or after the hearing has begun, such hearing will continue with the remaining members sitting provided that the remaining members still constitute a majority of the Board.
- (7) If disqualification of a Board member leaves less than a majority of the Board, the Board shall petition the Office of Administrative Hearings to appoint an administrative law judge to hear the contested case pursuant to G.S. 150B-40(e).
- (8) Where a petition for disqualification is filed less than ten days before or during the course of a hearing, the hearing shall continue with the challenged Board member sitting. Petitioner shall have the opportunity to present evidence supporting his petition, and the petition and any evidence relative thereto presented at the hearing shall be made a part of the record. The Board, before rendering its decision, shall decide whether the evidence justifies disqualification. In the event of disqualification, the disqualified member will not participate in further deliberation or decision of the case.

*History Note: Authority G.S. 83A-6; 150B-11; 150B-38; 150B-40;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Recodified from 21 NCAC 2 .0609;
Amended Eff. May 1, 1989.*

SECTION .0700 - ADMINISTRATIVE HEARINGS: DECISIONS: RELATED RIGHTS

21 NCAC 02 .0701 FAILURE TO APPEAR

(a) 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.

History Note: Authority G.S. 83A-6; 150B-11; 150B-38; 150B-40;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. May 1, 1989.

21 NCAC 02 .0702 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 or transcribed. At the request of a party or upon the Board's own motion, the presiding officer may exclude witnesses from the hearing room so that they cannot hear the testimony of other witnesses.

History Note: Authority G.S. 83A-6; 150B-11; 150B-38; 150B-40;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. May 1, 1989.

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, 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 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.

History Note: Authority G.S. 83A-6; 150B-11; 150B-38; 150B-39;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. May 1, 1989.

21 NCAC 02 .0704 FINAL DECISION

In all cases heard by the Board of Architecture, the Board will issue its decision within 60 days after its next regularly scheduled meeting following the close of the hearing. This decision will be the prerequisite "final agency decision" for the right to judicial review.

History Note: Authority G.S. 83A-6; 150B-11; 150B-38; 150B-42;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. May 1, 1989.

21 NCAC 02 .0705 PROPOSALS FOR DECISIONS

(a) When an administrative law judge conducts a hearing pursuant to G.S. 150B-40(e), a "proposal for decision" shall be rendered within 45 days of the hearing pursuant to the Rules of the Office of Administrative Hearings. The parties may file written exceptions to this "proposal for decision" and submit their own proposed findings of fact and conclusions of law. The exceptions and alternative proposals must be received within ten days after the party has received the "proposal for decision" as drafted by the administrative law judge.

(b) Any exceptions to the procedure during the hearing, the handling of the administrative law judge, rulings on evidence, or any other matter must be written and refer specifically to pages of the record or otherwise precisely identify the occurrence to which exception is taken. The exceptions must be filed with the Board within ten days of the receipt of the proposal for decision. The written exceptions must bear the notation: EXCEPTIONS TO THE PROCEEDINGS IN THE CASE OF (name of case).

(c) Any party may present oral argument to the Board upon request. The requests must be included with the written exceptions.

(d) Upon receipt of request for further oral argument, notice will be issued promptly to all parties designating the time and place for such oral argument.

(e) Giving due consideration to the proposal for decision and the exceptions and arguments of the parties, the Board may adopt the proposal for decision or may modify it as the Board deems necessary. The decision rendered will be a part of the record and a copy thereof given to all parties. The decision as adopted or modified becomes the "final agency decision" for the right to judicial review. Said decision will be rendered by the Board within 60 days of the next regularly scheduled meeting following the oral arguments, if any. If there are no oral arguments presented, the decision will be rendered within 60 days of the next regularly scheduled Board meeting following receipt of the written exceptions.

History Note: Authority G.S. 83A-6; 150B-11; 150B-38; 150B-40;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. May 1, 1989.

SECTION .0800 - JUDICIAL REVIEW

21 NCAC 02 .0801 RIGHT TO JUDICIAL REVIEW

21 NCAC 02 .0802 MANNER OF SEEKING REVIEW: TIME FOR FILING PETITION: WAIVER

History Note: Authority G.S. 83-4; 150A-43;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Repealed Eff. May 1, 1989.

SECTION .0900 - CONTINUING EDUCATION

21 NCAC 02 .0901 SCOPE

The rules in this Section set forth the continuing education requirements to be complied with by registrants.

History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;
Eff. July 1, 1998;
Amended Eff. July 1, 2006.

21 NCAC 02 .0902 DEFINITIONS

The following definition shall apply: "Contact Hour" means a minimum of 50 minutes contact.

History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;
Eff. July 1, 1998.

21 NCAC 02 .0903 REQUIREMENTS

- (a) Every registrant shall obtain 12 contact hours for each calendar year.
- (b) The contact hours shall be in technical and professional architectural subjects directly related to safeguarding health, safety and welfare.
- (c) Registrants shall not carry forward any contact hours into the subsequent period.
- (d) Registrants shall verify completion of the contact hours for the previous calendar year with registration renewal.

History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;
Eff. July 1, 1998.

21 NCAC 02 .0904 DETERMINATION OF CREDIT

- (a) The Board has final authority with respect to approval of course sponsors, courses, programs, and contact hours.
- (b) The Board shall not pre-approve individual courses or programs. The Board may enter into agreements with course and program sponsors in which the sponsor agrees to offer courses and programs that comply with the subject matter requirements of G.S. 83A-6(a) and the credit calculation requirements of Rule .0902 of this Section, agrees to maintain for a period of two years records of course content and attendance, and agrees to permit a representative of the Board to monitor or review any course or program the sponsor offers to North Carolina registrants for credit. Courses or programs offered and approved by the American Institute of Architects and other approved course sponsors shall indicate, in advance, the contact hours for each course or program. Provided the sponsor complies with the sponsor agreement, the Board shall accept as presumptively valid contact hours earned by registrants from approved sponsors.
- (c) Credit for the Monographs developed by the National Council of Architectural Registration Boards (NCARB) shall be approved for the contact hours assigned by NCARB.
- (d) Credit for teaching or instructing qualifying courses or programs shall be twice the contact hours earned by participants and shall be claimed for credit only once.
- (e) Registrants may claim contact hours for courses or programs that have not been presented by approved sponsors but only credit from approved sponsors shall be presumptively valid. The Board may randomly audit the compliance of individual registrants and require proof in the form of records maintained pursuant to Rule .0905(b) of this Section of participation in

courses or programs that conform with the content and contact hours calculation requirements contained in G.S. 83A-6(a) and these Rules.

History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;
Eff. July 1, 1998;
Amended Eff. July 1, 2006.

21 NCAC 02 .0905 RECORD KEEPING

(a) The registrant shall maintain records to support credits claimed. Records required include:

- (1) A log showing the type of activity claimed, sponsoring organization, location, duration, the name of the instructor or speaker and contact hours earned; or
- (2) Attendance certificates or other evidence of participation; or
- (3) Records maintained by the American Institute of Architects Continuing Education System(AIA/CES).

(b) Records shall be retained by the registrant for a period of two years after the credit is claimed and provided to the Board upon request.

History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;
Eff. July 1, 1998.

21 NCAC 02 .0906 EXCEPTIONS

A registrant shall be exempt from the continuing education requirements for any of the following reasons:

- (1) New registrants by way of examination or reciprocity for the current registration year.
- (2) A registrant serving on temporary active duty in the armed forces of the United States for a period of time exceeding 90 consecutive days in a year or as provided by statute, whichever is greater.
- (3) Registrants experiencing physical disability or illness if supporting documentation is approved by the Board. Such documentation shall be in the form of a sworn statement by the registrant, a statement from a physician, or medical records which show that the disability or illness prevented registrant's participation in a course which the registrant had enrolled, or prevented registrant's participation in the continuing education program for at least 90 consecutive days in a year.
- (4) Registrants who receive emeritus status from the Board. In order to return to active practice, registrants shall complete continuing education requirements for each exempted year not to exceed two years.

History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;
Eff. July 1, 1998;
Amended Eff. July, 1, 2006.

21 NCAC 02 .0907 REINSTATEMENT

A former registrant may only apply for reinstatement pursuant to G.S. 83A-11 if he has earned all delinquent contact hours within the 12 months preceding the application. However, if the total number of contact hours required to become current exceeds 24, then 24 shall be the maximum number required.

History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;
Eff. July 1, 1998.

21 NCAC 02 .0908 RECIPROCITY

The requirements of North Carolina shall be deemed satisfied by a non-resident registrant provided:

- (1) Registrant=s resident jurisdiction has a comparable continuing education program; and
- (2) The same jurisdiction accepts the North Carolina continuing education requirements as satisfying their requirements.

History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;

Eff. July 1, 1998.

21 NCAC 02 .0909 FORMS

All renewal applications shall require the completion of a continuing education form specified by the Board documenting the contact hours claimed for the renewal period. The registrant shall supply sufficient detail to permit audit verification and shall certify and sign the continuing education form with the renewal application and fee.

*History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;
 Eff. July 1, 1998.*

21 NCAC 02 .0910 NON-COMPLIANCE

(a) If any credits are disallowed by the Board, then the registrant shall have 90 calendar days after notification to substantiate the original claim or obtain other contact hours to meet the minimum requirements.

(b) Licensees who fail to complete the continuing education requirement by the end of the previous calendar year shall have his or her license placed on probation and shall complete the outstanding continuing education by December 30th of the current calendar year. If the licensee fails to complete the outstanding continuing education requirements his or her license shall be suspended for 60 days. If the licensee fails to complete the outstanding continuing education within the suspension period his or her license shall be revoked.

*History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83-A 11; 83A-15;
 Eff. July 1, 1998;
 Amended Eff. July 1, 2006.*