



North Carolina - Laws, Rules, and Ethics for Professional Engineers

Course# NC101

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NORTH CAROLINA ADMINISTRATIVE CODE TITLE 21. CH. 56. BOARD OF EXAMINERS FOR ENGINEERS AND SURVEYORS

SECTION .0100 - ORGANIZATION OF BOARD

21 NCAC 56 .0101 IDENTIFICATION

The North Carolina State Board of Examiners for Engineers and Surveyors is hereinafter referred to as "the Board."

21 NCAC 56 .0102 REPEALED - GENERAL PURPOSE OF BOARD

21 NCAC 56 .0103 ORGANIZATION

(a) Board Committees. The Board shall be organized into an engineering committee, a land surveying committee and a continuing professional competency (CPC) committee. The engineering committee shall consist of the four engineer members and one public member. The land surveying committee shall consist of the three land surveyor members and one public member. The CPC committee shall consist of one engineer member, one land surveyor member and one public member. The Board chair shall appoint the chairs and members of each committee.

(b) Executive Director. The executive director may be authorized by the Board or the chair to represent the Board before professional or governmental organizations when such representation serves to further and support the purposes of the Board and is made within the expressed policies of the Board or these Rules.

(c) Actions by the Board. Actions taken by the Board shall be by majority vote of a quorum of the Board.

21 NCAC 56 .0104 DESCRIPTION OF SEAL

The official seal adopted by the Board is the Great Seal of the State of North Carolina with the inscription of the Board name on the perimeter.

SECTION .0200 – REPEALED - BOARD PERSONNEL POLICIES AND WORK PLAN

SECTION .0300 - INSTRUCTIONAL PROGRAMS

21 NCAC 56.0301 REPEALED - POLICY

21 NCAC 56.0302 REPEALED - FINANCES

21 NCAC 56 .0303 DISBURSEMENT OF FUNDS

Funds for educational programs will be allocated and dispensed in the following manner:

- (1) Funds will be dispensed by vote of the Board after study and recommendation of each specific request by the appropriate committee of the Board.
- (2) The Board will consider requests for funds only from approved schools or professional organizations.
- (3) Requests will be considered for any use that will directly further engineering or surveying education and competence.
- (4) Requests for money shall be in writing and provide the following information:
 - (a) The amount needed, or appropriate limits thereof;
 - (b) Intended uses to be made of the requested monies;
 - (c) Subject material to be presented with qualifications of instructors to be employed;
 - (d) Itemized estimate of the total expected costs;
 - (e) Source and amount of assistance being given by any other person or organization.

SECTION .0400 - RECORDS AND REPORTS OF BOARD: RETENTION AND DISPOSITION

21 NCAC 56 .0401 RECORDS OF BOARD PROCEEDINGS

Records of all proceedings of the Board such as rule-making proceedings, declaratory rulings and contested cases and all other records are retained at the office of the Board or are disposed of in accordance with the records retention and disposition schedule filed with the Department of Cultural Resources.

21 NCAC 56 .0402 RECORDS OF APPLICATIONS

All records of applications for licensure which are active are retained at the office of the Board. However, application files once submitted to the Board are Board property and are not returnable. During the time records are physically held in the Board office an applicant can obtain a copy of the application form by request to the Board office. Inactive applications shall be destroyed after one year after giving 30 day notice to the last known address of the applicant, upon approval of the Department of Cultural Resources in accordance with G.S. 121-5.

21 NCAC 56 .0403 REPEALED - APPLICATION FILES

21 NCAC 56 .0404 REPEALED - DESTRUCTION OF APPLICATION FILES

21 NCAC 56 .0405 REPEALED - REACTIVATION OF APPLICATION FILE

SECTION .0500 - PROFESSIONAL ENGINEER**21 NCAC 56 .0501 REQUIREMENTS FOR LICENSING**

(a) Education. The education of an applicant shall be considered in determining eligibility for licensing as a Professional Engineer. The terms used by the Board for the specific educational requirements to be eligible to be licensed as a Professional Engineer are defined as follows:

(1) "Engineering curriculum of four or more years approved by the Board" is defined as a program that has been accredited by the Engineering Accreditation Commission (EAC) of the Accreditation Board for Engineering and Technology (ABET). This program is incorporated by reference including subsequent amendments and editions. This material is available at www.abet.org/accreditation-criteria-policies-documents/ or for inspection at the office of the North Carolina Board of Examiners for Engineers and Surveyors. Copies may be obtained at the Board office at a cost of five dollars (\$5.00) per copy.

(2) "Engineering or related science curriculum of four or more years other than ones approved by the Board" is defined as a curriculum, although not accredited by ABET, of technical courses which contains engineering or scientific principles.

(3) "Equivalent education satisfactory to the board" is defined as:

(A) A graduate degree in Engineering from an institution in which the same discipline undergraduate engineering program has been accredited by ABET (EAC) shall be considered equivalent to an engineering curriculum of four or more years approved by the Board.

(B) A bachelor's degree in Engineering Technology, whether or not accredited by the Technology Accreditation Commission (TAC) of ABET, shall be considered equivalent to an engineering or related science curriculum of four or more years other than one approved by the Board.

(C) Until June 30, 2016, an associate degree in an engineering related curriculum with an additional two years of progressive engineering experience shall be considered equivalent to an engineering or related science curriculum of four or more years other than one approved by the Board and may be used until that date as a basis for admission to the principles and practice of engineering examination. Once admitted to the examination, an applicant may continue to re-take the examination until required to submit a new application as set out in Rule .0503 of this Section. After June 30, 2016 an associate degree shall no longer be used as a basis for admission to that examination, unless the individual has passed the fundamentals of engineering examination prior to June 30, 2016, in which case the individual may continue the process to take the principles and practices exam based upon the associate degree and it will not be necessary to qualify for admission to the principles and practice of engineering examination prior to June 30, 2016.

(D) Foreign degrees are considered equivalent only after receipt of an evaluation report that the degree is substantially equivalent to an EAC/ABET accredited engineering curriculum from the Center for Professional Engineering Education Services, an affiliate of the National Council of Examiners for Engineering and Surveying (NCEES), or from the American Association of Collegiate Registrars and Admissions Officers (AACRAO). The Board shall equate the degree to an EAC/ABET accredited engineering curriculum of four or more years approved by the Board in Subparagraph (a)(1) of this Rule if it receives a substantially equivalent evaluation.

(b) Experience. The experience of an applicant shall be considered in determining whether an applicant is eligible to be licensed as a Professional Engineer.

(1) Required Experience. In evaluating the work experience required, the Board shall consider the total experience record and the progressive nature of the record. Not less

than half of required engineering experience shall be of a professional grade and character, and shall be performed under the responsible charge of a licensed Professional Engineer, or if not, a written explanation shall be submitted showing why the experience should be considered acceptable and the Board shall approve if satisfied of the grade and character of the progressive experience. Experience gained under the technical supervision of an unlicensed individual shall be considered if the appropriate credentials of the unlicensed supervisor are submitted to the Board. Experience gained in the armed services, usually while serving in an engineering or engineering related group, shall be considered if of a character equivalent to that which would have been gained in the civilian sector doing similar work.

(2) Definition. The terms "progressive nature of the record," "progressive engineering experience" or "progressive experience on engineering projects" mean that during the period of time that an applicant has made a practical utilization of acquired knowledge, continuous improvement, growth and development have been shown in the utilization of that knowledge as revealed in the complexity and technical detail of the work product or work record. The applicant shall show continuous assumption of greater individual responsibility for the work product over that period of time. The progressive experience on engineering projects shall be of a grade and a character that indicates to the Board that the applicant is competent to practice engineering.

(3) Specific Credit for Experience. In evaluating progressive engineering experience, the Board shall give credit for experience in the following areas of work:

- (A) Graduate schooling or research in an engineering program resulting in award of a master's degree from an institution that offers EAC/ABET-accredited programs – one year;
- (B) Graduate schooling or research in an engineering program resulting in award of an earned doctoral degree in engineering from an institution that offers EAC/ABET-accredited programs – two years, with or without a master's degree, but includes the one year for the master's degree, if obtained;
- (C) Progressive land surveying - maximum two years; and
- (D) Teaching of engineering subjects at the university level in an engineering program offering a four year or more degree approved by the Board.

The Board shall not accept combinations of the categories in this Subparagraph as fulfilling all the necessary statutory experience requirements. Every applicant for licensure as a Professional Engineer, as part of the total experience requirement, shall show a minimum of one year experience of a progressive engineering nature in industry, government, or under a licensed Professional Engineer offering service to the public.

Full-time engineering faculty members who teach in an engineering program offering a four year or more degree approved by the Board, may request and shall be granted waiver of the minimum one year experience in industry, government, or private practice if they demonstrate consulting or research work of at least one year's duration, which was pursued to fruition, and which is of a progressive engineering nature. The faculty applicant shall document the work and demonstrate that the work meets the Board's requirement.

(5) Other experience is considered if it is:

(A) Experience obtained prior to graduation as part of an ABET accredited engineering program shown on the transcript, with a maximum credit of one year; or

(B) Experience obtained in a foreign country that is performed under direct supervision of a Professional Engineer licensed with a member Board of the National Council of Examiners for Engineering and Surveying (NCEES)

21 NCAC 56 .0502 APPLICATION PROCEDURE: INDIVIDUAL

(a) General. A person desiring to become licensed as a Professional Engineer must make application to the Board on a form prescribed and furnished by the Board.

(b) Request. A request for an appropriate application form may be made to the Board office or obtained from the website.

(c) Applicable Forms:

(1) Engineer Intern Certification Form. After passing the fundamentals of engineering examination an applicant may make application to the Board to become certified as an "Engineer Intern." This form requires the applicant to set forth personal history, educational background, engineering experience, and character references. A passport-type photographic quality portrait that is adequate for current identification purposes is also required.

(2) Professional Engineer Form:

(A) All persons, including comity applicants and certified Engineer Interns, shall apply for licensure using the Professional Engineer form. The submission of this form shall signify that the applicant seeks licensure, and shall result in seating for the principles and practice of engineering examination, when the applicant has met the requirements as set out in Rule .0501 of this Section. This form requires the applicant to set forth personal and educational background, engineering experience and character references. A passport-type photographic quality portrait that is adequate for current identification purposes is required.

(B) Persons who previously completed the fundamentals examination by use of the Engineering Intern Certification Form shall submit the Professional Engineer Certification Form to request licensure when qualified to take the examination.

(3) Supplemental Form. Persons who initially applied for the fundamentals of engineering exam using the Professional Engineer form shall supplement the initial application with this form upon applying for the principles and practice examination. The supplemental form requires that engineering experience from the date of the initial application until the date of the supplemental application be listed. Five references shall be submitted that are current to within one year of the examination date.

(4) Reference Forms:

(A) Persons applying for certification as an Engineer Intern shall submit to the Board names of three individuals who are familiar with the applicant's work, character and reputation, one of whom is a professional engineer. Persons applying to take the examination for principles and practice of engineering shall submit to the Board names of five individuals who are familiar with the applicant's work, character and reputation. Three of these individuals shall be Professional Engineers.

(B) In addition to the applicant submitting names to the Board of individuals familiar with the applicant's work, character and reputation, those individuals listed shall submit to the Board their evaluations of the applicant on forms supplied to them by the applicant.

(C) The reference form requires the individual evaluating the applicant to state the evaluating individual's profession, knowledge of the applicant and information concerning the applicant's engineering experience, character and reputation.

(D) The Board shall provide the reference forms to the applicant with the application. The reference forms shall then be distributed by the applicant to the persons listed on the application as references. The applicant shall ensure that the individuals listed as references return the reference forms to the Board prior to the filing deadline for the examination.

(d) Fees:

(1) Engineer Intern Certification Form. Once the applicant passes the examination on the fundamentals of engineering and makes application to the Board to become certified as an "Engineer Intern" the application fee of one hundred dollars (\$100.00) is payable.

(2) Professional Engineer Form. The application fee of one hundred dollars (\$100.00) is payable with the filing of the application.

(3) Comity. The licensure fee of one hundred dollars (\$100.00) is payable with the filing of the application.

(4) Examination. The examination fee for any applicant is payable to the National Council of Examiners for Engineering and Surveying (NCEES) at the time of registering to take the exam in accordance with G.S. 89C-14.

(e) The Board shall accept the records maintained by the National Council of Examiners for Engineering and Surveying (NCEES) as evidence of licensure in another state. For comity licensure, the NCEES record shall be accepted in lieu of completing the experience, education and references sections of the application. A comity application, with or without a NCEES record, shall be administratively approved by the Executive Director based upon evidence of current licensure in another jurisdiction based on comparable qualifications, required references and no record of disciplinary action, without waiting for the next regular meeting of the Board at which time the action shall be reported to the Board for final approval.

(f) Model Law Engineer. The term "Model Law Engineer" refers to a person who meets the requirements of this Section by meeting the requirements of NCEES and has a current NCEES record on file and is designated as a "Model Law Engineer." A "Model Law Engineer" application shall be administratively approved by the Executive Director based upon the designation, without waiting for the next regular meeting of the Board at which time the action shall be reported to the Board for final approval.

(g) Personal interview. During the application process, the applicant may be interviewed by the Board members if the members have questions regarding the applicant's education, experience or character, based upon the information submitted in the application.

21 NCAC 56 .0503 EXAMINATIONS

(a) Fundamentals of Engineering. This examination is designed to test the applicant's proficiency and knowledge of the fundamentals of engineering.

(b) Principles and Practice of Engineering. This examination is designed to test the applicant's proficiency and knowledge of engineering principles and practices.

(c) Examination Aids. Examinees may utilize examination aids as specified by the exam preparer.

(d) Preparation of Examination. The examinations in the fundamentals of engineering and in the principles and practice of engineering are national examinations provided by the National Council of Examiners for Engineering and Surveying (NCEES), of which the Board is a member.

(e) Examination Sequence. Before the applicant shall be permitted to be examined on the principles and practice of engineering, the applicant shall pass the examination on the fundamentals of engineering, unless the applicant can evidence 20 years of progressive engineering experience, or as a full-time engineering faculty member, or possesses an earned doctoral degree in engineering to be exempt from taking the fundamentals of engineering exam. NCEES administers the fundamentals of engineering examination as a computer-based exam. Application shall be made directly to NCEES to take the exam.

(f) Examination Filing Deadline. The applicant who wishes to take the principles and practice of engineering examination shall deliver the completed application, including all necessary references, transcripts, and verifications, to the Board office prior to August 1 for Fall examinations and January 2 for Spring examinations.

(g) Seating Notice. After approval of an application the applicant shall be sent a seating notice. This notice shall inform the applicant of the date, time and location of the examination and the seat number assigned.

(h) Unexcused Absences. After a seating notice has been issued for a scheduled examination by the Board, if the applicant fails to appear, that applicant's record shall reflect "unexcused absence," unless the absence was for jury duty or the applicant was not physically able to be present, as indicated by a doctor's certificate. The examination fee shall be forfeited.

(i) Re-Examination. A person who failed an examination may apply to take the examination again at the next regularly scheduled examination period by making written request and submitting the required exam fee. A person having a combined record of three failures or unexcused absences shall be eligible only after submitting a new application with appropriate application fee, and shall be considered by the Board for reexamination at the end of 12 months. After the end of the 12-month period, the applicant may take the examination no more than once every calendar year. The applicant shall demonstrate to the Board that actions, such as additional courses of study, have been taken to improve the applicant's chances for passing the exam.

(j) Reasonable Accommodation. An applicant may make a written request, before the application deadline, for reasonable accommodation for the exam. Reasonable accommodation shall be granted based upon meeting the Guidelines for Requesting Religious and ADA Accommodations published by the National Council of Examiners for Engineering and Surveying (NCEES), which are hereby incorporated by reference, including subsequent amendments and editions. Copies are available at no cost at www.ncees.org.

(k) Exam Results. Exam results shall be supplied in writing as pass or fail. No results will be given in any other manner.

(l) Review of Failed Exams. An applicant who fails to make a passing score on an exam shall receive an exam analysis by NCEES.

21 NCAC 56.0504 REPEALED - CERTIFICATES

21 NCAC 56 .0505 EXPIRATIONS AND RENEWALS OF CERTIFICATES

(a) Professional Engineer Licensure. An annual renewal fee of seventy-five dollars (\$75.00) for certificates of licensure for Professional Engineers shall be payable to the Board. The Board shall provide each licensed Professional Engineer a form that requires the licensee to provide the Board the physical places of business and residential addresses, report compliance with continuing education requirements, and report criminal convictions or disciplinary actions. The licensee shall give notice to the Board of a change of business or residential address within 30 days of the change. The licensee shall give notice to the Board of any criminal convictions, including DWI but not including minor traffic offenses (offenses that are not a misdemeanor or felony) or of any disciplinary actions in any jurisdiction on any license, within 30 days of the

conviction or disciplinary action. A nolo contendere plea is equated to a conviction for reporting purposes.

(b) Engineering Intern Certificate. The Engineering Intern certificate does not expire and, therefore, does not have to be renewed.

(c) "Professional Engineer, Retired." The Board shall approve the application for use of the title for a person who has been duly licensed as a professional engineer by the Board, who chooses to relinquish or not to renew a license and has had no disciplinary action or criminal conviction that would support a determination that the licensee is not of good character and reputation.

21 NCAC 56 .0506 WAIVER FOR LICENSEES SERVING ON ACTIVE DUTY IN THE ARMED FORCES OF THE US

(a) All Professional Engineers currently licensed by and in good standing with the Board (whose license is not suspended or revoked) who are serving in the armed forces of the United States and who are eligible for an extension of time to file a tax return pursuant to G.S. 105-249.2 are granted a waiver of their mandatory continuing education requirements and annual renewal fee for the time period disregarded pursuant to the Internal Revenue Code 26 U.S.C. 7508.

(b) Request for waiver by an eligible licensee, meeting requirements in Paragraph (a) of this Rule, of renewal fee and waiver of continuing education requirements:

- (1) The licensee shall notify the Board of eligibility before the current license expires. Upon such notification, the Board shall maintain the license in active status through the extension period.
- (2) If the licensee fails to notify the Board of eligibility for the extension period before the current license expires, upon receipt and acceptance of a renewal application within the extension period and presentation of proof that the licensee was eligible on the date that is the deadline for renewal, the expired license or registration shall be deemed retroactively to have not expired.
- (3) The licensee who submits a renewal application within the extension period shall not be deemed to hold a lapsed license subject to reinstatement fees.
- (4) The licensee may renew the license within the extension period despite failing to complete the specified continuing education requirements.
- (5) A licensee shall provide proof of eligibility for the extension period when the licensee or registrant submits the renewal application.

SECTION .0600 - PROFESSIONAL LAND SURVEYOR

21 NCAC 56 .0601 REQUIREMENTS FOR LICENSING

(a) Education. The terms used by the Board for the specific education requirements to be eligible to be licensed as a Professional Land Surveyor are defined as follows:

(1) "B.S. in surveying or other equivalent curriculum." These degrees shall contain a minimum of 45 semester hours, or their quarter-hour equivalents, of subjects directly related to the practice of surveying. Of the 45 semester hours, a minimum of 12 semester hours of surveying fundamentals, 12 semester hours of applied surveying practice and 12 semester hours of advanced or theoretical surveying courses are required. The remainder of the required surveying courses may be elective-type courses directly related to surveying; and

(2) "Associate degree in surveying technology." This degree shall contain a minimum of 20 semester hours, or quarter-hour equivalents, of subjects directly related to the practice of surveying. Courses in surveying practices, subdivision design and planning, surface drainage and photogrammetry must be completed with a passing grade.

(b) Experience:

(1) Definition. As used in the North Carolina Engineering and Land Surveying Act, the term "progressive practical surveying experience" means that during the period of time in which an applicant has made a practical utilization of the knowledge of the principles of geometry and trigonometry in determining the shape, boundaries, position and extent of the earth's surface, continuous improvement, growth and development in the utilization of that knowledge have been shown. In addition, the applicant shall show the continuous assumption of greater individual responsibility for the work product over that period of time.

(2) Experience Accepted. In evaluating the work experience required, the Board shall consider the total experience record and the progressive nature of the record. Half or more of the required land surveying experience shall be of a professional grade and character, performed under the responsible charge of a Professional Land Surveyor. If the work was not under the responsible charge of a Professional Land Surveyor, the applicant shall submit a written explanation to the Board explaining why the experience should be considered acceptable and the Board shall approve if satisfied of the grade and character of the progressive experience.

(3) Other Experience. Work done in the following areas requires evidence to the Board of its equivalency to land surveying:

- (A) construction layout;
- (B) engineering surveying; or
- (C) part-time surveying work.

(c) Exhibits, Drawings, Plats:

(1) Required Exhibit Before Principles and Practice of Surveying Examination:

(A) General. The applicant shall submit, along with the application, an actual plat of a boundary survey of an actual project prepared by, or under the direct supervision of, the applicant that shows that applicant is knowledgeable of the contents of the Standards of Practice for Land Surveying in North Carolina as set forth in Section .1600 of this Chapter, and is able to apply this knowledge by preparing a plat in accordance with the various legal and professional requirements of land surveying.

(B) Physical Requirement. The map submitted shall be a clean, clear, legible print of an original map in the file of a Professional Land Surveyor.

(2) Specific Requirements. The specific details that shall be evaluated are those applicable to the particular project as described in the Standards of Practice for Land Surveying in North Carolina as set forth in Section .1600 of this Chapter, and as described in G.S. 47-30. In addition, the exhibit shall contain a statement that the field work, calculation and mapping were performed by the applicant under the supervision of a Professional Land Surveyor, attested to by that Professional Land Surveyor.

(3) Requirements for Comity Applicant. The map submitted by an applicant under comity may be a sample plat of a project or work performed in the state of licensure. It shall be evaluated in accordance with legal requirements of North Carolina.

21 NCAC 56 .0602

APPLICATION PROCEDURE: INDIVIDUAL

(a) General. A person desiring to become a Professional Land Surveyor must make application to the Board on a form prescribed and furnished by the Board.

(b) Request. A request for the application form may be made to the Board office or obtained from the website.

(c) Application Forms:

(1) Surveyor Intern Certification Form. After passing the fundamentals of surveying examination an applicant may make application to the Board to become certified as a "Land Surveyor Intern." This form requires the applicant to set forth personal history, educational background, surveying experience, character references and exhibit. A passport-type photographic quality portrait that is adequate for current identification purposes is also required.

(2) Professional Land Surveyor Form:

(A) All persons, including comity applicants and certified Land Surveyor Interns, shall apply for licensure using the Professional Land Surveyor form. The submission of this form shall signify that the applicant seeks licensure, and shall result in seating for the principles and practice of surveying examination, when the applicant has met the requirements as set out in Rule .0601 of this Section. This form requires the applicant to set forth personal and educational background,

surveying experience, character references and exhibit. A passport-type photographic quality portrait that is adequate for current identification purposes is also required.

(B) Persons who have previously completed the fundamentals examination by use of the Land Surveying Intern Application Form shall submit the Professional Land Surveyor Application Form to request licensure when qualified to take the examination.

(d) Supplemental Form. Persons who applied for licensure as a land surveyor, but were not eligible to be admitted to the examination for principles and practice of surveying shall supplement their initial applications upon applying for the examination. The applicant shall supplement the initial application by using the supplemental form, which requires the listing of land surveying experience from the date of the initial application to the date of the supplemental application. Five references shall be submitted that are current to within one year of the examination date.

(e) Reference Forms:

(1) Persons applying to be certified as a Surveyor Intern or to take the examination for principles and practice shall submit to the Board names of individuals who are familiar with the applicant's work, character and reputation. The names shall be submitted by the applicant on the application form.

(2) Persons applying for certification as a Surveyor Intern must submit three references, one of whom shall be a Professional Land Surveyor. Persons applying for the principles and practice examination shall submit five references, three of whom shall be Professional Land Surveyors.

(3) In addition to the applicant submitting names to the Board of such individuals, those individuals shall submit to the Board their evaluations of the applicant on reference forms supplied them by the applicant.

(4) The reference form requires the individual evaluating the applicant to state the evaluating individual's profession, knowledge of the applicant and information concerning the applicant's land surveying experience, character and reputation.

(5) The Board shall provide the reference forms to the applicant along with the application for licensure. The reference forms shall then be distributed by the applicant to the persons listed on the application as references. The applicant shall ensure that the individuals listed as references return the forms to the Board prior to the filing deadline for the examination applied for by the applicant.

(f) Fees:

(1) Land Surveyor Intern Certification Form. Once the applicant passes the examination on the fundamentals of surveying and makes application to the Board to become certified as a "Land Surveyor Intern" the application fee of one hundred dollars (\$100.00) is payable.

(2) Professional Land Surveyor Form. The application fee of one hundred dollars (\$100.00) and examination fee for those applying for licensure based upon examination, experience, character and exhibit are payable with the filing of the application.

(3) Comity. The licensure fee of one hundred dollars (\$100.00) and appropriate examination fee for those applying for licensure based upon comity are payable with the filing of the application.

(4) Examination. The examination fee for any applicant shall be payable to the National Council of Examiners for Engineering and Surveying (NCEES) at the time of registering to take the exam in accordance with G.S. 89C-14.

(g) The Board shall accept the records maintained by the National Council of Examiners for Engineering and Surveying (NCEES) as evidence of licensure, in another state. For comity licensure the NCEES record shall be accepted in lieu of completing the experience, education and references sections of the application. A comity application, with or without a NCEES record, shall be administratively approved by the Executive Director based upon evidence of current licensure in another jurisdiction based on comparable qualifications, required references, and having passed the two-hour North Carolina portion of the exam and no record of disciplinary action, without waiting for the next regular meeting of the Board. At that time the action shall be reported to the Board for final approval.

(h) Personal Interview. During the application process, the applicant may be interviewed by Board members if the members have questions regarding the applicant's education, experience or character, based upon the information submitted in the application.

21 NCAC 56 .0603 EXAMINATIONS

(a) Fundamentals of Surveying. This examination is designed to test the applicant's proficiency and knowledge of the fundamentals of surveying. Reference to Fundamentals of Surveying is the revised name of the national exam that is the Fundamentals of Land Surveying in G.S. 89C.

(b) Principles and Practice of Surveying. This examination is designed to test the applicant's proficiency and knowledge of land surveying practices and procedures generally and specifically within North Carolina.

(c) Examination Aids. Examinees may utilize examination aids as specified by the national exam preparer.

(d) Preparation of Examination. The examination in the fundamentals of surveying and of the examination in the principles and practice of surveying are national examinations provided by the National Council of Examiners for Engineering and Surveying (NCEES), of which the Board is a member, or other examinations as adopted by the Board. The North Carolina portion of the principles and practice of surveying examination shall be provided by the Board. NCEES administers the fundamentals of surveying examination as a computer-based exam. Application is made directly to NCEES to take the exam.

(e) Examination Filing Deadline. The applicant who wishes to take the principles and practice of surveying examination shall deliver the completed application, including all necessary

references, transcripts, and verifications, to the Board office prior to August 1 for Fall examinations and January 2 for Spring examinations.

(f) Seating Notice. After approval of an application, the applicant shall be sent a seating notice by NCEES. This notice shall inform the applicant of the date, time and location of the examination and the seat number assigned.

(g) Unexcused Absences. After a seating notice for a scheduled examination has been issued, if applicant fails to appear, the applicant's record shall reflect "unexcused absence," unless the absence was for jury duty or the applicant was not physically able to be present, as indicated by a doctor's certificate. The examination fee shall be forfeited.

(h) Re-Examination. A person who failed an examination may apply to take the examination again at the next regularly scheduled examination period by making written request and submitting the required exam fee. A person having a combined record of three failures or unexcused absences shall be eligible only after submitting a new application with appropriate application fee, and shall be considered by the Board for re-examination at the end of 12 months. After the end of the 12-month period, the applicant may take the examination no more than once every calendar year. The applicant shall demonstrate to the Board that actions, such as additional courses of study, have been taken to improve the applicant's chances for passing the exam.

(i) Reasonable Accommodation. An applicant may make a written request, before the application deadline, for reasonable accommodation for the exam. Reasonable accommodation shall be granted based upon meeting the Guidelines for Requesting Religious and ADA Accommodations published by the National Council of Examiners for Engineering and Surveying (NCEES).

(j) Exam Results. Exam results shall be supplied in writing as pass or fail. No results shall be given in any other manner.

(k) Review of Failed Exams. An applicant who fails to make a passing score on an exam shall receive an exam analysis. An applicant who fails to make a passing score on the two-hour North Carolina portion of the exam may request in writing within thirty days of receiving the result to have an opportunity to review that portion of the exam. The review shall be done in the Board Office under supervision of staff and is limited to one hour.

21 NCAC 56.0604 *REPEALED - STANDARDS OF PRACTICE*

21 NCAC 56.0605 *REPEALED - CERTIFICATES*

21 NCAC 56.0606 **EXPIRATIONS AND RENEWALS OF CERTIFICATES**

(a) Professional Land Surveyor Licensure. An annual renewal fee of seventy-five dollars (\$75.00) for certificates of licensure for Professional Land Surveyors is payable to the Board. The Board shall provide each Professional Land Surveyor a form that requires the licensee to provide to the Board the physical places of business and residential addresses, report compliance with continuing education requirements, and report criminal convictions or disciplinary actions. The licensee shall give notice to the Board of a change of business or residential address within 30 days of the change. The licensee shall give notice to the Board of

any criminal convictions, including DWI but not including minor traffic offenses (offenses that are not a misdemeanor or felony) of any disciplinary actions in any jurisdiction on any license, within 30 days of the conviction or disciplinary action. A nolo contendere plea is equated to a conviction for reporting purposes.

(b) Surveyor Intern Certificate. The surveyor intern certificate does not expire and, therefore, does not have to be renewed.

(c) "Professional Land Surveyor, Retired." The Board shall approve the application for use of the title for a person who has been duly licensed as a Professional Land Surveyor by the Board, who chooses to relinquish or not to renew a license and has had no disciplinary action that would support a determination that the licensee is not of good character and reputation.

21 NCAC 56 .0607 WAIVER FOR LICENSEES SERVING ON ACTIVE DUTY IN THE ARMED FORCES OF THE US

(a) All Professional Land Surveyors currently licensed by and in good standing with the Board (whose license is not suspended or revoked) who are serving in the armed forces of the United States and who are eligible for an extension of time to file a tax return pursuant to G.S. 105-249.2 are granted a waiver of their mandatory continuing education requirements and annual renewal fee for the time period disregarded pursuant to the Internal Revenue Code 26 U.S.C. 7508.

(b) Request for waiver by an eligible licensee, meeting requirements in Paragraph (a) of this Rule, of renewal fee and waiver of continuing education requirements:

- (1) The licensee shall notify the Board of eligibility before the current license expires. Upon such notification, the Board shall maintain the license in active status through the extension period.
- (2) If the licensee fails to notify the Board of eligibility for the extension period before the current license expires, upon receipt and acceptance of a renewal application within the extension period and presentation of proof that the licensee was eligible on the date that is the deadline for renewal, the expired license or registration shall be deemed retroactively to have not expired.
- (3) The licensee who submits a renewal application within the extension period shall not be deemed to hold a lapsed license subject to reinstatement fees.
- (4) The licensee may renew the license within the extension period despite failing to complete the specified continuing education requirements.
- (5) A licensee shall provide proof of eligibility for the extension period when the licensee or registrant submits the renewal application.

SECTION .0700 – RULES OF PROFESSIONAL CONDUCT

21 NCAC 56 .0701 RULES OF PROFESSIONAL CONDUCT

(a) In order to safeguard the life, health, property and welfare of the public and to establish and maintain a high standard of integrity, skills, and practice in the professions of engineering and land surveying, the Rules of Professional Conduct in this Rule are adopted in accordance with G.S. 89C-20 and are binding upon every person holding a certificate of licensure as a Professional Engineer or Professional Land Surveyor (licensee), and on all business entities authorized to offer or perform engineering or land surveying services in this state. All persons licensed under the provisions of Chapter 89C of the General Statutes are charged with having knowledge of the Board Rules, including the Rules of Professional Conduct, and are deemed to be familiar with their provisions and to understand them.

(b) A licensee shall conduct the practice in order to protect the public health, safety and welfare. The licensee shall at all times recognize the primary obligation to protect the public in the performance of the professional duties. If the licensee's engineering or land surveying judgment is overruled under circumstances where the safety, health and welfare of the public are endangered, the licensee shall inform the employer, the client, the contractor, other affected parties and any appropriate regulatory agency of the possible consequences of the situation.

(c) A licensee shall perform services only in areas of the licensee's competence and:

- (1) Shall undertake to perform engineering and land surveying assignments only when qualified by education or experience in the specific technical field of professional engineering or land surveying involved;
- (2) May accept an assignment or project requiring education or experience outside of the licensee's own field of competence, but only to the extent that the services are restricted to those portions or disciplines of the project in which the licensee is qualified. All other portions or disciplines of such project shall be performed by associates, consultants, or employees who are licensed and competent in those portions or disciplines;
- (3) Shall not affix the signature or seal to any engineering or land surveying plan or document dealing with subject matter for which the licensee lacks competence by virtue of education or experience, nor to any such plan or document not prepared under the licensee's direct supervisory control. Direct supervisory control (responsible charge) requires a licensee or employee to carry out all client contacts, provide internal and external financial control, oversee employee training, and exercise control and supervision over all job requirements to include research, planning, design, field supervision and work product review. Direct supervisory control may be accomplished face to face or by other means of communication. A licensee shall not contract with a non-licensed individual to provide these professional services. Research, such as title searches and soil testing, may be contracted to a non-licensed individual, provided that individual is

qualified or licensed to provide such service and provided the licensee reviews the work. The licensee may affix the seal and signature to drawings and documents depicting the work of two or more professionals provided it is designated by a note under the seal the specific subject matter for which each is responsible; and

- (4) In circumstances where a licensee in responsible charge of the work is unavailable to complete the work, or the work is a design plan signed and sealed by an out-of-jurisdiction licensee (not a site adaptation of a standard design plan under Rule 21 NCAC 56 .1106) a successor licensee may take responsible charge by performing and documenting all professional services to include developing a design file including work or design criteria, calculations, code research, and any necessary and appropriate changes to the work. The non-professional services, such as drafting, need not be redone by the successor licensee but must distinguish in a clean and obvious manner and accurately reflect the successor licensee's work. The burden is on the successor licensee to show such compliance. The successor licensee shall have control of and responsibility for the work product and the signed and sealed originals of all documents.

(d) A licensee shall issue public statements only in an objective and truthful manner and:

- (1) Shall be objective and truthful in all professional reports, statements or testimony. The licensee shall include all relevant and pertinent information in such reports, statements or testimony;
- (2) When serving as an expert or technical witness before any court, commission, or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of the licensee's testimony;
- (3) Shall issue no statements, criticisms, or arguments on engineering or land surveying matters connected with public policy which are inspired or paid for by an interested party, or parties, unless the licensee has prefaced the comment by explicitly identifying the licensee's name, by disclosing the identities of the party or parties on whose behalf the licensee is speaking, and by revealing the existence of any pecuniary interest the licensee may have in the matters; and
- (4) Shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another engineer or land surveyor, nor indiscriminately criticize another engineer or land surveyor's work in public. Indiscriminate criticism includes statements without valid basis or cause or that are not objective and truthful or that fail to include all relevant and pertinent information. If the licensee believes that another engineer or land surveyor is guilty of misconduct or illegal practice, such information shall be presented to the North Carolina Board of Examiners in the form of a complaint.

(e) A licensee shall avoid conflicts of interest and:

- (1) Shall inform the employer or client, and any reviewing agency, of any business association, interests, or circumstances which could influence judgment or the quality of services;
 - (2) Shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are disclosed to, and agreed to, in writing, by all interested parties;
 - (3) Shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying their products;
 - (4) Shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with the client or employer in connection with work for which the licensee is responsible;
 - (5) When in public service as a member, advisor, or employee of a governmental body or department, shall not participate in considerations or actions with respect to services provided by the licensee or the licensee's firm in private engineering and land surveying practices;
 - (6) Shall not solicit or accept an engineering or land surveying contract from a governmental body on which a principal or officer of the licensee's firm serves as a member; and
 - (7) Shall not attempt to supplant another engineer or land surveyor in a particular employment after becoming aware that the other has been selected for the employment.
- (f) A licensee shall solicit or accept work only on the basis of qualifications and:
- (1) 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;
 - (2) Shall compete for employment on the basis of professional qualification and competence to perform the work. The licensee shall not solicit or submit proposals for professional services containing a false, fraudulent, misleading, deceptive or unfair statement or claim regarding the cost, quality or extent of services to be rendered;
 - (3) Shall, with regard to fee bidding on public projects, comply with the provisions of G.S. 143-64.31 et seq., (or for federal projects, the Brooks Act, 40 U.S. Code 541 et seq.) and shall not knowingly cooperate in a violation of any provision of G.S. 143-64.31 et seq. (or of 40 U.S. Code 541 et seq.); and
 - (4) Shall not falsify or permit misrepresentation of academic or professional qualifications and shall only report educational qualifications when a degree or certificate was awarded, unless it is stated that no degree or certificate was

awarded. The licensee shall not misrepresent degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or past accomplishments with the intent and purpose of enhancing qualifications and work.

(g) A licensee shall perform services in an ethical manner, as required by the Rules of Professional Conduct (21 NCAC 56 .0701), and in a lawful manner and:

- (1) Shall not knowingly associate with or permit the use of the licensee's name or firm name in a business venture by any person or firm which the licensee knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature or is not properly licensed; and
- (2) If the licensee has knowledge or reason to believe that another person or firm may be in violation of the Board Rules (21 NCAC 56) or of the North Carolina Engineering and Land Surveying Act (G.S. 89C), shall present such information to the Board in writing in the form of a complaint and shall cooperate with the Board in furnishing such further information or assistance as may be required by the Board. The licensee shall timely respond to all inquiries and correspondence from the Board and shall timely claim correspondence from the U. S. Postal Service, or other delivery service, sent to the licensee from the Board. Timely is defined as within the time specified in the correspondence, or if no time is specified, within 30 days of receipt. Certified mail is timely claimed if prior to being returned by the Post Office to the Board office.

(h) A Professional Engineer or Professional Land Surveyor who has received a reprimand or civil penalty or whose professional license is revoked, suspended, denied, refused renewal, refused reinstatement, put on probation, restricted, or surrendered as a result of disciplinary action by another jurisdiction is subject to discipline by the Board if the licensee's action constitutes a violation of G.S. 89C or the rules adopted by the Board.

21 NCAC 56 .0702 RULES OF CONDUCT OF ADVERTISING

(a) The Professional Engineer or Professional Land Surveyor shall not make exaggerated, misleading, deceptive or false statements or claims about professional qualifications, experience or performance in brochures, correspondence, listings, or other public communications.

(b) The prohibitions listed in Paragraph (a) of this Rule include, but are not limited to, the use of statements containing a material misrepresentation of fact or omitting a material fact necessary to keep the statement from being misleading; statements intended or likely to create an unjustified expectation; and statements containing a prediction of future success.

(c) Consistent with the foregoing, the Professional Engineer or Professional Land Surveyor may advertise for recruitment of personnel.

(d) Consistent with the foregoing, the Professional Engineer or Professional Land Surveyor may prepare articles for the lay or technical press. Such articles shall not imply credit to the author for work performed by others.

SECTION .0800 - FIRM REGISTRATION

21 NCAC 56.0801 *REPEALED - REQUIREMENTS*

21 NCAC 56.0802 **PROCEDURE**

(a) Professional Corporations and Limited Liability Companies:

(1) Request. A request for an application for licensure as a professional corporation or professional limited liability company engaged in the practice of engineering or land surveying may be made at the Board office at 4601 Six Forks Road, Suite 310, Raleigh, NC 27609 or obtained from the website at www.ncbels.org.

(2) Applicable Form. All professional corporations and professional limited liability companies complying with the statutory requirements of G.S. 89C, G.S. 55B and G.S. 57D that desire to practice engineering or land surveying shall apply by using a form prepared by the Board. This form shall require the applicant, by and through an officer, director and shareholder of the professional corporation or limited liability company who is licensed with the North Carolina Board of Examiners for Engineers and Surveyors in a profession of the services to be offered, to certify that it and the stockholders of the corporation or members of the limited liability company have complied with the provisions of the applicable provisions of the General Statutes. The form shall also require that the officers, directors, shareholders, members and professional employees be listed on that application.

(3) Certificate of Licensure:

(A) Upon receiving the application with application fee of one hundred dollars (\$100.00), the Board, after determining that the firm has complied with the statutory requirements, shall issue a certificate of compliance.

(B) The firm shall forward the certificate of compliance to the Secretary of State along with its articles of incorporation or articles of organization.

(C) Upon approval by the Secretary of State, the firm shall forward to the Board a certified copy of its articles of incorporation or articles of organization.

(D) Upon receipt of the certified copy of the articles of the firm, if all statutory requirements have been met, the Board shall approve the application and issue the firm a certificate of licensure.

(b) Business Firms and Chapter 87 Corporations:

(1) Request. A request for an application for licensure as a business firm or Chapter 87 corporation, as defined in G.S. 55B-15(a)(2), engaged in the practice of engineering or

land surveying may be made at the Board office or obtained from the website. A sole proprietorship owned and operated by the individual licensee in the licensee's name as reflected in the Board's records is exempt from firm licensure.

(2) Applicable Form. All business firms or Chapter 87 corporations that desire to practice engineering or land surveying shall apply by using a form prepared by the Board. The form shall require the applicant, through a principal officer, partner or owner, to certify that the business firm will be operated in compliance with the laws of the State of North Carolina and the rules of the North Carolina Board of Examiners for Engineers and Surveyors.

(3) Certificate of Licensure. Upon receiving the application with application fee of one hundred dollars (\$100.00), the Board, after determining that the firm has complied with the statutory requirements, shall issue a certificate of licensure.

21 NCAC 56.0803 *REPEALED - FEES*

21 NCAC 56.0804 **ANNUAL RENEWAL**

(a) Renewal. The certificate of licensure for a business entity, including a professional corporation, limited liability company, Chapter 87 corporation, or business firm shall be renewed annually.

(b) Expiration. The certificate of licensure expires on the last day of June following its issuance by the Board and becomes invalid on that date unless renewed.

(c) Written Application. Upon written application on a renewal form provided by the Board that requires the physical place of business address and report of disciplinary actions accompanied by a fee of seventy-five dollars (\$75.00) the Board shall renew the certificate of licensure providing that the firm has complied with all Rules of the Board and applicable General Statutes of North Carolina. The form shall be provided to all licensees in good standing no later than June 1st. The licensed entity shall give notice to the Board of a change of business address within 30 days of the change. The firm shall give notice to the Board of any disciplinary actions in any jurisdiction on any license within 30 days of the disciplinary action.

(d) If a firm fails to renew its certificate of licensure within one year of the expiration date, the firm shall submit a new application for a new certificate of licensure in accordance with all requirements of 21 NCAC 56.0802.

(e) If any business entity that holds a current certificate of licensure ceases business because the professional licensee receives a waiver from paying the individual renewal fee under 21 NCAC 56.0506 or 21 NCAC 56.0607 the annual renewal fee for the business shall be waived for the same time period.

21 NCAC 56.0805 *REPEALED - REGISTRATION NOT REQUIRED*

SECTION .0900 - BUSINESS entities: GENERAL

21 NCAC 56 .0901 OFFICES

(a) Professional Engineering Services. Every firm, partnership, corporation or limited liability company that performs or offers to perform engineering services in the State of North Carolina shall have a resident Professional Engineer in responsible charge in each separate office located in North Carolina where professional engineering services are performed or offered to be performed. Out-of-state office locations where engineering services are performed or offered to be performed for North Carolina projects shall have Professional Engineers in responsible charge of only the specific projects in compliance with Rule .0701(c)(3) of this Chapter.

(b) Land Surveying Services. Every firm, partnership, corporation or limited liability company that performs or offers to perform land surveying services in the State of North Carolina shall have a resident Professional Land Surveyor in responsible charge in each separate office located in North Carolina where land surveying services are performed or offered to be performed. Out-of-state office locations where surveying services are performed or offered to be performed for North Carolina projects are only required to have Professional Land Surveyors in responsible charge of the specific projects in compliance with Rule .0701(c)(3) of this Chapter.

(c) Resident. The terms "resident Professional Engineer" or "resident Professional Land Surveyor" as used in this Rule, means a licensee who spends a majority of the licensee's normal working time in that office. Such time shall not be less than a majority of the operating hours of the business. A Professional Engineer or Professional Land Surveyor shall be the resident licensee at only one place of business at one time unless each business is at least one - third owned by the resident professional. This arrangement shall be specifically approved by the Board after a determination that the businesses are integrated in operation, ownership, office location and that the licensee will be in responsible charge of the professional services.

(d) No firm, partnership, corporation or limited liability company shall practice, offer to practice, or market either land surveying or engineering unless there is a licensed resident for that service in responsible charge at that office. Advertisements, signs, letterheads, business cards, directories, or any other form of representation shall avoid any reference to any service that cannot be provided under the responsible charge of a properly qualified resident professional. The licensed entity shall give notice to the Board of a change of resident professional within 30 days after the change and shall not practice, offer to practice, or market the professional service during any period of time without a resident professional.

21 NCAC 56 .0902 TITLES OF BUSINESS ENTITIES

(a) Companies, partnerships, corporations, limited liability companies or any other business organization providing professional engineering or land surveying services in North Carolina shall not practice under a name that is misleading. Except as provided below, the titles of engineering or land surveying companies, partnerships, corporations, limited liability companies or any other business organization organized primarily to provide such professional services

shall not contain the name of an individual not licensed to provide the professional services offered or eligible for licensure under the provisions of G.S. 89C-13.

(b) A firm may include in its title the name or names of one or more deceased or retired former members of the firm, provided that the firm submits a letter of request and explanation with its application to the Board, and that the Board finds as fact that the use of the name is not misleading.

(c) A business organization shall not change its title, or operate under an assumed name, without first applying to the Board for a determination that the proposed title meets the requirements of Paragraph (a) of this Rule. Requests for name changes shall be made in writing on forms provided by the Board for this purpose.

SECTION .1000 - REPEALED - TEMPORARY PERMIT

SECTION .1100 - SEAL

21 NCAC 56 .1101 GENERAL

It is misconduct for a Professional Engineer or Professional Land Surveyor to seal work done by another individual unless the work is performed under the "responsible charge" of the Professional Engineer or Professional Land Surveyor.

21 NCAC 56 .1102 DESIGN

The standard design of the seal shall be two concentric circles in which North Carolina and the name of the licensee are placed within the outermost circle and in which the license number of the licensee and either "Professional Engineer" or "Professional Land Surveyor," is placed within the innermost circle. The size shall be 1 ½ to 1 ¾ inches in diameter.

21 NCAC 56 .1103 STANDARD CERTIFICATION REQUIREMENTS

(a) Certification of Final Drawings. Drawings or maps not subject to the exceptions in Paragraph (c) of this Rule shall conform to the following:

- (1) Certification is required on reproducibles or original drawings;
- (2) The seal may be a rubber stamp, embossed seal, computer-generated seal, or other facsimile that becomes a permanent addition to a plan sheet or map;
- (3) The licensee's written signature must be placed over, or adjacent to, the seal on the original document. A facsimile signature is not acceptable;

- (4) The date of signing must be annotated on the original document;
- (5) All sheets of engineering and surveying drawings must be certified;
- (6) The name, address and license number of the licensee's firm shall be included on each sheet of engineering drawings. For surveys, the name, address and license number of the licensee's firm shall be included on the first sheet of the survey or title sheet. The individual license number of the sole proprietor shall be used as the license number for an exempt sole proprietorship that meets the requirements of 21 NCAC 56 .0802(b)(1); and
- (7) Any revision on a drawing after a licensee's certification is affixed shall be described and dated and if not done under the responsible charge of the same licensee shall be separately certified.

(b) Certification of Specifications and Reports. All specifications, reports, or other documents, including letter reports and calculations, not subject to the exceptions in Paragraph (c) of this Rule shall conform to the following:

- (1) Certification is required on original specifications, reports, or other documents, including letter reports and calculations;
- (2) The seal may be a rubber stamp, or other facsimile;
- (3) The licensee's written signature must be placed over, or adjacent to, the seal on the original document. A facsimile signature is not acceptable;
- (4) The date of signing must be annotated on the original document;
- (5) The title sheet of engineering specifications or other reports must be certified and bear the name, address and license number of the licensee's firm. The title sheet of any survey report or written description of property shall include the name, address and license number of the licensee's firm. The individual license number of a sole proprietor shall be used as the license number for an exempt sole proprietorship that meets the requirements of 21 NCAC 56 .0802(b)(1); and
- (6) Any revision in the document after a licensee's certification is affixed shall be described and dated and if not done under the responsible charge of the same licensee shall be separately certified.

(c) Exceptions to Required Certification. The certification of a licensee on a map, drawing, plan, specification, plat, document, or report shall signify that it is the final work of the licensee unless the work is stamped or marked substantially as follows so as to put the public on notice not to use as a final product, in which case certification is optional:

- (1) "Preliminary - Do not use for construction";
- (2) "Progress Drawings - Do not use for construction";
- (3) "Preliminary Plat - Not for recordation, conveyances, or sales";

- (4) "Final Drawing - Not released for construction";
- (5) "Final Drawing - For Review Purposes Only";
- (6) "Not a Certified Document – This document originally issued and sealed by (name of licensee), (license number), on (date of sealing). This document shall not be considered a certified document";
- (7) "Not a Certified Document as to the Original Document but Only as to the Revisions - This document originally issued and sealed by (name of licensee), (license number), on (date of sealing). This document is only certified as to the revisions".

(d) Electronically Transmitted Documents. Documents, including drawings, specifications and reports, that are transmitted electronically beyond the direct control of the licensee shall have the computer-generated seal removed from the original file, unless signed with a digital signature as defined in Paragraph (e) of this Rule. After removal of the seal the electronic media shall have the following inserted in lieu of the signature and date: "This document originally issued and sealed by (name of sealer), (license number), on (Date of sealing). This medium shall not be considered a certified document." Hardcopy documents containing the original seal, signature and date of the licensee may be duplicated by photocopy or electronic scanning processes and distributed either in hardcopy or electronic medium. The scanned digital files of certified documents are not subject to the requirements of this Paragraph. The electronic transmission beyond the direct control of the licensee of CAD, vector or other files subject to easy editing are subject to the requirements of this paragraph. Easy editing is based on the file consisting of separate elements that can be individually modified or deleted. Documents that are excepted from certification by a statement meeting the requirements of Subparagraphs (c)(1) through (c)(5) of this Rule are not subject to the requirements of this Paragraph.

(e) Documents to be electronically transmitted beyond the direct control of the licensee that are signed using a digital signature, shall contain the authentication procedure in a secure mode and a list of the hardware, software and parameters used to prepare the document(s). Secure mode means that the authentication procedure has protective measures to prevent alteration or overriding of the authentication procedure. The term "digital signature" shall be an electronic authentication process that is attached to or logically associated with an electronic document. The digital signature shall be:

- (1) Unique to the licensee using it;
- (2) Capable of verification;
- (3) Under the sole control of the licensee; and
- (4) Linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.

(f) A digital signature process may be submitted to the Board for approval that it meets the criteria set forth in Subparagraphs (e)(1) through (4) of this Rule. The licensee shall confirm that if another process is used, that it meets the criteria.

21 NCAC 56.1104 *REPEALED - CERTIFICATION WITH TEMPORARY PERMIT***21 NCAC 56.1105** **FIRM SEAL**

The use of a seal by a firm is not required for certification. A firm seal is not authorized for use in lieu of the required seal of a Professional Engineer or Professional Land Surveyor. When a firm seal is used, it does not relieve the individual licensee of the requirements and responsibilities pertaining to the individual's seal.

21 NCAC 56.1106 **CERTIFICATION OF STANDARD DESIGN PLANS**

Standard design plans that were initially prepared and certified by an individual who is a licensed engineer in the state of origin of such plans (including North Carolina) may then be reviewed by a North Carolina Professional Engineer for code conformance, design adequacy, and site adaptation for the specific application within North Carolina. The reviewing Professional Engineer who is licensed in North Carolina assumes responsibility for such standard designs. Standard plans, which bear the seal of the original design engineer who is a licensed engineer in another state, or North Carolina, shall be sealed by the reviewing North Carolina Professional Engineer who is assuming responsibility. In addition to the seal, a statement shall be included as follows: "These plans have been properly examined by the undersigned. I have determined that they comply with existing local North Carolina codes, and have been properly site adapted for use in this area."

21 NCAC 56.1107 *REPEALED - CERTIFICATION OF PLANS FOR BUILDING AND STRUCTURE PERMITS***21 NCAC 56.1108** *REPEALED - LAND SURVEYING***SECTION .1200 - RULEMAKING PROCEDURES****21 NCAC 56.1201** **PETITIONS**

(a) Any person wishing to submit a petition requesting the adoption, amendment or repeal of a rule by the Board shall send the petition to the executive director at the Board's office in Raleigh, North Carolina.

(b) The petition shall contain the following information:

- (1) a draft of the proposed rule;
- (2) reason for proposal;
- (3) effect on existing rules;
- (4) any data supporting proposal;

- (5) effect of the proposed rule on existing practices in the area involved, including cost factors;
- (6) names of those most likely to be affected by the proposed rule, with addresses if reasonably known; and
- (7) name and address of each petitioner.

(c) A review committee made up of one member of the Board, the executive director and the legal counsel for the Board, on behalf of the Board, shall determine, based on a study of the facts stated in the petition, whether the public interest will be served by granting it. It shall consider all the contents of the submitted petition, plus any additional information it deems relevant.

(d) The executive director, on behalf of the review committee, shall make a recommendation to the Board for the denial of the petition or the institution of rulemaking proceedings, as the case may be.

(e) Within 120 days of submission of the petition, the Board shall render a final decision.

(f) If the decision is to deny the petition, the executive director, on behalf of the Board, will notify the petitioner in writing, stating the reasons therefore. If the decision is to grant the petition, the Board shall publish notice of rulemaking proceedings.

21 NCAC 56.1202 **REPEALED - NOTICE**

21 NCAC 56.1203 **HEARINGS**

(a) Unless otherwise stated in a particular rulemaking notice, hearings before the Board shall be held in the Board office.

(b) Presentations may not exceed 10 minutes unless, upon request, either before or at the hearing, the Board grants an extension of time, for a fuller explanation.

(c) Upon receipt of a request to make an oral presentation the executive director shall acknowledge receipt of the request, and inform the person making the request of the imposition of any limitations deemed necessary to the end of a full and effective public hearing on the proposed rule.

(d) Any person may file a written submission containing data, comments or arguments after publication of a rulemaking notice as allowed by G.S. 150B-21.2(f). Written submissions, except when otherwise stated in the particular rulemaking notice, shall be sent to the Board. Such submissions shall clearly state the proposed rule(s) to which the comments are addressed.

(e) Upon receipt of such written comments, prompt acknowledgment shall be made by the Board.

(f) The presiding officer at the hearing shall have complete control of the proceedings, including extensions of any time requirements, recognition of speakers, time allotments for presentations, direction of the flow of the discussion and the 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.

(g) A record of all rulemaking proceedings shall be maintained at the Board's office.

21 NCAC 56.1204 *REPEALED - EMERGENCY RULES*

21 NCAC 56.1205 **DECLARATORY RULINGS**

(a) Any person substantially affected by a statute administered or rule promulgated by the Board may request a declaratory ruling as to whether or how the statute or rule applies to a given factual situation or whether a particular agency rule is valid.

(b) All requests for declaratory rulings shall be written and mailed to the Board.

(c) All requests for a declaratory ruling must include the following information:

- (1) name and address of petitioner;
- (2) statute or rule to which petition relates;
- (3) concise statement of the manner in which petitioner is aggrieved by the rule or statute or its potential application to petitioner;
- (4) a statement of whether an oral hearing is desired, and if so, the reasons for such an oral hearing.

(d) Whenever the Board believes for good cause that the issuance of a declaratory ruling is undesirable, it may refuse to do so. When good cause is deemed to exist, the Board shall notify the petitioner of its decision in writing stating reasons for the denial of a declaratory ruling.

(e) Where a declaratory ruling is deemed appropriate, the Board shall issue the ruling within 60 days of receipt of the petition.

(f) A declaratory ruling procedure may consist of written submissions, oral hearings, or such other procedure as may be appropriate in a particular case.

SECTION .1300 – BOARD DISCIPLINARY PROCEDURES

21 NCAC 56.1301 **IMPROPER PRACTICE BY A LICENSEE**

(a) General. Alleged practice that may violate the rules in this Chapter or G.S. 89C by a licensee is subject to Board investigation and disciplinary action by the Board.

(b) Preferring Charges. Any person who believes that any licensed Professional Engineer, Professional Land Surveyor or firm holding a certificate of authorization is in violation of the provisions of G.S. 89C or the rules in this Chapter may prefer charges against that person or firm

by setting forth in writing those charges and swearing to their authenticity, along with providing corroborative evidence. The charges shall be filed with the Board's office in Raleigh, North Carolina.

(c) Preliminary Review:

- (1) Upon receipt of a properly filed charge, a case shall be opened.
- (2) A field investigation may be performed if determined necessary by the Executive Director.
- (3) If the Executive Director determines that the charges are corroborated by evidence, a written notice and explanation of the charge shall be forwarded to the person or firm against whom the charge is made and a response is requested of the person or firm so charged to show compliance with all lawful requirements for retention of the license. Notice of the charge and of the alleged facts or alleged conduct shall be given personally or by certified mail, return receipt request.
- (4) After preliminary evidence has been obtained, the matter shall be referred to the Board's review committee which is made up of the following individuals:
 - (A) one member of the Board who is licensed in the respective profession,
 - (B) the legal counsel of the Board, and
 - (C) the Executive Director of the Board or Assistant Executive Director if designated by the Executive Director.
- (5) Upon review of the available evidence, the review committee shall present to the Board a written recommendation that:
 - (A) the charge be dismissed as unfounded or trivial;
 - (B) when the charge is admitted as true, the Board accept the admission of guilt by the person charged and order that person not to commit in the future the specific act or acts admitted and also not to violate any of the provisions of the Board Rules or the statutes at any time in the future;
 - (C) the charge, whether admitted or denied, be presented to the full Board for a hearing and determination by the Board on the merits of the charge in accordance with the substantive and procedural requirements of the provisions of Section .1400 of this Chapter and the provisions of G.S. 150B; or
 - (D) whether the charge is admitted or denied, the Board give notice to the licensee of a contemplated action as set out in Rule .1403(b) of this Chapter.

(d) Consultant. A consultant to the review committee shall be designated by the Board Chair if a board member is a complainant, witness or respondent in a case. The consultant shall be a

licensed professional engineer or professional land surveyor, depending on the nature of the case, and selected from a list provided by the Executive Director of former Board members or other licensed professionals who are knowledgeable with the Board's processes. The consultant shall review all case materials and make a recommendation for consideration by the review committee as to the merits of the case. The consultant shall review any new information presented in the event of a settlement conference and make a recommendation to the settlement conference committee.

(e) Board Decision. Notice of the decision by the Board on recommendations of the review committee shall be given to the party against whom the charges have been brought and the party submitting the charge. Though it is not forbidden to do so, the Board is not required to notify the parties of the reasons of the Board in making its determination.

(f) Settlement Conference. When the Board issues a citation for hearing or notice of a contemplated action, the licensee may request in writing a settlement conference to pursue resolution of the issue(s) through informal procedures. If, after the completion of a settlement conference, the licensee and Board's settlement committee do not agree to a resolution of the dispute for the full Board's consideration, the original administrative proceeding shall commence. During the course of the settlement conference, no sworn testimony shall be taken nor shall any witnesses be cross-examined.

- (1) The Board's settlement committee shall be made up of the following individuals:
 - (A) the member of the Board who served on the review committee or the replacement if the member is not available,
 - (B) one public member from the Board,
 - (C) the legal counsel of the Board, and
 - (D) the Executive Director of the Board or Assistant Executive Director if designated by the Executive Director.
- (2) Upon review of the available evidence, the settlement committee shall present to the Board a written recommendation that:
 - (A) the charge be dismissed as unfounded or trivial;
 - (B) when the charge is admitted as true, the Board accept the admission of guilt by the person charged and order the person not to commit in the future the specific act or acts admitted and, also, not to violate any provisions of the Board Rules or the statutes at any time in the future;
 - (C) the charge, whether admitted or denied, be presented to the full Board for a hearing and determination by the Board on the merits of the charge in accordance with the substantive and procedural requirements of the provisions of Section .1400 of this Chapter and the provisions of G.S. 150B; or

- (D) whether the charge is admitted or denied, the Board give notice to the licensee of a contemplated action as set out in Rule .1403(b) of this Chapter.

21 NCAC 56 .1302 UNLAWFUL PRACTICE BY AN UNLICENSED PeRSON

(a) General. Alleged unlawful practice by an unlicensed person shall be subject to Board investigation and referral to an agency of the state for appropriate legal action.

(b) Preferring Charges. Any person who believes that any person or firm is in violation of the acts specified in G.S. 89C may prefer charges against that person or firm by setting forth in writing those charges and swearing to their authenticity. The charges shall be filed at the Board's office in Raleigh, North Carolina.

(c) Preliminary or Threshold Determination:

- (1) Upon receipt of a properly filed charge, an investigation shall be initiated,
- (2) At the discretion of the executive director, a field investigation may be performed without notifying any of the parties involved,
- (3) After preliminary evidence has been obtained, the matter shall be referred to the Board's review committee which is made up of the following individuals:
 - (A) one member of the Board;
 - (B) the legal counsel of the Board; and
 - (C) the Executive Director of the Board or Assistant Executive Director if designated by the Executive Director.
- (4) The review committee shall recommend to the Board whether there is probable cause to believe that a party against whom a charge has been brought in fact has violated the provisions of G.S. 89C.
- (5) Upon review of the available evidence, the review committee shall make a threshold determination of the charges brought. The review committee shall then present to the Board written recommendations that:
 - (A) The investigation be continued;
 - (B) The charge be dismissed as unfounded or trivial; or
 - (C) The matter be referred to an appropriate agency for necessary legal action.

(d) Board Decision. Notice of decision by the Board on recommendations of the review committee shall be given to the party submitting the charge.

SECTION .1400 - CONTESTED CASES

21 NCAC 56 .1401 GENERAL RULES

Whenever the Board, by its official action, acts in such a way as to affect the rights, duties, or privileges of a specific identified party, that party, upon request, will be given an administrative hearing.

21 NCAC 56 .1402 OPPORTUNITY FOR LICENSEE OR APPLICANT TO HAVE HEARING

Every licensee or applicant for a license shall be afforded notice and an opportunity to be heard on any action, where the effect would be:

- (1) to deny permission to take an examination for licensing for which application has been duly made;
- (2) to deny a license based on comity;
- (3) to deny a license after an applicant has taken and passed an examination;
- (4) to require re-examination for licensing;
- (5) to withhold the renewal of a license for any cause other than failure to pay a statutory renewal fee;
- (6) to suspend a license;
- (7) to revoke a license;
- (8) to impose a civil penalty;
- (9) to issue a reprimand;
- (10) to refuse to renew;
- (11) to refuse to reinstate; or
- (12) to require additional education.

21 NCAC 56 .1403 NOTICE OF CONTEMPLATED BOARD ACTION: REQUEST FOR HEARING

(a) When the Board takes action of a type specified in Subparagraphs (1), (2) or (3) of Rule .1402 of this Section, it shall give to the applicant a written notice containing a statement:

- (1) that the applicant has failed to satisfy the Board of the qualifications to be examined or to be issued a license, as the case may be;

- (2) indicating in what respects the applicant has so failed to satisfy the Board; and
- (3) that unless the applicant, within 20 days after service of said notice, deposits in the mail a certified letter addressed to the Board and containing a request for a hearing, the Board's action will become final.

In any Board proceeding involving the denial of a duly made application to take an examination, or refusal to issue a license after an applicant has taken and passed an examination, the burden of satisfying the Board of the applicant's qualifications shall be upon the applicant.

(b) When the Board contemplates taking any action of a type specified in Subparagraphs (4), (5), (6), (7), (8), or (9) of Rule .1402 of this Section, it shall give to the licensee a written notice containing a statement:

- (1) that the Board has sufficient evidence which, if not rebutted or explained, will justify the Board in taking the contemplated action;
- (2) indicating the general nature of the evidence; and
- (3) that unless the licensee, within 20 days after service of said notice, deposits in the mail a certified letter addressed to the Board and containing a request for a hearing or settlement conference, the Board will take the contemplated action.

21 NCAC 56.1404 *REPEALED - REQUEST FOR HEARING*

21 NCAC 56.1405 *REPEALED - NOTICE OF HEARING*

21 NCAC 56.1406 *REPEALED - PLACE OF HEARING*

21 NCAC 56.1407 *REPEALED - INTERVENTION*

21 NCAC 56.1408 *REPEALED - HEARING OFFICERS*

21 NCAC 56.1409 **CONDUCT OF CONTESTED CASE**

(a) Failure to Appear:

- (1) If a party served with notice requests a hearing within the time required and fails to appear without having notified the Board, and no continuance or adjournment is ordered, the party is considered to have waived the right to appear at the hearing and the Board may proceed with the hearing in the party's absence.
- (2) If the absent party is the only party other than the Board, the Board may proceed with the hearing and make its decision in the party's absence.
- (3) Continuances and adjournments shall be granted to a party only in compelling circumstances and for hardship noted.
- (4) If a hearing is conducted or a decision reached in the absence of a party, that party may petition the Board for a reopening of the case. Petitions will not be granted, except when petitioner can show that the reasons for the failure to appear

were justifiable and that fairness requires reopening of the case. The decision made by the Board will be in writing. A copy will be sent to the petitioner and made a part of the record of the contested case.

(b) Simplification of Issues. The parties to a contested case may agree in advance to simplify the hearing by eliminating 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.

(c) Subpoenas:

- (1) The executive director shall issue subpoenas in the Board's name.
- (2) Subpoenas requiring the attendance of witnesses, or those to produce documents, evidence, or things, will be issued by the executive director within five business days of the receipt of a request from a party to the case for such subpoena.
- (3) Any person receiving a subpoena from the Board may object thereto by filing a written objection to the subpoena with the Board. Such objection must 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 requested, lack of particularity in the description of the evidence sought, or any other reasons 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 hardships.
- (4) The objecting witness shall serve the objection on the party who requested the subpoena as soon as the objection is filed with the Board.
- (5) The party requesting the subpoena, within five days, may file a written response to the objection. The response shall be served in like manner as the objection.
- (6) After receipt of the objection and response thereto, if any, the Board shall issue a notice to the party who requested and the party challenging the subpoena, and may notify all other parties of an open hearing, to be scheduled as soon as practicable, at which time evidence and testimony may be presented limited to the questions raised by the objection and response, if any.
- (7) Promptly after the close of such hearing, the Board will rule on the challenge and issue a written decision. A copy of this decision will be issued to all parties and made a part of the record.

21 NCAC 56.1410 *REPEALED - DISCOVERY*

21 NCAC 56.1411 **DEPOSITIONS**

Depositions shall be taken in accordance with the North Carolina Rules of Civil Procedure.

21 NCAC 56.1412 *REPEALED - CONDUCT OF HEARING***21 NCAC 56.1413** **DECISION OF BOARD**

(a) Manner and Time of Rendering Decision. After a hearing has been completed the Board shall proceed to consider the case and as soon as practicable shall render their decision. The decision must be rendered within 90 days after the hearing.

(b) Service of Written Decision. The Board shall serve upon each party a written copy of the decision, either personally or by certified mail. If the decision is sent by certified mail it shall be deemed to have been served on the date borne on the return receipt.

(c) Final Decision. The final decision of the Board shall be in the manner and form prescribed by G.S. 150B-42(a).

(d) Official Record. The official record shall be prepared in all contested cases in accordance with the requirements of G.S. 150B-42(b).

SECTION .1500 - FEES**21 NCAC 56.1501** **GENERAL**

Fees for returned checks shall be in the maximum amount established by G.S. 25-3-506.

**SECTION .1600 – STANDARDS OF PRACTICE FOR LAND SURVEYING IN
NORTH CAROLINA****21 NCAC 56.1601** **GENERAL**

In order to better serve the general public in regulating the practice of land surveying in North Carolina, the minimum standards of practice set forth in this Section are established, and shall be observed by Professional Land Surveyors in the practice of land surveying.

21 NCAC 56.1602 **SURVEYING PROCEDURES**

(a) A Professional Land Surveyor shall spend the necessary time and effort to make investigation to determine if there are encroachments, gaps, lappages, or other irregularities along each line surveyed. Points may be placed on the line from closed or verified traverses and the necessary investigations made from these points. If these investigations are not made, then

the surveyor shall not certify to an actual survey of that line and the plat must contain the appropriate qualifications in accordance with the rules in this Section.

(b) Any and all visible or determined encroachments or easements on the property being surveyed shall be accurately located and indicated.

(c) With respect to investigation of property boundaries and recorded easements, the surveyor shall examine the most recent deeds and recorded plats adjacent to the subject property as well as all deeds and plats recorded after the date of the deed or plat upon which the survey is being based (the survey reference deed or plat).

(d) Except as provided in Paragraph (e) of the Rule, metal stakes or materials of comparable permanence shall be placed at all corners.

(e) Where a corner falls in a right-of-way, in a tree, in a stream, or on a fence post, boulder, stone, or similar object, one or more monuments or metal stakes shall be placed in the boundary so that the inaccessible point may be located accurately on the ground and the map.

(f) The results of a survey shall be reported to the user of that survey as a map or report of survey and, whether in written or graphic form, shall be prepared in a clear and factual manner. All reference sources shall be identified. Artificial monuments called for in such reports shall be described as found or set. When no monument is found or set for points described in Paragraph (e) of this Rule, that fact shall be noted.

(g) Where the results of a survey are reported in the form of a plat or a written description, one or more corners shall, by a system of azimuths or courses and distances, be accurately tied to and coordinated with a horizontal control monument of some United States or State Agency survey system, such as the North Carolina Geodetic Survey, where such monument is within 2000 feet of the subject property, right-of-way, easement or other surveyed entity. Where the North Carolina grid system coordinates of said monument are on file in the Division of Energy, Mineral, and Land Resources of the Department of Environment and Natural Resources, the coordinates of both the referenced corner or point and the monument(s) shall be shown in X (easting) and Y (northing) coordinates on the plat or in the written description or document. The coordinates shall be identified as based on 'NAD 83', indicating North American Datum of 1983 or as 'NAD 27' indicating North American Datum of 1927. The tie lines to the monuments must be sufficient to establish true north or grid north bearings for the plat or description if the monuments exist in pairs. Control monuments within a previously recorded subdivision may be used in lieu of grid control. In the interest of bearing consistency with previously recorded plats, existing bearing control may be used where practical. In the absence of Grid Control, other natural or artificial monuments or landmarks shall be used. In all cases, the tie lines shall be sufficient to accurately reproduce the subject lands from the control or reference points used.

(h) Area is to be computed by double meridian distance or equally accurate method and shown on the face of the plat, written description or other document. Area computations by estimation, by planimeter, by scale, or by copying from another source are not acceptable methods, except in the case of tracts containing inaccessible areas and in these areas the method of computation shall be stated.

21 NCAC 56 .1603 CLASSIFICATION OF BOUNDARY SURVEYS

General. Boundary surveys are defined as surveys made to establish or to retrace a boundary line on the ground, or to obtain data for constructing a map or plat showing a boundary line. For the purpose of this Rule, the term refers to all surveys, including "loan" or "physical" surveys, which involve the determination or depiction of property lines. For the purpose of specifying minimum allowable surveying standards for boundary surveys, the following four general classifications of lands in North Carolina are established from the standpoint of their real value, tax value, or location. Each map shall contain a statement of the calculated ratio of precision before adjustments or a statement of positional accuracy.

- (1) Local Control Network Surveys (Class AA). Local control network surveys are traverse networks utilizing permanent points for the purpose of establishing local horizontal control networks for future use of local surveyors. For Class AA boundary surveys in North Carolina, the angular error of closure shall not exceed ten seconds times the square root of the number of angles turned. The ratio of precision shall not exceed an error of closure of one foot per 20,000 feet of perimeter of the parcel of land (1:20,000). When using positional accuracy standards for Class AA control and boundary surveys, neither axis of the 95 percent confidence level error ellipse for any control point or property corner shall exceed 0.05 feet or 0.015 meters measured relative to the position(s) of the horizontal control points used and referenced on the survey.
- (2) Urban Land Surveys (Class A). Urban surveys include lands which normally lie within a town or city. For Class A boundary surveys in North Carolina, the angular error of closure shall not exceed 20 seconds times the square root of the number of angles turned. The ratio of precision shall not exceed an error of closure of one foot per 10,000 feet of perimeter of the parcel of land (1:10,000). When using positional accuracy standards for Class A control and boundary surveys, neither axis of the 95 percent confidence level error ellipse for any control point or property corner shall exceed 0.10 feet or 0.030 meters measured relative to the position(s) of the horizontal control points used and referenced on the survey.
- (3) Suburban Land Surveys (Class B). Suburban surveys include lands in or surrounding the urban properties of a town or city. For Class B boundary surveys in North Carolina, the angular error of closure shall not exceed 25 seconds times the square root of the number of angles turned. The ratio of precision shall not exceed an error of closure of one foot per 7,500 feet of perimeter of the parcel of land (1:7,500). When using positional accuracy standards for Class B control and boundary surveys, neither axis of the 95 percent confidence level error ellipse for any control point or property corner shall exceed 0.12 feet or 0.037 meters measured relative to the position(s) of the horizontal control points used and referenced on the survey.
- (4) Rural and Farmland Surveys (Class C). Rural and farmland surveys include lands located in rural areas of North Carolina and generally outside the suburban

properties. For Class C boundary surveys in North Carolina, the angular error of closure shall not exceed 30 seconds times the square root of the number of angles turned. The ratio of precision shall not exceed an error of closure of one foot per 5,000 feet of perimeter of the parcel of land (1:5,000). When using positional accuracy standards for Class C control and boundary surveys, neither axis of the 95 percent confidence level error ellipse for any control point or property corner shall exceed 0.15 feet or 0.046 meters measured relative to the position(s) of the horizontal control points used and referenced on the survey.

21 NCAC 56 .1604 MAPPING REQUIREMENTS FOR BOUNDARY SURVEYS

- (a) The size of a map shall be such that all details are legible on a copy.
- (b) Any lines that are not actually surveyed must be indicated on the map and a statement included revealing the source of information from which the line is derived.
- (c) All surveys based on the North Carolina grid system shall contain a statement identifying the coordinate system referenced datum used.
- (d) All plats (maps), unless marked as "Preliminary Plat - Not for recordation, conveyances, or sales" shall be sealed, signed and dated by the Professional Land Surveyor and shall contain the following:
 - (1) An accurately positioned north arrow coordinated with any bearings shown on the plat. Indication shall be made as to whether the north index is true, magnetic, North Carolina grid ('NAD 83' or 'NAD27'), or is referenced to old deed or plat bearings. If the north index is magnetic or referenced to old deed or plat bearings, the date and the source (if determined) shall be indicated.
 - (2) The azimuth or courses and distances of every property line surveyed shall be shown. Distances shall be in feet or meters and decimals thereof. The number of decimal places shall be appropriate to the class of survey required.
 - (3) All plat lines shall be horizontal or grid measurements. All lines shown on the plat shall be correctly plotted to the scale shown. Enlargements of portions of a plat are acceptable in the interest of clarity, where shown as inserts. Where the North Carolina grid system is used, the combined grid factor shall be shown on the face of the plat. If grid distances are used, it must be shown on the plat.
 - (4) Where a boundary is formed by a curved line, the following data must be given: actual survey data, or as a series of subchords with bearings and distances around the curve. If standard curve data is used, the bearing and distance of the long chord (from point of curvature to point of tangency) must be shown on the face of the plat.
 - (5) Where a subdivision of land is set out on the plat, all streets and lots shall be accurately plotted with dimension lines indicating widths and all other information pertinent to retracing all lines in the field. This shall include bearings and distances sufficient to form a continuous closure of the entire perimeter.

- (6) Where control corners have been established in compliance with G.S. 39-32.1, 39-32.2, 39-32.3, and 39-32.4, as amended, the location and information as required in the referenced statute shall be shown on the plat. All other corners that are marked by monument or natural object shall be so identified on all plats, and where practical all corners of adjacent owners along the boundary lines of the subject tract that are marked by monument or natural object shall be shown.
- (7) The surveyor shall show one of the following where they could be determined:
 - (A) The names of adjacent land owners; or
 - (B) The lot, block, parcel and subdivision designations; or
 - (C) Other legal reference where applicable.
- (8) All visible and apparent rights-of-way, easements, watercourses, utilities, roadways, and other such improvements shall be accurately located where crossing or forming any boundary line of the property shown.
- (9) Tie lines as required and defined in Rule .1602(g) of this Section shall be accurately shown on the face of the plat, whether or not the plat is to be recorded.
- (10) A vicinity map (location map) shall appear on the face of the plat.
- (11) Each map shall contain the property designation, name of owner or prospective owner, location (including township, county, and state), and the date or dates the survey was conducted. In addition each map shall contain a scale of the drawing listed in words or figures; a bargraph; the title source; and a legend depicting nomenclature or symbols not otherwise labeled.
- (12) Each map shall contain a certificate signed by the Professional Land Surveyor in substantially the following form:

"I certify that this map was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book _____, page _____ or other reference source _____); that the boundaries not surveyed are indicated as drawn from information in Book _____, page _____ or other reference source _____; that the ratio of precision or positional accuracy is _____; and that this map meets the requirements of The Standards of Practice for Land Surveying in North Carolina (21 NCAC 56. 1600)."

This _____ day of _____, 2_____.

Seal _____

Professional Land Surveyor

21 NCAC 56 .1605 CLASSIFICATION OF VERTICAL CONTROL SURVEYS

(a) General. Vertical control surveys are defined as measurements taken by surveying methods (differential leveling, trigonometric leveling, and global positioning surveys) to determine elevation with respect to vertical datum, usually National Geodetic Vertical Datum of 1929 (NGVD29) or North American Vertical Datum of 1988 (NAVD88). Global Position Surveys shall only be used to obtain Class C surveys. For the purpose of specifying minimum allowable surveying standards, the following three general classifications of vertical control surveys are established.

- (1) For Class A vertical control surveys in North Carolina, the vertical error in feet shall not exceed 0.10 times the square root of the number of miles run from the reference datum.
- (2) For Class B vertical control surveys in North Carolina, the vertical error in feet shall not exceed 0.20 times the square root of the number of miles run from the reference datum.
- (3) For Class C vertical control surveys in North Carolina, the vertical error in feet shall not exceed 0.30 times the square root of the number of miles run from the reference datum. The vertical error in global position surveys shall not exceed five centimeters relative to the referenced benchmark(s) at the 95 percent confidence level (2 sigma) accuracy as defined in Federal Geographic Data Committee Standards.

(b) A certificate, substantially in the following form, shall be affixed to all maps or reports:

" I, _____, certify that this vertical control survey was completed to the Class ___ standard [(21 NCAC 56.1605(a)] under my direct and responsible charge from an actual survey made under my supervision."

21 NCAC 56 .1606 SPECIFICATIONS FOR TOPOGRAPHIC AND PLANIMETRIC MAPPING, INCLUDING GROUND, AIRBORNE, AND SPACEBORNE SURVEYS

(a) General.

- (1) Topographic surveys are defined as surveys that have as their major purpose the determination of the configuration (relief) of the earth (ground) and the location of natural or artificial objects thereon.
- (2) Planimetric mapping is defined as producing a map that presents the horizontal positions only for the features represented; distinguished from a topographic map by the omission of relief in measurable form.
- (3) Airborne and spaceborne surveys are defined as the use of photogrammetry, LIDAR, IFSAR, or other similar measurement technologies for obtaining reliable information about physical objects and the environment, including terrain surface, through the process of recording, measuring, and interpreting images and patterns of electromagnetic radiant energy and other phenomena. This Rule establishes

minimum allowable photogrammetric production procedures and standards for photogrammetric mapping and digital data production.

(b) Production procedures for topographic and planimetric mapping surveys shall be in accordance with the standards established by Part 3 of the Federal Geographic Data Committee (FGDC) Geospatial Positioning Accuracy Standard and applicable extensions and revisions. These standards are incorporated by reference including subsequent amendments and editions. The material is available from the Board office at the cost of reproduction as a public record or from the FGDC at www.fgdc.gov at no cost. Reporting accuracy shall be in accordance with Part 1 of the FGDC geospatial standards.

(c) Topographic or planimetric maps, orthophotos, and related electronic data, unless marked as "Preliminary Map," shall meet contractually specified FGDC Standards for horizontal and vertical accuracies (in the absence of specified standards, the National Map Accuracy Standards apply) and shall be certified by the licensee.

(d) When the resulting product is a digital (electronic) data set, or a map or document consists of more than one sheet or otherwise cannot be certified, a project report shall be certified. The report shall be marked "Preliminary" if applicable.

(e) Ground control for topographic and planimetric mapping projects shall be in North Carolina State Plane Coordinate System grid coordinates and distances when the project is tied to Grid. A minimum of one permanent project vertical control point shall be shown.

(f) The project map or report shall contain the following information:

- (1) Date of original data acquisition;
- (2) Altitude of sensor and sensor focal length, as applicable;
- (3) Date of document or data set compilation;
- (4) If hard copy product is produced, the maps shall contain a north arrow, map legend, final document scale, including bargraph, and contour interval, as applicable;
- (5) Coordinate system for horizontal and vertical denoting SI or English units (i.e., NAD83, assumed, or other coordinate system);
- (6) A list or note showing the control points used for the project. The minimum data shown for each point shall include: physical attributes e.g. iron rod, railroad spike), latitude and longitude (or X and Y Grid coordinates), and elevation, as applicable;
- (7) If other data is included, the source and accuracy of those items must be indicated;
- (8) A statement of horizontal and vertical accuracy at the 95 percent confidence level (2 sigma) complying with contractually specified FGDC standards consistent with Paragraph (c) of this Rule;

- (9) For topographic maps or data sets, contours in areas obscured by man-made or natural features shall be uniquely identified or enclosed by a polygon identifying the obscured area. The accuracies of the contours or of features in this obscured area shall be noted "No reliance is to be placed on the accuracy of these contours;"
- (10) A vicinity map depicting the project location on the first sheet of all hard copy maps or in the report accompanying digital files; and
- (11) The name of the client for whom the project was conducted.

(g) Nothing in this Section shall be construed to negate or replace the relative accuracy standards found in Rules .1601 through .1608.

(h) A certificate, substantially in the following form, shall be affixed to all maps or reports:

" I, _____, certify that this project was completed under my direct and responsible charge from an actual survey made under my supervision; that this _____ (insert as appropriate: ground, airborne or spaceborne) survey was performed at the 95 percent confidence level (2 sigma) to meet Federal Geographic Data Committee Standards; that the horizontal accuracy is _____, that the vertical accuracy is _____ and that the original data was obtained on _____(date)_____; that the survey was completed on _____(date)_____; that contours shown as [broken lines] may not meet the stated standard; and all coordinates are based on _____(NAD 83 (NSRS 2007), NAD 83/2001, or other); and all elevations are based on _____ (NGV 29, NAVD 88, or other)."

(i) Documents transmitted electronically shall have the computer-generated seal removed from the original file and a copy of the project report shall be certified and sent to the client. The electronic data shall have the following inserted in lieu of the signature and date:

"This document originally issued and sealed by (name of sealer), (license number), on (date of sealing). This electronic media shall not be considered a certified document. See the project report for certificate and seal."

21 NCAC 56 .1607 GLOBAL POSITIONING SYSTEMS SURVEYS

(a) General. Global Positioning Systems (GPS) are defined as the navigation and positioning systems that comprise the Global Navigation Satellite System (GNSS), which includes NAVSTAR, GLONASS, GALILEO, COMPASS, and any other satellite-based navigation and positioning systems.

(b) The Professional Land Surveyor in responsible charge of the GPS survey shall certify all prepared documents. When a map or document consists of more than one sheet, only one sheet must contain the certificate and all others must be certified. The certificate or metadata notes shall contain the following information:

- (1) Class of GPS survey as defined in the Standards of Practice (or list the sections);

- (2) Type of GPS field procedure, such as Static, Kinematic, Pseudo-Kinematic, Real-time Kinematic, Real-time Kinematic networks, and Online Position User Service;
- (3) Positional accuracy;
- (4) Dates of survey;
- (5) What datum and epoch coordinates or geographic positions are based on;
- (6) Designation of fixed-control stations and their positional data;
- (7) Geoid model used;
- (8) Combined grid factor(s); and
- (9) Units.

The certificate shall be substantially in the following form:

"I, _____, certify that this map was drawn under my supervision from an actual GPS survey made under my supervision and the following information was used to perform the survey:

- (1) _____ Class _____ of survey: _____
- (2) _____ Positional accuracy: _____
- (3) _____ Type _____ of _____ GPS _____ field procedure: _____
- (4) _____ Dates _____ of survey: _____
- (5) Datum/Epoch: _____
- (6) _____ Published/Fixed-control use: _____
- (7) _____ Geoid model: _____
- (8) _____ Combined _____ grid factor(s): _____
- (9) Units: _____
—

(c) GPS surveys performed to provide control networks shall be performed in such a manner that a 95 percent confidence level of the positional accuracy of each point relative to the published positions of the control points used and shall meet the accuracy standards of a Class AA survey as set out in Rule .1603.

(d) GPS surveys performed to provide local horizontal or vertical Grid control on a parcel of land where the boundary or topography of that parcel will be shown relative to NC Grid horizontal or vertical datum shall be performed using techniques that will provide the standards of accuracy for the class of survey being performed while determining the horizontal or vertical positions of objects as set out in Rule .1603 or Rule .1606 as applicable.

(e) Fixed station(s) used for the project shall appear on the map, plat, or report. The minimum data shown for each fixed station shall be station name, horizontal position (northing and easting) or latitude, longitude, elevation (ellipsoid or orthometric), and datum and epoch.

21 NCAC 56 .1608 CLASSIFICATION/LAND INFORMATION SYSTEM/GEOGRAPHIC INFORMATION SYSTEM SURVEYS

(a) General: Land Information System/Geographic Information System (LIS/GIS) surveys are defined as the measurement of existing surface and subsurface features for the purpose of determining their accurate geospatial location for inclusion in an LIS/GIS database. All LIS/GIS surveys as they relate to property lines, rights-of-way, easements, subdivisions of land, the position for any survey monument or reference point, the determination of the configuration or contour of the earth's surface or the position of fixed objects thereon, and geodetic surveying which includes surveying for determination of the size and shape of the earth both horizontally and vertically and the precise positioning of points on the earth utilizing angular and linear measurements through spatially oriented spherical geometry, shall be performed by a Land Surveyor who is a licensee of this Board unless exempt by G.S. 89C-25. For the purpose of specifying minimum allowable surveying standards, five general classifications of LIS/GIS surveys are established, any of which may be specified by the client. In the absence of a specified standard, the surveyor shall conform the survey to the requirements for a Class B survey. The five general classifications are:

- (1) Class AA LIS/GIS Surveys. For Class AA LIS/GIS surveys in North Carolina, the relative accuracy shall be equal to or no less than 0.033 meter (0.10 feet);
- (2) Class A LIS/GIS surveys. For Class A LIS/GIS surveys in North Carolina, the relative accuracy shall be equal to or less than 0.5 meter (1.64 feet);
- (3) Class B LIS/GIS surveys. For Class B LIS/GIS surveys in North Carolina, the relative accuracy shall be equal to or less than 1.0 meter (3.28 feet);
- (4) Class C LIS/GIS surveys. For Class C LIS/GIS surveys in North Carolina, the relative accuracy shall be equal to or less than 2 meters (6.56 feet); and
- (5) Class D LIS/GIS surveys. For Class D LIS/GIS surveys in North Carolina, the relative accuracy shall be equal to or less than 5 meters (16.40 feet).

(b) Nothing in this Rule negates or replaces the relative accuracy standards found in Rules .1601 through .1607 of this Chapter.

(c) The Professional Land Surveyor in responsible charge of the LIS/GIS boundary or geodetic control survey shall certify to all of the following in either written or digital form:

- (1) Class of LIS/GIS survey. Method used to evaluate the accuracy shall be described as either statistical testing or least squares adjustment results, comparison with values of higher accuracy, and repeat measurements. The reporting standard in the horizontal component is the radius of a circle of uncertainty, such that the true or theoretical location of the point falls within that circle 95 percent of the time. For vertical accuracy requirements, see 21 NCAC 56 .1605;
- (2) Method of measurement (i.e. global navigation satellite systems, electronic scanners, theodolite and electronic distance meter, transit and tape);
- (3) Date(s) of the survey; and
- (4) Datum used for the survey.

(d) A certificate, substantially in the following form, shall be affixed to all maps or reports:

"I, _____, certify that this project was completed under my direct and responsible charge from an actual survey made under my supervision; that this survey was performed to meet the requirements for an LIS/GIS survey [21 NCAC 56.1608] to the accuracy of Class ____ and vertical accuracy; when applicable to the Class ____ standard [(21 NCAC 56.1605(a)); method used to evaluate the accuracy was _____; method of measurement _____; date(s) of survey _____; datum used for survey _____; and all coordinates are based on _____ (NAD 83 (NSRS 2007), NAD 83/2001, or other); and all elevations are based on _____ (NGV 29, NAVD 88, or other)."

21 NCAC 56.1609 *REPEALED - MINIMUM PHOTOGRAMMETRIC PRODUCTION STANDARDS*

SECTION .1700 – CONTINUING PROFESSIONAL COMPETENCY

21 NCAC 56 .1701 INTRODUCTION

Every licensee shall meet the continuing professional competency requirements of this Section for professional development as a condition for licensure renewal.

21 NCAC 56 .1702 DEFINITIONS

Terms used in this Section are defined as follows:

- (1) Professional Development Hour (PDH) - A contact hour (nominal) of instruction or presentation. The common denominator for other units of credit.
- (2) Continuing Education Unit (CEU) - Unit of credit customarily used for continuing education courses. One continuing education unit equals 10 contact hours of instruction or presentation.
- (3) College/Unit Semester/Quarter Hour - Credit for Accreditation Board for Engineering and Technology approved course or other related college course.
- (4) Course/Activity - Any course or activity with a purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the licensee's field of practice.
- (5) Dual Licensee - A person who is licensed as both an engineer and a land surveyor.
- (6) Sponsor - Organization or individual that has supplied information on a form prescribed and furnished by the Board with respect to the organization or individual's ability to provide instruction in "for credit" courses. Courses offered by those designated as "Sponsor" must contain a purpose and objective, and result in the maintenance, improvement, or expansion of skills and knowledge relevant to a licensee's field of practice.

21 NCAC 56 .1703 REQUIREMENTS

Every licensee shall obtain 15 PDH units during the renewal period. If a licensee exceeds the annual requirement in any renewal period, a maximum of 15 PDH units may be carried forward into the subsequent renewal period. Selection of courses and activities that meet the requirements of Rule .1702(4) of this Section is the responsibility of the licensee. Licensees may select courses other than those offered by sponsors. Post evaluation of the courses may result in non-acceptance by the Board. PDH units may be earned as follows:

- (1) Completion of college courses;
- (2) Completion of continuing education courses, seminars, or workshops;
- (3) Completion of correspondence, televised, Internet, videotaped, audiotaped, and other courses or tutorials, provided an exam is required for completion. No exam is required for attendance at a webinar presentation if attendance is documented;
- (4) Presenting or attending seminars, in-house courses, workshops, or professional or technical presentations made at meetings, conventions or conferences;
- (5) Teaching or instructing in Items (1) through (4) of this Rule;

- (6) Authoring published papers, articles, or books;
- (7) Active participation in professional or technical societies as defined in Rule .1705(f) of this Section;
- (8) Patents;
- (9) Authoring exam questions accepted for use in the engineering or land surveying exams; or
- (10) Active participation on boards, commissions, committees or councils of private, local, state or federal government entities as defined in Rule .1705(g) of this Section.

21 NCAC 56 .1704 UNITS

The conversion of units of credit set forth in Rule .1703 of this Section to PDH units is as follows:

- (1) 1 College or unit semester hour. 45 PDH
- (2) 1 College or unit quarter hour. 30 PDH
- (3) 1 Continuing Education Unit. 10 PDH
- (4) 1 Contact hour of professional development in course work, seminars, or professional or technical presentations made at meetings, conventions or conferences, and for correspondence, televised, Internet, videotaped, audiotaped, and other courses or tutorials. Contact hours equal the actual time of instruction and shall be credited to the nearest one-third of an hour. 1 PDH
- (5) For teaching in Items (1) – (4) of this Rule, PDH credits are doubled. Teaching credit is valid for teaching a course or seminar for the first time only. Teaching credit does not apply to full-time faculty, as defined by the institution where a licensee is teaching.
- (6) Each published paper, article or book. 10 PDH
- (7) Active participation in professional and technical society. (Each society) 2 PDH
- (8) Each patent. 10 PDH
- (9) Each question used. 2 PDH
- (10) Active participation on boards, commissions, committees or councils of private, local, state or federal government entities. (Each entity) 2 PDH

21 NCAC 56 .1705 DETERMINATION OF CREDIT

- (a) The Board of Examiners has final authority with respect to approval of courses, sponsors, credit, PDH value for courses, and other methods of earning credit. Such determination shall meet Rule .1702(4) of this Section.

(b) Credit for college or community college courses shall be based upon course credit established by the college.

(c) Credit for continuing education courses, seminars and workshops shall be based on one PDH unit for each hour of attendance. Attendance at programs presented at professional and technical society meetings shall earn PDH units for the actual time of each program.

(d) Credit for correspondence, televised, Internet, videotaped, audiotaped, and other courses or tutorials, provided an exam is required for completion, shall be based upon one PDH unit for each hour assigned to the course, provided such hours are a reasonably estimated time for an average professional to complete the course.

(e) Credit determination for published papers, articles and books and obtaining patents is the responsibility of the licensee.

(f) Credit for active participation in professional and technical societies (limited to 2 PDH per society), requires that a licensee serve as an officer or participate in a committee of the society. PDH credits are not earned until the end of each year of service is completed.

(g) Credit for active participation on boards, commissions, committees or councils of private, local, state or federal government entities (limited to 2 PDH per entity) requires utilizing engineering or land surveying knowledge (as applicable) in the active participation. PDH credits are not earned until the end of each year of service is completed.

21 NCAC 56 .1706 RECORDKEEPING

The licensee shall maintain the following records to be used to support credits claimed:

- (1) a log showing the type of activity claimed, title or specific subject, sponsoring organization, location, duration, date, instructor's or speaker's name, and PDH credits earned, and other information on a form as prescribed by the Board; and
- (2) attendance verification records in the form of completion certificates, or other documents supporting evidence of attendance.

These records must be maintained for a period of three years and copies may be requested by the board for audit verification purposes. The Board shall approve other records that contain the information required by this Rule.

21 NCAC 56 .1707 EXEMPTIONS

A licensee is exempt from the professional development educational requirements for the following reasons:

- (1) New licensees by way of examination or comity are exempt for their first renewal period.
- (2) If currently licensed by and in good standing (license is not suspended or revoked) with the Board a licensee who is serving in the armed forces of the United States and who is eligible for an extension of time to file a tax return

pursuant to G.S. 105-249.2 is granted a waiver of the mandatory continuing education requirements for the time period disregarded pursuant to the Internal Revenue Code 26 U.S.C. 7508.

The licensee shall request the waiver as follows:

- (a) The licensee shall notify the Board of eligibility before the current license expires. Upon such notification, the Board shall maintain the license in active status through the extension period.
 - (b) If the licensee fails to notify the Board of eligibility for the extension period before the current license expires, upon receipt and acceptance of a renewal application within the extension period and presentation of proof that the licensee was eligible on the date that is the deadline for renewal, the expired license or registration shall be deemed retroactively to have not expired.
 - (c) The licensee who submits a renewal application within the extension period shall not be deemed to hold a lapsed license subject to reinstatement fees.
 - (d) The licensee may renew the license within the extension period despite failing to complete the specified continuing education requirements.
 - (e) A licensee shall provide proof of eligibility for the extension period when the licensee or registrant submits the renewal application.
- (3) The Board shall exempt a licensee if the Board determines that the licensee is experiencing physical disability, illness, or other extenuating circumstances that prevent the licensee from obtaining professional development hours. Supporting documentation must be furnished to the Board.
 - (4) Licensees who list their occupation as "Inactive" on the Board approved renewal form and who are no longer providing professional engineering or land surveying services are exempt from the professional development hours required. In the event such a person elects to return to active practice of professional engineering or land surveying, professional development hours must be earned in accordance with the requirements of Rule .1708 in this Section before returning to active practice for each year exempted not to exceed the annual requirement for two years.

21 NCAC 56 .1708 REINSTATEMENT

A licensee may bring an inactive license to active status by obtaining all delinquent PDH units. However, if the total number required to become current exceeds 30, then 30 shall be the maximum number required. Reinstatement of a license that was not renewed within 12 months after expiration (archived license), in addition to a new application, requires obtaining all delinquent PDH units as required to reinstate an inactive license.

21 NCAC 56 .1709 COMITY/OUT-OF-JURISDICTION RESIDENT

Licensees who are residents of jurisdictions other than North Carolina shall meet the CPC requirements of their resident jurisdiction. If the licensee resides in a jurisdiction that has no continuing professional competency (CPC) requirement, or the licensee is exempt from the CPC requirement in the licensee's resident jurisdiction, the licensee must meet the requirements of North Carolina.

21 NCAC 56 .1710 DUAL LICENSEES

The number of PDH units required shall remain the same for persons who hold a second license as engineer or land surveyor. Holders of a second license must obtain a minimum of one-third of the total PDH requirements in each field. The remaining one-third requirement may be obtained in either field at the sole discretion of the licensee.

21 NCAC 56 .1711 FORMS

Renewal applications may require the completion of a continuing education form specified by the board outlining PDH credit claimed. The licensee must supply sufficient detail on the form to permit audit verification, must certify and sign the continuing education form, and submit the form with the renewal application and fee.

21 NCAC 56 .1712 COMPLIANCE

(a) Compliance with annual Continuing Professional Competency (CPC) requirements shall be determined through an audit process conducted by the Board. Determination of individuals to be audited shall be accomplished through a random selection process or as the result of information available to the Board. Individuals selected for auditing shall provide the Board with the following documentation of the CPC activities claimed for the renewal period:

- (1) Attendance verification records in the form of transcripts, completion certificates, other documents supporting evidence of attendance, and a log as defined in Rule .1706 of the Section; and
- (2) Information regarding course content, instructors and sponsoring organization, for activities presented by other than approved sponsors as defined in Rule .1713 of this Section.

(b) Attendance records shall be maintained by individual licensees for a period of three years for audit verification purposes.

21 NCAC 56 .1713 SPONSORS

(a) The Board shall approve sponsors of Continuing Professional Competency (CPC) activities. The Board shall maintain a list of sponsors which have agreed to conduct programs in accordance with the standards of CPC activities set forth in 21 NCAC 56. 1700. Such sponsors shall indicate their agreement with the requirements by executing a Sponsor Agreement on a form provided by the Board. These sponsors shall be designated as "Approved Sponsors" based

upon approval by the Board of the sponsor application and payment of a one hundred fifty dollar (\$150.00) application fee.

(b) By entering into an agreement with the Board to be designated as an "Approved Sponsor," the sponsor shall agree to:

- (1) Allow persons designated by this Board to attend any or all courses, without fee or charge, for the purpose of determining that said course meets the standards of the Board;
- (2) Allow persons designated by this Board to review course material for the purpose of determining that the course meets the standards of the Board;
- (3) State in every brochure, publication or announcement concerning the course, the general content of the course and the specific knowledge or skill to be taught or addressed, as well as the credit to be earned in Professional Development Hours (PDH);
- (4) Ensure that the instructors or presenters of the course or program are qualified to teach the subject matter;
- (5) Provide persons completing the course with written documentation attesting to that person's attendance to the course, as well as the name of the course, the date and location held, the instructor's name and the number of PDHs earned;
- (6) Provide attendees an evaluation form as provided by the Board that is to be collected and retained for audit by the Board;
- (7) Have a visible, continuous and identifiable contact person who is charged with the administration of the sponsor's CPC program and who has the responsibility for assuring and demonstrating to the Board compliance with this Rule, as well as for any other organization working with the sponsor for the development, distribution or presentation of CPC courses or activities; and
- (8) Retain for a period of three years a copy of the documentation required by this Paragraph.

(c) Sponsors shall renew annually on a form provided by the Board.

(d) Failure of an approved sponsor to comply with the terms of the CPC sponsor agreement is grounds for the Board to revoke, suspend or terminate the agreement, to remove the sponsor's name from the list of approved sponsors and to notify the public of such action. A sponsor that is given notice of revocation, suspension or termination may request an administrative hearing to be conducted as provided in 21 NCAC 56 .1400 Contested Cases.

(e) Approval of a sponsor is equivalent to the language of licensing a sponsor in G.S. 89C-10(h).

GENERAL STATUTES OF NORTH CAROLINA CH. 89C. ENGINEERING AND LAND SURVEYING

§ 89C-1. Short title.

This Chapter shall be known and may be cited as "The North Carolina Engineering and Land Surveying Act."

§ 89C-2. Declarations; prohibitions.

In order to safeguard life, health, and property, and to promote the public welfare, the practice of engineering and the practice of land surveying in this State are hereby declared to be subject to regulation in the public interest. It shall be unlawful for any person to practice or to offer to practice engineering or land surveying in this State, as defined in the provisions of this Chapter, or to use in connection with the person's name or otherwise assume or advertise any title or description tending to convey the impression that the person is either a professional engineer or a professional land surveyor, unless the person has been duly licensed. The right to engage in the practice of engineering or land surveying is a personal right, based on the qualifications of the person as evidenced by the person's certificate of licensure, which shall not be transferable.

§ 89C-3. Definitions.

The following definitions apply in this Chapter:

- (1) Board. - The North Carolina State Board of Examiners for Engineers and Surveyors provided for by this Chapter.
- (1a) Business firm. - A partnership, firm, association, or another organization or group that is not a corporation and is acting as a unit.
- (2) Engineer. - A person who, by reason of special knowledge and use of the mathematical, physical and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience, is qualified to practice engineering.
- (3) Engineer intern. - A person who complies with the requirements for education, experience and character, and has passed an examination on the fundamentals of engineering as provided in this Chapter.

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

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

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

(6) Practice of engineering. -

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

A person shall be construed to practice or offer to practice engineering, within the meaning and intent of this Chapter, who practices any branch of the profession of engineering; or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents the person to be a professional engineer, or through the use of some other title implies that the person is a professional engineer or that the person is licensed under this Chapter; or who holds the person out as able to perform, or who does perform any engineering service or work not exempted by this Chapter, or any other service designated by the practitioner which is recognized as engineering.

b. The term "practice of engineering" shall not be construed to permit the location, description, establishment or reestablishment of property lines or descriptions of land boundaries for conveyance. The term does not include the assessment of an underground storage tank required by applicable rules at closure

or change in service unless there has been a discharge or release of the product from the tank.

(7) Practice of land surveying. -

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

1. Locating, relocating, establishing, laying out, or retracing any property line, easement, or boundary of any tract of land;
2. Locating, relocating, establishing, or laying out the alignment or elevation of any of the fixed works embraced within the practice of professional engineering;
3. Making any survey for the subdivision of any tract of land, including the topography, alignment and grades of streets and incidental drainage within the subdivision, and the preparation and perpetuation of maps, record plats, field note records, and property descriptions that represent these surveys;
4. Determining, by the use of the principles of land surveying, the position for any survey monument or reference point, or setting, resetting, or replacing any survey monument or reference point;
5. Determining the configuration or contour of the earth's surface or the position of fixed objects on the earth's surface by measuring lines and angles and applying the principles of mathematics or photogrammetry;
6. Providing geodetic surveying which includes surveying for determination of the size and shape of the earth both horizontally and vertically and the precise positioning of points on the earth utilizing angular and linear measurements through spatially oriented spherical geometry; and

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

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

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

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

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

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

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

§ 89C-4. State Board of Examiners for Engineers and Surveyors; appointment; terms.

A State Board of Examiners for Engineers and Surveyors, whose duty it is to administer the provisions of this Chapter, is created. The Board shall consist of four licensed professional engineers, three licensed professional land surveyors and two public members, who are neither professional engineers nor professional land surveyors. Of the land surveyor members, one and only one may hold dual licenses as a professional land surveyor and professional engineer. All of the members shall be appointed by the Governor. Appointments of the engineer and land surveyor members shall preferably, but not necessarily, be made from a list of nominees

submitted by the professional societies for engineers and land surveyors in this State. Each member of the Board shall receive a certificate of appointment from the Governor and shall file with the Secretary of State a written oath or affirmation for the faithful discharge of the duties.

Members of the Board serve for staggered five-year terms, and no member may be appointed for more than two full terms. Members serve until the expiration of their respective terms and until their respective successors are appointed. If a vacancy occurs during a term, the Governor shall appoint a successor from the same classification as the person causing the vacancy to serve for the remainder of the unexpired term. If the vacancy is not filled within 90 days after it occurs, the Board may appoint a provisional member to serve until the appointment by the Governor becomes effective. The provisional member during his tenure has all the powers and duties of a regular member.

§ 89C-5. Board members; qualifications.

Each engineer member of the Board shall be a resident of North Carolina and shall be a licensed professional engineer engaged in the lawful practice of engineering in North Carolina for at least six years.

Each land surveyor member of the Board shall be a resident of North Carolina and shall be a licensed professional land surveyor engaged in the lawful practice of land surveying in North Carolina for at least six years.

Each public member of the Board shall be a resident of North Carolina.

§ 89C-6. Compensation and expenses of Board members.

Each member of the Board, when attending to the work of the Board or any of its committees, shall receive as compensation for services the per diem and, in addition, shall be reimbursed for travel expenses and incidentals not exceeding the maximum set forth by law. In addition to per diem allowances, travel and incidentals, the secretary of the Board may, with the approval of the Board, receive such reasonable additional compensation as is compatible with the actual hours of work required by the duties of the office.

§ 89C-7. Vacancies; removal of member.

The Governor may remove any member of the Board for misconduct, incompetency, neglect of duty, or any sufficient cause, in the manner prescribed by law for removal of State officials. Vacancies in the membership of the Board shall be filled for the unexpired term by appointment by the Governor as provided in G.S. 89C-4.

§ 89C-8. Organization of the Board; meetings; election of officers.

The Board shall hold at least two regular meetings each year. Special meetings may be held at such times and upon such notice as the rules and regulations of the Board may provide. The Board shall elect annually from its members a chair, a vice-chair, and a secretary. A quorum of the Board shall consist of not less than five members. The Board shall operate under its rules and regulations supplemented by Robert's Rules of Order.

§ 89C-9. Executive director; duties and liabilities.

The Board shall employ an executive director who is not a member of the Board. The executive director shall be a full-time employee of the Board and perform the duties assigned to the director by the secretary subject to the approval of the Board. The executive director shall receive a salary and compensation fixed by the Board. The executive director shall give a surety bond satisfactory to the Board conditioned upon the faithful performance of the director's duties assigned. The premium on the bond shall be a necessary and proper expense of the Board.

§ 89C-10. Board powers.

- (a) The Board may adopt and amend all rules and rules of procedure as may be reasonably necessary for the proper performance of its duties, the regulation of its procedures, meetings, records, the administration of examinations, and the authority to enforce the rules of professional conduct as may be adopted by the Board pursuant to G.S. 89C-20. The action by the Board in carrying out any of the powers specified in this section shall be binding upon all persons licensed under this Chapter, including corporations and business firms holding certificates of authorization.
- (b) The Board shall adopt and have an official seal, which shall be affixed to each certificate issued.
- (c) The Board may in the name of the State apply for relief, by injunction, in the established manner provided in cases of civil procedure, without bond, to enforce the provisions of this Chapter, or to restrain any violation of the provisions of this Chapter. In proceedings for injunctive relief, it shall not be necessary to allege or prove either that an adequate remedy at law does not exist, or that substantial or irreparable damage would result from the continued violation of the provisions of this Chapter. The members of the Board shall not be personally liable under this proceeding.
- (d) The Board may subject an applicant for licensure to any examination necessary to determine the applicant's qualifications.

- (e) The Board may issue an appropriate certificate of licensure to any applicant who, in the opinion of the Board, has met the requirements of this Chapter.
- (f) It shall be the responsibility and duty of the Board to conduct a regular program of investigation concerning all matters within its jurisdiction under the provisions of this Chapter. The investigation of a licensee is confidential until the Board issues a citation to the licensee. The Board may expend its funds for salaries, fees, and per diem expenses, in connection with its investigations, provided that no funds other than per diem expenses shall be paid to any member of the Board in connection with its investigations, nor may any member of the Board give testimony and later sit in deciding on any matter which may directly involve punitive action for the testimony.
- (g) The Board may use its funds to establish and conduct instructional programs for persons who are currently licensed to practice engineering or land surveying, as well as refresher courses for persons interested in obtaining adequate instruction or programs of study to qualify them for licensure to practice engineering or land surveying. The Board may expend its funds for these purposes and may not only conduct, sponsor, and arrange for instructional programs, but also may carry out instructional programs through extension courses or other media. The Board may enter into plans or agreements with community colleges, public or private institutions of higher learning, State and county boards of education, or with the governing authority of any industrial education center for the purpose of planning, scheduling or arranging courses, instruction, extension courses, or in assisting in obtaining courses of study or programs in the field of engineering and land surveying. The Board shall encourage the educational institutions in this State to offer courses necessary to complete the educational requirements of this Chapter. For the purpose of carrying out these objectives, the Board may adopt rules as may be necessary for the educational programs, instruction, extension services, or for entering into plans or contracts with persons or educational and industrial institutions.
- (h) The Board may license sponsors of continuing professional competency activities who agree to conduct programs in accordance with standards adopted by the Board. Sponsors shall pay a license fee established by the Board, not to exceed two hundred fifty dollars (\$250.00) for licensure under this subsection. The license fee shall accompany the application. Sponsors shall renew their licenses annually on a form provided by the Board.
- (i) The Board shall have the power to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board.

§ 89C-11. Secretary; duties and liabilities; expenditures.

The secretary of the Board shall receive and account for all moneys derived from the operation of the Board as provided in this Chapter, and shall deposit them in one or more special funds in banks or other financial institutions carrying deposit insurance and authorized to do business in North Carolina. The fund or funds shall be designated as "Fund of the Board of Examiners for Engineers and Surveyors" and shall be drawn against only for the purpose of implementing provisions of this Chapter as herein provided. All expenses certified by the Board as properly and necessarily incurred in the discharge of its duties, including authorized compensation, shall be paid out of this fund on the warrant signed by the secretary of the Board. At no time shall the total of warrants issued exceed the total amount of funds accumulated under this Chapter. The secretary of the Board shall give a surety bond satisfactory to the State Board of Examiners for Engineers and Surveyors, conditioned upon the faithful performance of the duties assigned. The premium on the bond is a proper and necessary expense of the Board. The secretary of the Board may delegate to the executive director certain routine duties, such as receipt and disbursement of funds in stated amounts by a written authorization, which has the majority approval of the Board.

§ 89C-12. Records and reports of Board; evidence.

The Board shall keep a record of its proceedings and a register of all applicants for licensure, showing for each the date of application, name, age, education, and other qualifications, place of business and place of residence, whether the applicant was rejected or a certificate of licensure granted, and the date licensure was rejected or granted. The books and register of the Board shall be prima facie evidence of all matters recorded by the Board, and a copy duly certified by the secretary of the Board under seal shall be admissible in evidence as if the original were produced. A roster showing the names and places of business and of residence of all licensed professional engineers and all licensed professional land surveyors shall be prepared by the secretary of the Board current to the month of January of each year. On or before the first day of May of each year, the Board shall submit to the Governor a report on its transactions for the preceding year, and shall file with the Secretary of State a copy of the report, together with a complete statement of the receipts and expenditures of the Board attested by the chair and the secretary and a copy of the roster of licensed professional engineers and professional land surveyors.

§ 89C-13. General requirements for licensure.

(a) Engineer Applicant. - The following shall be considered as minimum evidence satisfactory to the Board that the applicant is qualified for licensure as a professional engineer:

- (1) To be certified as an engineer intern, an applicant shall (i) pass the fundamentals of engineering examination and make application to the Board, (ii) be of good character and reputation, (iii) submit three character references to the Board, one of whom is a

professional engineer, (iv) comply with the requirements of this Chapter, and (v) meet one of the following requirements:

- a. Education. - Be a graduate of an engineering curriculum or related science curriculum of four years or more, approved by the Board as being of satisfactory standing.
- b. Education and experience. - Be a graduate of an engineering curriculum or related science curriculum of four years or more, other than curriculums approved by the Board as being of satisfactory standing, or possess equivalent education and engineering experience satisfactory to the Board with a specific record of four or more years of progressive experience on engineering projects of a grade and character satisfactory to the Board.

(1a) To be licensed as a professional engineer, an applicant shall (i) be of good character and reputation, (ii) submit five character references to the Board, three of whom are professional engineers or individuals acceptable to the Board with personal knowledge of the applicant's engineering experience, (iii) comply with the requirements of this Chapter, and (iv) meet one of the following requirements:

- a. Licensure by Comity or Endorsement. - A person holding a certificate of licensure to engage in the practice of engineering, on the basis of comparable qualifications, issued to the person by a proper authority of a state, territory, or possession of the United States, the District of Columbia, or of any foreign country possessing credentials that, based on verifiable evidence, in the opinion of the Board, of a standard not lower than that in effect in this State at the time the certificate was issued, may upon application, be licensed without further examination, except as required to examine the applicant's knowledge of laws, rules, and requirements unique to North Carolina.
- b. E.I. Certificate, Experience, and Examination. - A holder of a certificate of engineer intern and with a specific record of an additional four years or more of progressive experience on engineering projects of a grade and character which indicates to the Board that the applicant may be competent to practice engineering, shall be admitted to the principles and practice of engineering examination. Upon passing the examination, the applicant shall be granted a certificate of licensure to practice professional engineering in this State, provided the applicant is otherwise qualified.
- c. Graduation, Experience, and Examination. - A graduate of an engineering curriculum of four years or more approved by the Board as being of satisfactory standing, shall be admitted to the fundamentals of engineering examination, and

with a specific record of an additional four years or more of progressive experience on engineering projects of a grade and character that indicates to the Board that the applicant may be competent to practice engineering, the principles and practice of engineering examination. Upon passing the examinations, the applicant shall be granted a certificate of licensure to practice professional engineering in this State, provided the applicant is otherwise qualified.

d. Graduation, Experience, and Examination. - A graduate of an engineering or related science curriculum of four years or more, other than the ones approved by the Board as being of satisfactory standing or with an equivalent education and engineering experience satisfactory to the Board shall be admitted to the fundamentals of engineering examination and with a specific record of an additional eight years or more of progressive experience on engineering projects of a grade and character that indicates to the Board that the applicant may be competent to practice engineering, the principles and practice of engineering examination. Upon passing the examinations, the applicant shall be granted a certificate of licensure to practice professional engineering in this State, provided the applicant is otherwise qualified.

e. Long-Established Practice. - A person with a specific record of 20 years or more of progressive experience on engineering projects of a grade and character which indicates to the Board that the applicant may be competent to practice engineering shall be admitted to the principles and practice of engineering examination. Upon passing the examination, the applicant shall be granted a certificate of licensure to practice professional engineering in this State, provided the applicant is otherwise qualified.

f. Full-time faculty. - Full-time engineering faculty members who teach in an approved engineering program offering a four-year or more degree approved by the Board, may request and be granted waiver of the fundamentals of engineering examination. The faculty applicant shall document that the degree meets the Board's requirement. The faculty applicant shall then be admitted to the principles and practice of engineering examination.

g. Doctoral degree. - A person possessing an earned doctoral degree in engineering from an institution in which the same discipline undergraduate engineering program has been accredited by ABET (EAC) may request and be granted waiver of the fundamentals of engineering examination. The doctoral degree applicant shall document that the degree meets the Board's requirement. The doctoral degree applicant shall then be admitted to the principles and practice of engineering examination.

At its discretion the Board may require an applicant to submit exhibits, drawings, designs, or other tangible evidence of engineering work which the applicant personally accomplished or supervised.

(2) Repealed by Session Laws 2013-98, s. 2, effective June 12, 2013.

(b) Land Surveyor Applicant. - The evaluation of a land surveyor applicant's qualifications shall involve a consideration of the applicant's education, technical, and land surveying experience, exhibits of land surveying projects with which the applicant has been associated, and recommendations by references. The land surveyor applicant's qualifications may be reviewed at an interview if the Board determines it necessary. Educational credit for institute courses, correspondence courses, or other courses shall be determined by the Board. The following shall be considered as minimum evidence satisfactory to the Board that the applicant is qualified for licensure as a professional land surveyor:

(1) To be certified as a land surveyor intern, an applicant shall (i) pass the fundamentals of land surveying examination and make application to the Board, (ii) be of good character and reputation, (iii) submit three character references to the Board, one of whom is a professional land surveyor, (iv) comply with the requirements of this Chapter, and (v) satisfy one of the following requirements related to education and experience:

a. Be a graduate of a surveying curriculum of four years or more or other equivalent curriculum in surveying approved by the Board.

b. Have rightful possession of an associate degree in surveying technology approved by the Board, a record satisfactory to the Board of four years of progressive practical experience, two years of which shall have been under a practicing professional land surveyor, and have satisfactorily passed a written and oral examination as required by the Board.

c. Have graduated from high school or completed a high school equivalency certificate with a record satisfactory to the Board of 10 years of progressive, practical experience, six years of which shall have been under a practicing licensed land surveyor, and have satisfactorily passed any oral and written examinations required by the Board.

(1a) To be licensed as a professional land surveyor, an applicant shall (i) be of good character and reputation, (ii) submit five character references to the Board, three of whom are professional land surveyors or individuals acceptable to the Board, with personal knowledge of the applicant's land surveying experience, (iii)

comply with the requirements of this Chapter, and (iv) meet one of the following requirements:

- a. Rightful possession of a bachelor of science degree in surveying or other equivalent curricula, all approved by the Board and a record satisfactory to the Board of two years or more of progressive practical experience, one year of which shall have been under a practicing professional land surveyor if the applicant has successfully passed the first examination (Fundamentals of Surveying) on or before January 1, 2013, or if the applicant has not successfully passed the first examination on or before January 1, 2013, two years of which shall have been under a practicing professional land surveyor, and satisfactorily passing any oral and written examination required by the Board, all of which shall determine and indicate that the applicant is competent to practice land surveying. Upon passing the first examination and successful completion of the experience required by this subdivision, the applicant may apply to take the second examination (Principles and Practice of Land Surveying). An applicant who passes both examinations and completes the educational and experience requirements of this subdivision shall be granted licensure as a professional land surveyor.
- b. Rightful possession of an associate degree in surveying technology approved by the Board and a record satisfactory to the Board of four years of progressive practical experience, three years of which shall have been under a practicing licensed land surveyor if the applicant has successfully passed the first examination (Fundamentals of Surveying) on or before January 1, 2013, or if the applicant has not successfully passed the first examination on or before January 1, 2013, eight years of progressive practical experience, four years of which shall have been under a practicing professional land surveyor, and satisfactorily passing any written and oral examination required by the Board, all of which shall determine and indicate that the applicant is competent to practice land surveying. If the applicant has not successfully completed the first examination on or before January 1, 2013, the applicant may apply to the Board to take the first examination after obtaining the associate degree and completing four years of practical experience, two years of which shall have been under a practicing professional land surveyor at the first regularly scheduled examination thereafter. Upon passing the first examination and successfully completing the practical experience required under this subdivision, the applicant may apply to the Board to take the second examination (Principles and Practice of Land Surveying). An

applicant who passes both examinations and successfully completes the educational and experience requirements of this subdivision shall be granted licensure as a professional land surveyor.

c. Repealed by Session Laws 1998-118, s. 11.

d. Graduation from a high school or the completion of a high school equivalency certificate and a record satisfactory to the Board of seven years of progressive practical experience, six years of which shall have been under a practicing licensed land surveyor if the applicant has successfully passed the first examination (Fundamentals of Surveying) on or before January 1, 2013, or if the applicant has not successfully passed the first examination on or before January 1, 2013, 16 years of progressive practical experience, nine years of which shall have been under a practicing professional land surveyor, and satisfactorily passing any oral and written examinations required by the Board, all of which shall determine and indicate that the candidate is competent to practice land surveying. If the applicant has not successfully passed the first examination on or before January 1, 2013, the applicant may be qualified by the Board to take the first examination upon graduation from high school or the completion of a high school equivalency certificate and successfully completing 10 years of progressive practice experience, six of which shall have been under a practicing licensed land surveyor.

e. Repealed by Session Laws 1985 (Regular Session, 1986), c. 977, s.

7.

f. Licensure by Comity or Endorsement. - A person holding a certificate of licensure to engage in the practice of land surveying issued on comparable qualifications from a state, territory, or possession of the United States or the District of Columbia, possessing credentials that, based on verifiable evidence, in the opinion of the Board, of a standard not lower than that in effect in this State at the time the certificate was issued, may upon application, be licensed without further examination, except to take any examinations as the Board requires to determine the applicant's qualifications, but in any event, the applicant shall be required to pass an examination which shall include questions on laws, procedures, and practices pertaining to the practice of land surveying in North Carolina.

g. A licensed professional engineer who can satisfactorily demonstrate to the Board that the professional engineer's formal academic

training in acquiring a degree and field experience in engineering includes land surveying, to the extent necessary to reasonably qualify the applicant in the practice of land surveying, may apply for and may be granted permission to take the principles and practice of land surveying examination and the fundamentals of land surveying examination. Upon satisfactorily passing the examinations, the applicant shall be granted a license to practice land surveying in the State of North Carolina.

h. Professional Engineers in Land Surveying. - Any person presently licensed to practice professional engineering under this Chapter shall upon application be licensed to practice land surveying, providing a written application is filed with the Board within one year next after June 19, 1975.

i. Photogrammetrists. - Any person presently practicing photogrammetry with at least seven years of experience in the profession, two or more of which shall have been in responsible charge of photogrammetric mapping projects meeting National Map Accuracy Standards shall, upon application, be licensed to practice land surveying, provided:

1. The applicant submit certified proof of graduation from high school, high school equivalency, or higher degree;
2. The applicant submit proof of employment in responsible charge as a photogrammetrist practicing within the State of North Carolina to include itemized reports detailing methods, procedures, amount of applicant's personal involvement and the name, address, and telephone numbers of the client for five projects completed by the applicant with the State. A final map for one of the five projects shall also be submitted;
3. Five references to the applicant's character and quality of work, three of which shall be from professional land surveyors, are submitted to the Board; and
4. The application is submitted to the Board by July 1, 1999.

After July 1, 1999, no photogrammetrist shall be licensed without meeting the same requirements as to education, length of experience, and testing required of all land surveying applicants.

j. Any person performing activities described in G.S. 89C-3(7)a.2. and 7. with at least seven years of experience in performing mapping science surveys, two or more of which have been in responsible charge of mapping science projects that meet the requirements of 21 NCAC 56.1608, shall, upon application, be licensed to practice surveying in their area of competence (mapping science) provided all of the following requirements are met:

1. The applicant submits certified proof of graduation from high school, high school equivalency, or higher degree.
2. The applicant submits proof of employment in responsible charge of mapping science projects within the State of North Carolina, including itemized reports detailing methods, procedures, amount of applicant's personal involvement, and the name, address, and telephone numbers of the client for five projects completed by the applicant within the State. The applicant shall also submit a final map, report, or digital product for one of the five projects.
3. Five references as to the applicant's character and quality of work, three of which shall be from professional land surveyors, are submitted to the Board.
4. The application is submitted to the Board by July 1, 2014. After July 1, 2014, no individual performing surveys described in 21 NCAC 56.1608 shall be licensed without meeting the same requirements as to education, length of experience, and testing required of all land surveying applications.

(2) Repealed by Session Laws 2013-98, s. 2 effective June 12, 2013.

The Board shall require an applicant to submit exhibits, drawings, plats, or other tangible evidence of land surveying work executed by the applicant under proper supervision and which the applicant has personally accomplished or supervised.

Land surveying encompasses a number of disciplines including geodetic surveying, hydrographic surveying, cadastral surveying, engineering surveying, route surveying, photogrammetric (aerial) surveying, and topographic surveying. A professional land surveyor shall practice only within the surveyor's area of expertise.

The Board shall require an applicant to submit exhibits, drawings, plats, or other tangible evidence of land surveying work executed by the applicant under proper supervision and which the applicant has personally accomplished or supervised.

§ 89C-14. Application for licensure; license fees.

(a) Application for licensure as a professional engineer or professional land surveyor shall be on a form prescribed and furnished by the Board. It shall contain statements made under oath, showing the applicant's education and a detailed summary of the applicant's technical and engineering or land surveying experience, and shall include the names and complete mailing addresses of the references, none of whom may be immediate members of the applicant's family or members of the Board. The Board may accept the certified information on the copy of a current formal certificate of qualifications issued by the National Council of Examiners for Engineering and Surveying in lieu of the same information that is required for the form prescribed and furnished by the Board.

(b) An applicant for licensure who is required to take the written examination shall pay to the Board an application fee not to exceed one hundred dollars (\$100.00). The Board may charge any fee necessary to defray the cost of any required examinations. The fee shall accompany the application. The fee for comity licensure of engineers and land surveyors who hold unexpired certificates in another state or a territory of the United States or in Canada shall be the total current fee as fixed by the Board.

(c) The certification fee for a corporation is the amount set by the Board but shall not exceed one hundred dollars (\$100.00). The fee shall accompany the application. The certification fee for a business firm is the same as the fee for a corporation. The fee for renewal of a certificate of licensure of a corporation is the amount set by the Board but shall not exceed seventy-five dollars (\$75.00). The fee for renewal of a certificate of licensure for a business firm is the same as the renewal fee for a corporation.

(d) Should the Board deny the issuance of a certificate of licensure to any applicant, the unobligated portion of fees paid shall be returned by the Board to the applicant.

(e) A candidate failing an examination may apply, and be considered by the Board, for reexamination at the end of six months. The Board shall make such reexamination charge as is necessary to defray the cost of the examination. A candidate with a combination of three failures or unexcused absences on an examination shall only be eligible after submitting a new application with appropriate application fee and documented evidence of actions taken by the candidate to enhance the candidate's prospects for passing the exam. A candidate with a combination of three failures or unexcused absences may only be considered by the Board for reexamination at the end of 12 months following the third failure or unexcused absence. After

the end of the 12-month period, the applicant may take the examination no more than once every calendar year.

§ 89C-15. Examinations.

(a) The examinations will be held at the times and places as the Board directs. The Board shall determine the passing grade on examinations. All examinations shall be approved by the entire Board.

(b) Examinations will be given as follows:

(1) **Fundamentals of Engineering.** - Consists of an examination on the fundamentals of engineering. Passing this examination qualifies the applicant for an engineer intern certificate, provided the applicant has met all other requirements for licensure required by this Chapter.

(2) **Principles and Practice of Engineering.** - Consists of an examination on applied engineering. Passing this examination qualifies the applicant for licensure as a professional engineer, provided the applicant has met the other requirements for licensure required by this Chapter.

(3) **Fundamentals of Land Surveying.** - Consists of an examination on the fundamentals of land surveying. Passing this examination qualifies the applicant for a land surveyor intern certificate provided the applicant has met all other requirements for certification required by this Chapter.

(4) **Principles and Practice of Land Surveying.** - Consists of an examination on the applied disciplines of land surveying and an examination on requirements specific to the practice of land surveying in North Carolina. Passing each of these examinations qualifies the applicant for a professional land surveyor certificate provided the applicant has met all other requirements for certification required by this Chapter.

§ 89C-16. Certificates of licensure; effect; seals.

(a) The Board shall issue to any applicant, who, in the opinion of the Board, has met the requirements of this Chapter, a certificate of licensure giving the licensee proper authority to practice the profession in this State. The certificate of licensure for a professional engineer shall carry the designation "professional engineer," and for a land surveyor, "professional land surveyor," shall give the full name of the licensee with the Board designated licensure number and shall be signed by the chair and the secretary under the seal of the Board.

(b) This certificate shall be prima facie evidence that the person named on the certificate is entitled to all rights, privileges and responsibilities of a professional engineer or a professional land surveyor, while the certificate of licensure remains unrevoked or unexpired.

(c) Each licensee shall upon licensure obtain a seal of a design authorized by the Board bearing the licensee's name, license number, and the legend, "professional engineer," or "professional land surveyor." Final drawings, specifications, plans and reports prepared by a licensee shall, when issued, be certified and stamped with the seal or facsimile of the seal unless the licensee is exempt under the provisions of G.S. 89C-25(7). It shall be unlawful for a licensee to affix, or permit the licensee's seal and signature or facsimile of the seal and signature to be affixed to any drawings, specifications, plans or reports after the expiration of a certificate or for the purpose of aiding or abetting any other person to evade or attempt to evade any provision of this Chapter. A professional engineer practicing land surveying shall use the licensee's land surveyor seal.

§ 89C-17. Expirations and renewals of certificates.

Certificates for licensure of corporations and business firms that engage in the practice of engineering or land surveying shall expire on the last day of the month of June following their issuance or renewal and shall become invalid on that date unless renewed. All other certificates for licensure shall expire on the last day of the month of December next following their issuance or renewal, and shall become invalid on that date unless renewed. When necessary to protect the public health, safety, or welfare, the Board shall require any evidence necessary to establish the continuing competency of engineers and land surveyors as a condition of renewal of licenses. When the Board is satisfied as to the continuing competency of an applicant, it shall issue a renewal of the certificate upon payment by the applicant of a fee fixed by the Board but not to exceed seventy-five dollars (\$75.00). The secretary of the Board shall notify by mail every person licensed under this Chapter of the date of expiration of the certificate, the amount of the fee required for its renewal for one year, and any requirement as to evidence of continued competency. The notice shall be mailed at least one month in advance of the expiration date of the certificate. Renewal shall be effected at any time during the month immediately following the month of expiration, by payment to the secretary of the Board of a renewal fee, as determined by the Board, which shall not exceed seventy-five dollars (\$75.00). Failure on the part of any licensee to renew the certificate annually in the month immediately following the month of expiration, as required above, shall deprive the licensee of the right to practice until reinstatement of the license. The license may be reinstated at anytime during the first 12 months immediately following the date the license became invalid by payment of a reinstatement fee of one hundred dollars (\$100.00) in addition to the established renewal fee. Failure of a licensee to reinstate the license during the first 12 months immediately following the date the license became invalid shall require the individual, prior to resuming practice in North Carolina, to submit an application on the prescribed form, and to meet all other requirements for licensure as

set forth in Chapter 89C. The secretary of the Board is instructed to remove from the official roster of engineers and land surveyors the names of all licensees who have not effected their renewal by the first day of the month immediately following the renewal period. The Board may adopt rules to provide for renewals in distress or hardship cases due to military service, prolonged illness, or prolonged absence from the State, where the applicant for renewal demonstrates to the Board that the applicant has maintained active knowledge and professional status as an engineer or land surveyor, as the case may be. It shall be the responsibility of each licensee to inform the Board promptly concerning change in address. A licensee may request and be granted inactive status. No inactive licensee may practice in this State unless otherwise exempted in this Chapter. A licensee granted inactive status shall pay annual renewal fees but shall not be subject to annual continuing professional competency requirements. A licensee granted inactive status may return to active status by meeting all requirements of the Board, including demonstration of continuing professional competency as a condition of reinstatement.

§ 89C-18. Duplicate certificates.

The Board may issue a duplicate certificate of licensure or certificate of authorization to replace any certificate that has been lost, destroyed, or mutilated and may charge a fee of up to twenty-five dollars (\$25.00) for issuing the certificate.

§ 89C-18.1. Licensing of nonresidents.

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

- (b) **Licensing.** - The Board shall not renew a certificate of licensure for a foreign corporation unless the corporation has obtained a certificate of authority from the Secretary of State pursuant to Article 15 of Chapter 55 of the General Statutes. The Board shall not renew a certificate of licensure for a foreign limited liability company unless the company has obtained a certificate of authority from the Secretary of State pursuant to Article 7 of Chapter 57D of the General Statutes.
- (c) **Information.** - Upon request, the Board shall provide the Secretary of Revenue on an annual basis the name, address, and tax identification number of every nonresident individual and foreign entity licensed by the Board. The information shall be provided in the format required by the Secretary of Revenue.
- (d) **Delinquents.** - If the Secretary of Revenue determines that any nonresident individual or foreign corporation licensed by the Board, a member of any foreign limited liability company licensed by the Board, or a partner in any foreign partnership licensed by the Board, owes a delinquent income tax debt, the Secretary of Revenue may notify the Board of these nonresident individuals and foreign entities and instruct the Board not to renew their certificates of licensure. The Board shall not renew the certificate of licensure of such a nonresident individual or foreign entity identified by the Secretary of Revenue unless the Board receives a written statement from the Secretary that the debt either has been paid or is being paid pursuant to an installment agreement.

§ 89C-19. Public works; requirements where public safety involved.

This State and its political subdivisions such as counties, cities, towns, or other political entities or legally constituted boards, commissions, public utility companies, or authorities, or officials, or employees of these entities shall not engage in the practice of engineering or land surveying involving either public or private property where the safety of the public is directly involved without the project being under the direct supervision of a professional engineer for engineering projects, or a professional land surveyor for land surveying projects, as provided for the practice of the respective professions by this Chapter. An official or employee of the State or any political subdivision specified in this section, holding the positions set out in this section as of June 19, 1975, shall be exempt from the provisions of this section so long as such official or employee is engaged in substantially the same type of work as is involved in the present position. Nothing in this section shall be construed to prohibit inspection, maintenance and service work done by employees of the State of North Carolina, any political subdivision of the State, or any municipality including construction, installation, servicing, and maintenance by regular full-time employees of, secondary roads and drawings incidental to work on secondary roads, streets, street lighting, traffic-control signals, police and fire alarm systems, waterworks, steam, electric and sewage treatment and disposal plants, the services of superintendents, inspectors or foremen regularly employed by the State of North Carolina or any political subdivision of the State, or

municipal corporation. The provisions in this section shall not be construed to alter or modify the requirements of Article 1 of Chapter 133 of the General Statutes.

§ 89C-19.1. Engineer who volunteers during an emergency or disaster; qualified immunity.

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

(b) The immunity provided in subsection (a) of this section applies only to an engineering service:

(1) For any structure, building, piping, or other engineered system, either publicly or privately owned.

(2) That occurs within 45 days after the declaration of the emergency or disaster, unless the 45-day immunity period is extended by an executive order issued by the Governor under the Governor's emergency executive powers.

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

(d) As used in this section:

(1) "Building inspection official" means any appointed or elected federal, State, or local official with overall executive responsibility to coordinate building inspection in the jurisdiction in which the emergency or disaster is declared.

(2) "Law enforcement official" means any appointed or elected federal, State, or local official with overall executive responsibility to coordinate law enforcement in the jurisdiction in which the emergency or disaster is declared.

(3) "Public official" means any federal, State, or locally elected official with overall executive responsibility in the jurisdiction in which the emergency or disaster is declared.

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

§ 89C-20. Rules of professional conduct.

In the interest of protecting the safety, health, and welfare of the public, the Board shall adopt rules of professional conduct applicable to the practice of engineering and land surveying. These rules, when adopted, shall be construed to be a reasonable exercise of the police power vested in the Board of Examiners for Engineers and Land Surveyors. Every person licensed by the Board shall subscribe to and observe the adopted rules as the standard of professional conduct for the practice of engineering and land surveying and shall cooperate fully with the Board in the course of any investigation. In the case of violation of the rules of professional conduct, the Board shall proceed in accordance with G.S. 89C-22.

§ 89C-21. Disciplinary action - Reexamination, revocation, suspension, reprimand, or civil penalty.

- (a) The Board may reprimand the licensee, suspend, refuse to renew, refuse to reinstate, or revoke the certificate of licensure, require additional education or, as appropriate, require reexamination, for any engineer or land surveyor, who is found guilty of any of the following:
- (1) Fraud or deceit in obtaining or renewing a certificate of licensure or certificate of authorization.
 - (2) Gross negligence, incompetence, or misconduct in the practice of the profession.
 - (3) Conviction of, or entry of a plea of guilty or nolo contendere to, any crime that is a felony, whether or not related to the practice of engineering or surveying; conviction of, or entry of a plea of guilty or nolo contendere to, any crime, whether a felony, misdemeanor, or otherwise, where an essential element of the crime is dishonesty or when the crime is directly related to the practice of engineering or surveying; or conviction of, or entry of a plea of guilty or nolo contendere, of any crime involving moral turpitude.
 - (4) Violation of any provisions of this Chapter, the Rules of Professional Conduct, or any rules as adopted by the Board.
 - (5) Being declared insane or incompetent by a court of competent jurisdiction and having not later been lawfully declared sane or competent.
 - (6) Professional incompetence. In the event the Board finds that a certificate holder is incompetent the Board may, in its discretion, require oral or written examinations, or

other indication of the certificate holder's fitness to practice engineering or land surveying and suspend the license during any such period.

(b) The Board may (i) revoke a certificate of authorization, or (ii) to suspend a certificate of authorization for a period of time not exceeding two years, of any corporation or business firm where one or more of its officers or directors have committed any act or have been guilty of any conduct which would authorize a revocation or suspension of their certificates of licensure under the provision of this section.

(c) The Board may levy a civil penalty not in excess of five thousand dollars (\$5,000) for any engineer or not in excess of two thousand dollars (\$2,000) for any land surveyor who violates any of the provisions of subdivisions (1) through (4) of subsection (a) of this section. The clear proceeds of all civil penalties collected by the Board, including civil penalties collected pursuant to G.S. 89C-22(c), shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d) Before imposing and assessing a civil penalty and fixing the amount, the Board shall, as a part of its deliberation, take into consideration the following factors:

- (1) The nature, gravity, and persistence of the particular violations;
- (2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment;
- (3) Whether the violation(s) were done willfully and maliciously; and
- (4) Any other factors which would tend to either mitigate or aggravate the violation(s) found to exist.

§ 89C-22. Disciplinary action - Charges; procedure.

(a) Any person may prefer charges of fraud, deceit, gross negligence, incompetence, misconduct, or violations of this Chapter, the rules of professional conduct, or any rules adopted by the Board against any Board licensee. The charges shall be in writing and shall be sworn to by the person or persons making them and shall be filed with the Board.

(b) All charges, unless dismissed by the Board as unfounded or trivial or unless settled informally, shall be heard by the Board as provided under the requirements of Chapter 150B of the General Statutes.

(c) If, after a hearing, a majority of the Board votes in favor of sustaining the charges, the Board shall reprimand, levy a civil penalty, suspend, refuse to renew, refuse to reinstate, or revoke the licensee's certificate, require additional education or, as appropriate, require reexamination.

(d) A licensee who is aggrieved by a final decision of the Board may appeal for judicial review as provided by Article 4 of Chapter 150B.

(e) The Board may, upon petition of an individual or an entity whose certificate has been revoked, for sufficient reasons as it may determine, reissue a certificate of licensure or authorization, provided that a majority of the members of the Board vote in favor of such issuance.

§ 89C-23. Unlawful to practice engineering or land surveying without licensure; unlawful use of title or terms; penalties; Attorney General to be legal adviser.

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

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

§ 89C-24. Licensure of corporations and business firms that engage in the practice of engineering or land surveying.

A corporation or business firm may not engage in the practice of engineering or land surveying in this State unless it is licensed by the Board and has paid an application fee established by the Board in an amount not to exceed one hundred dollars (\$100.00). A corporation or business firm is subject to the same duties and responsibilities as an individual licensee. Licensure of a

corporation or business firm does not affect the requirement that all engineering or land surveying work done by the corporation or business firm be performed by or under the responsible charge of individual registrants, nor does it relieve the individual registrants within a corporation or business firm of their design and supervision responsibilities. The Board may adopt rules regulating the operation of offices and places of business of corporations and business firms licensed under this section to ensure that professional engineering and land surveying services are performed under the supervision of licensed professional engineers and land surveyors.

This section applies to every corporation that is engaged in the practice of engineering or land surveying, regardless of when it was incorporated. A corporation that is not exempt from Chapter 55B of the General Statutes by application of G.S. 55B-15 must be incorporated under that Chapter.

§ 89C-25. Limitations on application of Chapter.

This Chapter shall not prevent the following activities:

- (1) The practice of architecture as defined in Chapter 83A of the General Statutes, landscape architecture as defined in Chapter 89A of the General Statutes, or contracting as defined in Articles 1, 2, 4 and 5 of Chapter 87 of the General Statutes.
- (2) Repealed by Session Laws 2011-304, s. 7, effective June 26, 2011.
- (3) Repealed by Session Laws 2011-304, s. 7, effective June 26, 2011.
- (4) Engaging in engineering or land surveying as an employee or assistant under the responsible charge of a professional engineer or professional land surveyor.
- (5) The practice of professional engineering or land surveying by any person not a resident of, and having no established place of business in this State, as a consulting associate of a professional engineer or professional land surveyor licensed under the provisions of this Chapter; provided, the nonresident is qualified for performing the professional service in the person's own state or country.
- (6) Practice by members of the Armed Forces of the United States; employees of the government of the United States while engaged in the practice of engineering or land surveying solely for the government on government- owned works and projects; or practice by those employees of the Natural Resources Conservation Service, county employees, or employees of the Soil and Water Conservation Districts who have federal engineering job approval authority that involves the planning, designing, or implementation of best management practices on agricultural lands.

(7a) The engineering or surveying activities of a person as defined by G.S.89C- 3(5) who is engaged in manufacturing, processing, producing, or transmitting and delivering a product, and which activities are reasonably necessary and connected with the primary services performed by individuals regularly employed in the ordinary course of business by the person, provided that the engineering or surveying activity is not a holding out or an offer to the public of engineering or surveying services, as prohibited by this Chapter. The engineering and surveying services may not be offered, performed, or rendered independently from the primary services rendered by the person. For purposes of this subdivision, "activities reasonably necessary and connected with the primary service" include the following:

- a. Installation or servicing of the person's product by employees of the person conducted outside the premises of the person's business.
- b. Design, acquisition, installation, or maintenance of machinery, equipment, or apparatus incidental to the manufacture or installation of the product performed by employees of the person upon property owned, leased, or used by the person.
- c. Research and development performed in connection with the manufacturing, processing, or production of the person's product by employees of the person.

Engineering or surveying activities performed pursuant to this subdivision, where the safety of the public is directly involved, shall be under the responsible charge of a licensed professional engineer or licensed professional surveyor.

(8) The (i) preparation of fire sprinkler planning and design drawings by a fire sprinkler contractor licensed under Article 2 of Chapter 87 of the General Statutes, or (ii) the performance of internal engineering or survey work by a manufacturing or communications common carrier company, or by a research and development company, or by employees of those corporations provided that the work is in connection with, or incidental to products of, or nonengineering services rendered by those corporations or their affiliates.

(9) The routine maintenance or servicing of machinery, equipment, facilities or structures, the work of mechanics in the performance of their established functions, or the inspection or supervision of construction by a foreman, superintendent, or agent of the architect or professional engineer, or services of an operational nature performed by an employee of a laboratory, a manufacturing plant, a public service corporation, or governmental operation.

(10) The design of land application irrigation systems for an animal waste management plan, required by G.S. 143-215.10C, by a designer who exhibits, by at least three years of relevant experience, proficiency in soil science and basic hydraulics, and who is thereby listed as an Irrigation Design Technical Specialist by the North Carolina Soil and Water Conservation Commission.

§ 89C-25.1. Supervision of unlicensed individuals by licensed person.

In all circumstances in which unlicensed individuals are permitted under this Chapter to perform engineering or land surveying work, or both, under the supervision of a licensed engineer, land surveyor, or both, the Board may by regulation establish a reasonable limit on the number of unlicensed individuals which a licensee of the Board may directly or personally supervise at one time.

§ 89C-25.2. Program of licensure by discipline.

The Board shall submit to the legislative committees of reference by July 1, 1981, a program of licensure by discipline and an analysis of the costs and merits thereof in order to permit the General Assembly to make a decision on the establishment of such a program. The "committees of reference" shall be the Senate and House Committees on State Government respectively or such other committees as the respective presiding officers may determine

§ 89C-26: REPEALED BY SESSION LAWS 1997-309, S. 10.

§ 89C-27. Invalid sections; severability.

If any of the provisions of this Chapter, or if any rule, regulation or order thereunder, or if the application of such provision to any person or circumstance shall be held invalid, the remainder of this Chapter and the application of such provision of this Chapter or rule, regulation or order to persons or circumstances, other than those as to which it is held valid, shall not be affected thereby.

§ 89C-28. Existing licensure not affected.

Nothing in this Chapter shall be construed as affecting the status of licensure of any professional engineer or land surveyor who is rightfully in possession of a certificate of licensure duly issued by the Board and valid as of July 1, 1975.

GENERAL STATUTES OF NORTH CAROLINA CH. 143. ARTICLE 3D. PROCUREMENT OF ARCHITECTURAL, ENGINEERING, AND SURVEYING SERVICES.

§ 143-64.31. Declaration of public policy.

(a) It is the public policy of this State and all public subdivisions and Local Governmental Units thereof, except in cases of special emergency involving the health and safety of the people or their property, to announce all requirements for architectural, engineering, surveying, construction management at risk services, design-build services, and public-private partnership construction services to select firms qualified to provide such services on the basis of demonstrated competence and qualification for the type of professional services required without regard to fee other than unit price information at this stage, and thereafter to negotiate a contract for those services at a fair and reasonable fee with the best qualified firm. If a contract cannot be negotiated with the best qualified firm, negotiations with that firm shall be terminated and initiated with the next best qualified firm. Selection of a firm under this Article shall include the use of good faith efforts by the public entity to notify minority firms of the opportunity to submit qualifications for consideration by the public entity.

(a1) A resident firm providing architectural, engineering, surveying, construction management at risk services, design-build services, or public-private partnership construction services shall be granted a preference over a nonresident firm, in the same manner, on the same basis, and to the extent that a preference is granted in awarding contracts for these services by the other state to its resident firms over firms resident in the State of North Carolina. For purposes of this section, a resident firm is a firm that has paid unemployment taxes or income taxes in North Carolina and whose principal place of business is located in this State.

(b) Recodified as G.S. 143-133.1(a) by Session Laws 2014-42, s. 3, effective October 1, 2014, and applicable to contracts awarded on or after that date.

(c) Recodified as G.S. 143-133.1(b) by Session Laws 2014-42, s. 3, effective October 1, 2014, and applicable to contracts awarded on or after that date.

(d) Recodified as G.S. 143-133.1(c) by Session Laws 2014-42, s. 3, effective October 1, 2014, and applicable to contracts awarded on or after that date.

(e) For purposes of this Article, the definition in G.S. 143-128.1B and G.S. 143-128.1C shall apply.

(f) Except as provided in this subsection, no work product or design may be solicited, submitted, or considered as part of the selection process under this Article; and no costs or fees, other than unit price information, may be solicited, submitted, or considered as part of the selection process under this Article. Examples of prior completed work may be solicited, submitted, and considered when determining demonstrated competence and qualification of professional services; and discussion of concepts or approaches to the project, including impact on project schedules, is encouraged.

§ 143-64.32. Written exemption of particular contracts.

Units of local government or the North Carolina Department of Transportation may in writing exempt particular projects from the provisions of this Article in the case of proposed projects where an estimated professional fee is in an amount less than fifty thousand dollars (\$50,000).

§ 143-64.33. Advice in selecting consultants or negotiating consultant contracts.

On architectural, engineering, or surveying contracts, the Department of Transportation or the Department of Administration may provide, upon request by a county, city, town or other subdivision of the State, advice in the process of selecting consultants or in negotiating consultant contracts with architects, engineers, or surveyors or any or all.

§ 143-64.34. Exemption of certain projects.

State capital improvement projects under the jurisdiction of the State Building Commission, capital improvement projects of The University of North Carolina, and community college capital improvement projects, where the estimated expenditure of public money is less than five hundred thousand dollars (\$500,000), are exempt from the provisions of this Article.

GENERAL STATUTES OF NORTH CAROLINA CH. 55B. PROFESSIONAL CORPORATION ACT.

§ 55B-1. Title.

This Chapter may be cited as "The Professional Corporation Act."

§ 55B-2. Definitions.

As used in this Chapter, the following words shall, unless the context requires otherwise, have the following meanings:

- (1) "Disqualified person" means a licensed person who for any reason becomes legally disqualified to render the same professional services which are or were being rendered by the professional corporation of which such person is an officer, director, shareholder or employee.
- (2) "Licensee" means any natural person who is duly licensed by the appropriate licensing board to render the same professional services which will be rendered by the professional corporation of which he is, or intends to become, an officer, director, shareholder or employee.
- (3) "Licensing board" means a board which is charged with the licensing and regulating of the profession or practice in this State in which the professional corporation is organized to engage.
- (4) The term "licensing board," as the same applies to attorneys at law, shall mean the Council of the North Carolina State Bar, and it shall include the North Carolina State Board of Law Examiners only to the extent that the North Carolina Board of Law Examiners is authorized to issue licenses for the practice of law under the supervision of the Council of the North Carolina State Bar.
- (5) "Professional corporation" means a corporation which is engaged in rendering the professional services as herein specified and defined, pursuant to a certificate of registration issued by the Licensing Board regulating the profession or practice, and which has as its shareholders only those individuals permitted by G.S. 55B-6 of this Chapter to be shareholders and which designates itself as may be required by this statute, and which is

organized under the provisions of this Chapter and of Chapter 55, the North Carolina Business Corporation Act.

- (6) The term "professional service" means any type of personal or professional service of the public which requires as a condition precedent to the rendering of such service the obtaining of a license from a licensing board as herein defined, and pursuant to the following provisions of the General Statutes: Chapter 83A, "Architects"; Chapter 84, "Attorneys-at-Law"; Chapter 93, "Public Accountants"; and the following Articles in Chapter 90: Article 1, "Practice of Medicine," Article 2, "Dentistry," Article 6, "Optometry," Article 7, "Osteopathy," Article 8, "Chiropractic," Article 9A, "Nursing Practice Act," with regard to registered nurses, Article 11, "Veterinarians," Article 12A, "Podiatrists," Article 18A, "Practicing Psychologists," Article 18C, "Marriage and Family Therapy Licensure," Article 18D, "Occupational Therapy," Article 22, "Licensure Act for Speech and Language Pathologists and Audiologists," and Article 24, "Licensed Professional Counselors"; Chapter 89C, "Engineering and Land Surveying"; Chapter 89A, "Landscape Architects"; Chapter 90B, "Social Worker Certification and Licensure Act" with regard to Licensed Clinical Social Workers as defined by G.S. 90B-3; Chapter 89E, "Geologists"; Chapter 89B, "Foresters"; and Chapter 89F, "North Carolina Soil Scientist Licensing Act".

§ 55B-3. North Carolina Business Corporation Act applicable; other applicable law.

(a) Chapter 55 of the General Statutes, the North Carolina Business Corporation Act, applies to professional corporations, including their organization, and professional corporations shall enjoy the powers and privileges and shall be subject to the duties, restrictions and liabilities of other corporations, except insofar as the same may be limited or enlarged by this Chapter. If any provision of this Chapter conflicts with the provisions of Chapter 55 of the General Statutes, the North Carolina Business Corporation Act, the provisions of this Chapter shall prevail.

(b) A document required or permitted by this Chapter to be filed by the Secretary of State shall be filed under Chapter 55D of the General Statutes, Filings, Names, and Registered Agents for Corporations, Nonprofit Corporations, Limited Liability Companies, Limited Partnerships, and Limited Partnerships.

§ 55B-4. Formation of corporation.

A professional corporation under this Chapter may be formed pursuant to the provisions of Chapter 55, the North Carolina Business Corporation Act, with the following limitations:

- (1) At least one incorporator shall be a "licensee" as hereinabove defined in G.S. 55B-2(2).
- (2) All of the shares of stock of the corporation shall be owned and held by a licensee, or licensees, as hereinabove defined in G.S. 55B-2(2), except as otherwise permitted in G.S. 55B-6.

- (3) At least one director and one officer shall be a "licensee" as hereinabove defined in G.S. 55B-2(2).
- (4) The articles of incorporation, in addition to the requirements of Chapter 55, shall designate the personal services to be rendered by the professional corporation and shall be accompanied by a certification by the appropriate licensing board that the ownership of the shares of stock is in compliance with the requirements of G.S. 55B-4(2) and G.S. 55B-6.

§ 55B-5. Corporate name.

The corporate name used by professional corporations under this Chapter, except as limited by the licensing acts of the respective professions, shall be governed by the provisions of Chapter 55D, provided that professional corporations may use the words "Professional Association, P.A.," "Professional Corporation," or "P.C." in lieu of the corporate designations specified in Chapter 55D, and provided further that licensing boards by regulations may make further corporate name requirements or limitations for the respective professions, but such regulations may not prohibit the continued use of any corporate name duly adopted in conformity with the General Statutes and with the pertinent licensing board regulations in effect at the date of such adoption.

§ 55B-6. Capital stock.

(a) Except as provided in subsections (a1) and (b) of this section, a professional corporation may issue shares of its capital stock only to a licensee as defined in G.S. 55B-2, and a shareholder may voluntarily transfer shares of stock issued to the shareholder only to another licensee. No share or shares of any stock of a professional corporation shall be transferred upon the books of the corporation unless the corporation has received a certification of the appropriate licensing board that the transferee is a licensee. Provided, it shall be lawful in the case of professional corporations rendering services as defined in Chapters 83A, 89A, 89C, 89E, and 89F, for nonlicensed employees of the corporation to own not more than one-third of the total issued and outstanding shares of the corporation; and provided further, with respect to a professional corporation rendering services as defined in Chapters 83A, 89A, 89C, and 89E of the General Statutes, an employee retirement plan qualified under section 401 of the Internal Revenue Code of 1986, as amended (or any successor section), is deemed for purposes of this section to be a licensee if the trustee or trustees of the plan are licensees. Provided further, subject to any additional conditions that the appropriate licensing board may by rule or order impose in the public interest, it shall be lawful for individuals who are not licensees but who perform professional services on behalf of a professional corporation in another jurisdiction in which the corporation maintains an office, and who are duly licensed to perform professional services under the laws of the other jurisdiction, to be shareholders of the corporation so long as there is at least one shareholder who is a licensee as defined in G.S. 55B-2, and the corporation renders its professional services in the State only through those shareholders that are licensed in North Carolina. Upon the transfer of any shares of such corporation to a nonlicensed employee of such corporation, the corporation shall inform the appropriate licensing board of the name and address of the transferee and the number of shares issued to the nonprofessional transferee. The issuance or transfer of any share of stock in violation of this section is void. No shareholder of a

professional corporation shall enter into a voting trust agreement or any other type of agreement vesting in another person the authority to exercise the voting power of any of the stock of a professional corporation.

(a) Any person may own up to forty-nine percent of the stock of a professional corporation rendering services under Chapter 93 of the General Statutes as long as:

- (1) Licensees continue to own and control voting stock that represents at least fifty-one percent (51%) of the votes entitled to be cast in the election of directors of the professional corporation; and
- (2) All licensees who perform professional services on behalf of the corporation comply with Chapter 93 of the General Statutes and the rules adopted thereunder.

(b) A professional corporation formed pursuant to this Chapter may issue one hundred percent (100%) of its capital stock to another professional corporation in order for that corporation (the distributing corporation) to distribute in accordance with section 355 of the Internal Revenue Code of 1986, as amended (or any succeeding section), the stock of the controlled corporation to one or more shareholders of the distributing corporation authorized under this section to hold the shares. The distributing corporation shall distribute the stock of the controlled corporation within 30 days after the stock is issued to the distributing corporation. A share of stock of the controlled corporation that is not transferred in accordance with this subsection within 30 days after the share was issued to the distributing corporation is void.

§ 55B-7. Death or disqualification of a stockholder or employee.

(a) If any officer, shareholder, agent or employee of a corporation organized under this Chapter who is a licensee becomes legally disqualified to render professional services within this State, he shall sever all employment with, and financial interest in, such corporation forthwith. A corporation's failure to comply with this provision shall constitute grounds for the forfeiture of its certificate of incorporation and its dissolution. When a corporation's failure to comply with this provision is brought to the attention of the Secretary of State, the Secretary of State shall forthwith certify that fact to the Attorney General for appropriate action to dissolve the corporation.

(b) A professional corporation shall report to the appropriate licensing board the death of any of its shareholders within 30 days thereafter. Within one year of the date of such death, all of the shares owned by such deceased shareholder shall be transferred to and acquired by the professional corporation or persons qualified to own such shares. In the absence of an agreement which determines the equitable value of the shares, then the price for such shares shall be the fair market value of the stock, but not less than the book value as of the end of the month immediately preceding the death or disqualification. Notwithstanding any other provisions of this Chapter, the shares of stock owned by such deceased shareholder may be owned and held by the person or persons who may be legally entitled to receive such shares for a period of one year after the death of such deceased shareholder, or in the case of the death of the owner of all the shares of such corporation, for such period of time as may be necessary to liquidate the corporation.

§ 55B-8. Rendition of professional services.

A professional service corporation may render professional services only through its officers, employees and agents who are duly licensed to render such professional services; provided, however, this provision shall not be interpreted to include in the term "employee," as used herein, clerks, secretaries, bookkeepers, technicians and other assistants who are not considered by law to be rendering professional services to the public.

§ 55B-9. Professional relationship and liability.

(a) Relationship. - Nothing in this Chapter shall be interpreted to abolish, modify, restrict, limit or alter the law in this State applicable to the professional relationship and liabilities between the licensee furnishing the professional services and the person receiving such professional service, or the standards of professional conduct applicable to the rendering therein of such services.

(b) Liability. - A shareholder, a director, or an officer of a professional corporation is not individually liable, directly or indirectly, including by indemnification, contribution, assessment, or otherwise, for the debts, obligations, and liabilities of, or chargeable to, the professional corporation that arise from errors, omissions, negligence, malpractice, incompetence, or malfeasance committed by another shareholder, director, or officer or by a representative of the professional corporation; provided, however, nothing in this Chapter shall affect the liability of a shareholder, director, or officer of a professional corporation for his or her own errors, omissions, negligence, malpractice, incompetence, or malfeasance committed in the rendering of professional services.

§ 55B-10. Registration with licensing board.

No professional corporation shall open, operate, or maintain an establishment for any of the purposes set forth in this Chapter without first having obtained a certificate of registration from the licensing board or boards. Applications for such registration shall be made to the licensing board or boards in writing and shall contain the name and address of the corporation and such other information as may be required by the licensing board or boards. If the board finds that no disciplinary action is pending before the board against any of the licensed incorporators, officers, directors, shareholders or employees of such corporation, and if it appears that such corporation will be conducted in compliance with the law and the regulations of the board, the board shall issue, upon the payment of a registration fee, not to exceed fifty dollars (\$50.00), a certificate of registration which shall remain effective until January 1 following the date of such registration or until such other expiration or renewal date as may be established by law or by the regulations of the licensing board.

§ 55B-11. Renewal of certificate of registration.

Upon written application of the holder, accompanied by a fee not to exceed the sum of twenty-five dollars (\$25.00), the licensing board shall renew the certificate of registration of a professional corporation as required by law or the regulations of the licensing board if the board finds that the corporation has complied with its regulations and the provisions of this section. If the corporation does not apply for renewal of its certificate of registration within 30 days after

the date of the expiration of such certificate, the certificate of registration shall be automatically suspended and may be reinstated within the calendar year upon the payment of the required renewal fee plus a penalty of ten dollars (\$10.00), if such corporation is then otherwise qualified and entitled to a renewal of its certificate of registration.

§ 55B-12. Application of regulations of licensing boards.

(a) A professional corporation shall be subject to the applicable rules and regulations adopted by, and all the disciplinary powers of, the licensing board as herein defined. Nothing in this Chapter shall impair the disciplinary powers of any licensing board applicable to a licensee as herein defined. No professional corporation may do any act which its shareholders as licensees are prohibited from doing.

(b) Subject to the requirements of Article 2A of Chapter 150B of the General Statutes, any licensing board subject to this Chapter may adopt rules to implement the provisions of this Chapter, including any rules needed to establish fees within the limits set by this Chapter. (1969, c. 718, s. 12; 2014-120, s. 3.)

§ 55B-13. Suspension or revocation of certificate of registration.

A licensing board may suspend or revoke a certificate of registration issued by it to a domestic or foreign professional corporation for any of the following reasons:

- (1) Upon the failure of such corporation to promptly remove or discharge an officer, director, shareholder or employee who becomes disqualified by reason of the revocation or suspension of his license to practice; or
- (2) Upon a finding by the licensing board that the professional corporation has failed to comply with the provisions of this Chapter or the regulations of the licensing board.

Upon the suspension or revocation of a certificate of registration issued to a professional corporation, such corporation shall cease forthwith to render professional services, and the Secretary of State shall be notified to the end that the corporation may be removed from active status and remain as such until reinstatement.

§ 55B-14. Types of professional services.

(a) A professional corporation shall render only one specific type professional service, and such services as may be ancillary thereto, and shall not engage in any other business or profession; provided, however, such corporation may own real and personal property necessary or appropriate for rendering the type of professional services it was organized to render and it may invest in real estate, mortgages, stocks, bonds, and any other type of investments.

(b) Notwithstanding subsection (a) of this section, in the case of architectural, landscape architectural, engineering or land surveying, geological, and soil science services, as defined in Chapters 83A, 89A, 89C, 89E, and 89F respectively, one corporation may be authorized to

provide such of these services where such corporation, and at least one corporate officer who is a stockholder thereof, is duly licensed by the licensing board of each such profession.

- (c) A professional corporation may also be formed by and between or among:
- (1) A licensed psychologist and a physician practicing psychiatry to render psychotherapeutic and related services.
 - (2) Any combination of a registered nurse, nurse practitioner, certified clinical specialist in psychiatric and mental health nursing, certified nurse midwife, and certified nurse anesthetist, to render nursing and related services that the respective stockholders are licensed, certified, or otherwise approved to provide.
 - (3) A physician and a physician assistant who is licensed, registered, or otherwise certified under Chapter 90 of the General Statutes to render medical and related services.
 - (4) A physician, a licensed psychologist, a licensed clinical social worker, or each of them and a certified clinical specialist in psychiatric and mental health nursing, a licensed marriage and family therapist, a licensed professional counselor, or each of them, to render psychotherapeutic and related services that the respective stockholders are licensed, certified, or otherwise approved to provide.
 - (5) A physician and any combination of a nurse practitioner, certified clinical specialist in psychiatric and mental health nursing, or certified nurse midwife, registered or otherwise certified under Chapter 90 of the General Statutes, to render medical and related services that the respective stockholders are licensed, certified, or otherwise approved to provide.
 - (6) A physician practicing anesthesiology and a certified nurse anesthetist to render anesthesia and related medical services that the respective stockholders are licensed, certified, or otherwise approved to provide.
 - (7) A physician and an audiologist who is licensed under Article 22 of Chapter 90 of the General Statutes to render audiological and related medical services that the respective stockholders are licensed, certified, or otherwise approved to provide.
 - (8) A physician practicing ophthalmology and an optometrist who is licensed under Article 6 of Chapter 90 of the General Statutes to render either or both of ophthalmic services and optometric and related services that the respective stockholders are licensed, certified, or otherwise approved to provide.
 - (9) A physician practicing orthopedics and a podiatrist who is licensed under Article 12A of Chapter 90 of the General Statutes to render either or both of orthopedic services and podiatric and related services that the respective stockholders are licensed, certified, or otherwise approved to provide.

§ 55B-15. Applicability of Chapter.

- (a) This Chapter shall not apply to the following:
- (1) A corporation which prior to June 5, 1969, was permitted by law to render professional services or the corporate successor of that corporation by merger or otherwise by operation of law, provided there is no substantial change in the direct or indirect beneficial ownership of the shares of that corporation as the result of the merger or other transaction. For purposes of this subdivision, a change of twenty percent (20%) or less shall not be considered substantial.
 - (2) A corporation authorized in this State to render primary services governed by Articles 1, 2, 4, or 5 of Chapter 87 of the General Statutes, if the corporation renders services as defined in Chapter 89C of the General Statutes, that are reasonably necessary and connected with the primary services performed by individuals regularly employed in the ordinary course of business by the corporation. The professional services may not be offered, performed, or rendered independently from the primary services rendered by the corporation. This subdivision does not restrict, limit, or modify the requirement that professional services must be provided by individuals regularly employed in the ordinary course of business by the corporation and duly licensed to render these professional services in this State. Nothing in this subdivision shall be interpreted to abolish, modify, restrict, limit, or alter the law in this State applicable to the professional relationship and liabilities between licensees furnishing the professional service and the person receiving the professional service, or the standards of professional conduct applicable to the rendering of the professional service.
- (b) A corporation or its successor exempt under subsection (a) of this section may be brought within the provisions of this Chapter by the filing of an amendment to its articles of incorporation declaring that its shareholders have elected to bring the corporation within the provisions of this Chapter and to make the same conform to all of the provisions of this Chapter.

§ 55B-16. Foreign professional corporations.

- (a) A foreign professional corporation may apply for a certificate of authority to transact business in this State pursuant to the provisions of this Chapter and Chapter 55 of the General Statutes provided that:
- (1) The corporation obtains a certificate of registration from the appropriate licensing board or boards in this State;
 - (2) With respect to each professional service practiced through the corporation in this State, at least one director and one officer shall be a licensee of the licensing board which regulates the profession in this State;

- (3) Each officer, employee, and agent of the corporation who will provide professional services to persons in this State shall be a licensee of the appropriate licensing board in this State;
- (4) The corporation shall be subject to the applicable rules and regulations adopted by, and all the disciplinary powers of, the appropriate licensing board or boards in this State;
- (5) The corporation's activities in this State shall be limited as provided by G.S. 55B-14; and
- (6) The application for certificate of authority, in addition to the requirements of G.S. 55-15-03, shall set forth the personal services to be rendered by the foreign professional corporation and the individual or individuals who will satisfy the requirements of G.S. 55B-16(a)(2) and shall be accompanied by a certification by the appropriate licensing board that each individual is a "licensee" as defined in G.S. 55B-2(2) and by additional certifications as may be required to establish that the corporation is a "foreign professional corporation" as defined in G.S. 55B-16(b).

(b) For purposes of this section, "foreign professional corporation" means a corporation for profit that:

- (1) Is incorporated under a law other than the law of this State;
- (2) Is incorporated for the purpose of rendering professional services of the type that if rendered in this State would require the obtaining of a license from a licensing board pursuant to the statutory provisions referred to in G.S. 55B-2(6); and
- (3) Has as its shareholders only individuals who:
 - a. Qualify to hold shares of a corporation organized under this Chapter;
 - b. Are licensed to provide professional services as defined in G.S. 55B-2(6) in a state in which the corporation is incorporated or is authorized to transact business, provided that such professional services are the same as the professional service rendered by the corporation;
 - c. Are nonlicensed employees of a corporation rendering services of the type defined in Chapters 83A, 89A, 89C, and 89E of the General Statutes, provided that all such nonlicensed employees own no more than one-third of the total issued and outstanding shares of such corporation in the aggregate; or
 - d. With respect to a professional corporation rendering services under Chapter 93 of the General Statutes, are persons who own not more than forty-nine percent (49%) of the stock in the professional corporation as long as:

1. Individuals who meet the requirements of sub-subdivision a. or b. of this subdivision own and control voting stock that represents at least fifty-one percent (51%) of the votes entitled to be cast in the election of directors of the professional corporation; and
2. All licensees who perform professional services on behalf of the corporation in this State comply with Chapter 93 of the General Statutes and the rules adopted thereunder.

(b1) With respect to a professional corporation rendering services as defined in Chapters 83A, 89A, 89C, and 89E of the General Statutes, an employee retirement plan qualified under section 401 of the Internal Revenue Code of 1986, as amended (or any successor section), is deemed for purposes of this section to be an individual licensee if at least one trustee of the plan is a licensee and all other trustees are licensees or are individuals who are licensed under the laws of a state in which the corporation maintains an office to perform at least one of the professional services, as defined in Chapter 83A, 89A, 89C, or 89E of the General Statutes, rendered by the corporation.

(c) A foreign professional corporation with a valid certificate of authority has the same but no greater rights and privileges as, and is subject to the same duties, restrictions, penalties, and liabilities now or later imposed on, a domestic professional corporation of like character, except that the provisions of G.S. 55B-6 and G.S. 55B-7 do not apply.

CODE OF ETHICS

PREAMBLE

Engineering is an important and learned profession. As members of this profession, engineers are expected to exhibit the highest standards of honesty and integrity. Engineering has a direct and vital impact on the quality of life for all people. Accordingly, the services provided by engineers require honesty, impartiality, fairness, and equity, and must be dedicated to the protection of the public health, safety, and welfare. Engineers must perform under a standard of professional behavior that requires adherence to the highest principles of ethical conduct.

I. FUNDAMENTAL CANONS

Engineers, in the fulfillment of their professional duties, shall:

- 1) Hold paramount the safety, health, and welfare of the public.
- 2) Perform services only in areas of their competence.
- 3) Issue public statements only in an objective and truthful manner.
- 4) Act for each employer or client as faithful agents or trustees.
- 5) Avoid deceptive acts.
- 6) Conduct themselves honorably, responsibly, ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession.

II. RULES OF PRACTICE

1. Engineers shall hold paramount the safety, health, and welfare of the public.
 - 1) If engineers' judgment is overruled under circumstances that endanger life or property, they shall notify their employer or client and such other authority as may be appropriate.
 - 2) Engineers shall approve only those engineering documents that are in conformity with applicable standards.

3) Engineers shall not reveal facts, data, or information without the prior consent of the client or employer except as authorized or required by law or this Code.

4) Engineers shall not permit the use of their name or associate in business ventures with any person or firm that they believe is engaged in fraudulent or dishonest enterprise.

5) Engineers shall not aid or abet the unlawful practice of engineering by a person or firm.

6) Engineers having knowledge of any alleged violation of this Code shall report thereon to appropriate professional bodies and, when relevant, also to public authorities, and cooperate with the proper authorities in furnishing such information or assistance as may be required.

2. Engineers shall perform services only in the areas of their competence.

1) Engineers shall undertake assignments only when qualified by education or experience in the specific technical fields involved.

2) Engineers shall not affix their signatures to any plans or documents dealing with subject matter in which they lack competence, nor to any plan or document not prepared under their direction and control.

3) Engineers may accept assignments and assume responsibility for coordination of an entire project and sign and seal the engineering documents for the entire project, provided that each technical segment is signed and sealed only by the qualified engineers who prepared the segment.

3. Engineers shall issue public statements only in an objective and truthful manner.

1) Engineers shall be objective and truthful in professional reports, statements, or testimony. They shall include all relevant and pertinent information in such reports, statements, or testimony, which should bear the date indicating when it was current.

2) Engineers may express publicly technical opinions that are founded upon knowledge of the facts and competence in the subject matter.

3) Engineers shall issue no statements, criticisms, or arguments on technical matters that are inspired or paid for by interested parties, unless they have prefaced their comments by explicitly identifying the interested parties on whose behalf they are speaking, and by revealing the existence of any interest the engineers may have in the matters.

4. Engineers shall act for each employer or client as faithful agents or trustees.

1) Engineers shall disclose all known or potential conflicts of interest that could influence or appear to influence their judgment or the quality of their services.

2) Engineers shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.

3) Engineers shall not solicit or accept financial or other valuable consideration, directly or indirectly, from outside agents in connection with the work for which they are responsible.

4) Engineers in public service as members, advisors, or employees of a governmental or quasi-governmental body or department shall not participate in decisions with respect to services solicited or provided by them or their organizations in private or public engineering practice.

5) Engineers shall not solicit or accept a contract from a governmental body on which a principal or officer of their organization serves as a member.

5. Engineers shall avoid deceptive acts.

1) Engineers shall not falsify their qualifications or permit misrepresentation of their or their associates' qualifications. They shall not misrepresent or exaggerate their responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint venturers, or past accomplishments.

2) Engineers shall not offer, give, solicit, or receive, either directly or indirectly, any contribution to influence the award of a contract by public authority, or which

may be reasonably construed by the public as having the effect or intent of influencing the awarding of a contract. They shall not offer any gift or other valuable consideration in order to secure work. They shall not pay a commission, percentage, or brokerage fee in order to secure work, except to a bona fide employee or bona fide established commercial or marketing agencies retained by them.

III. PROFESSIONAL OBLIGATIONS

1. Engineers shall be guided in all their relations by the highest standards of honesty and integrity.

- 1) Engineers shall acknowledge their errors and shall not distort or alter the facts.
- 2) Engineers shall advise their clients or employers when they believe a project will not be successful.
- 3) Engineers shall not accept outside employment to the detriment of their regular work or interest. Before accepting any outside engineering employment, they will notify their employers.
- 4) Engineers shall not attempt to attract an engineer from another employer by false or misleading pretenses.
- 5) Engineers shall not promote their own interest at the expense of the dignity and integrity of the profession.

2. Engineers shall at all times strive to serve the public interest.

- 1) Engineers are encouraged to participate in civic affairs; career guidance for youths; and work for the advancement of the safety, health, and well-being of their community.
- 2) Engineers shall not complete, sign, or seal plans and/or specifications that are not in conformity with applicable engineering standards. If the client or employer insists on such unprofessional conduct, they shall notify the proper authorities and withdraw from further service on the project.
- 3) Engineers are encouraged to extend public knowledge and appreciation of engineering and its achievements.

- 4) Engineers are encouraged to adhere to the principles of sustainable development, in order to protect the environment for future generations.
3. Engineers shall avoid all conduct or practice that deceives the public.
 - 1) Engineers shall avoid the use of statements containing a material misrepresentation of fact or omitting a material fact.
 - 2) Consistent with the foregoing, engineers may advertise for recruitment of personnel.
 - 3) Consistent with the foregoing, engineers may prepare articles for the lay or technical press, but such articles shall not imply credit to the author for work performed by others.
 4. Engineers shall not disclose, without consent, confidential information concerning the business affairs or technical processes of any present or former client or employer, or public body on which they serve.
 - 1) Engineers shall not, without the consent of all interested parties, promote or arrange for new employment or practice in connection with a specific project for which the engineer has gained particular and specialized knowledge.
 - 2) Engineers shall not, without the consent of all interested parties, participate in or represent an adversary interest in connection with a specific project or proceeding in which the engineer has gained particular specialized knowledge on behalf of a former client or employer.
 5. Engineers shall not be influenced in their professional duties by conflicting interests.
 - 1) Engineers shall not accept financial or other considerations, including free engineering designs, from material or equipment suppliers for specifying their product.
 - 2) Engineers shall not accept commissions or allowances, directly or indirectly, from contractors or other parties dealing with clients or employers of the engineer in connection with work for which the engineer is responsible.

6. Engineers shall not attempt to obtain employment or advancement or professional engagements by untruthfully criticizing other engineers, or by other improper or questionable methods.

1) Engineers shall not request, propose, or accept a commission on a contingent basis under circumstances in which their judgment may be compromised.

2) Engineers in salaried positions shall accept part-time engineering work only to the extent consistent with policies of the employer and in accordance with ethical considerations.

3) Engineers shall not, without consent, use equipment, supplies, laboratory, or office facilities of an employer to carry on outside private practice.

7. Engineers shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice, or employment of other engineers. Engineers who believe others are guilty of unethical or illegal practice shall present such information to the proper authority for action.

1) Engineers in private practice shall not review the work of another engineer for the same client, except with the knowledge of such engineer, or unless the connection of such engineer with the work has been terminated.

2) Engineers in governmental, industrial, or educational employ are entitled to review and evaluate the work of other engineers when so required by their employment duties.

3) Engineers in sales or industrial employ are entitled to make engineering comparisons of represented products with products of other suppliers.

8. Engineers shall accept personal responsibility for their professional activities, provided, however, that engineers may seek indemnification for services arising out of their practice for other than gross negligence, where the engineer's interests cannot otherwise be protected.

1) Engineers shall conform with state registration laws in the practice of engineering.

2) Engineers shall not use association with a nonengineer, a corporation, or partnership as a "cloak" for unethical acts.

9. Engineers shall give credit for engineering work to those to whom credit is due, and will recognize the proprietary interests of others.

1) Engineers shall, whenever possible, name the person or persons who may be individually responsible for designs, inventions, writings, or other accomplishments.

2) Engineers using designs supplied by a client recognize that the designs remain the property of the client and may not be duplicated by the engineer for others without express permission.

3) Engineers, before undertaking work for others in connection with which the engineer may make improvements, plans, designs, inventions, or other records that may justify copyrights or patents, should enter into a positive agreement regarding ownership.

4) Engineers' designs, data, records, and notes referring exclusively to an employer's work are the employer's property. The employer should indemnify the engineer for use of the information for any purpose other than the original purpose.

5) Engineers shall continue their professional development throughout their careers and should keep current in their specialty fields by engaging in professional practice, participating in continuing education courses, reading in the technical literature, and attending professional meetings and seminars.

REFERENCES

North Carolina Board of Examiners for Engineers & Surveyors, Law and Rules

<http://www.ncbels.org/rulesandlaws.html>

North Carolina Administrative Code: Title 21, Ch. 56 , Engineers & Surveyors (21 NCAC 56.0101 to 21 NCAC 56.1713)

<http://reports.oah.state.nc.us/NCAC.asp?folderName=\Title%2021%20-%20Occupational%20Licensing%20Boards%20and%20Commissions\Chapter%2056%20-%20Engineers%20and%20Surveyors>

North Carolina General Statutes: 89C , Engineering and Land Surveying: (89C-1 to 89C-28)

http://www.ncbels.org/rules/Chapter_89C%20as%20of%209-19-14%20revisions.pdf

North Carolina General Statutes: 143, Article 3D. Procurement of Architectural, Engineering, and Surveying Services (143-64.31 to 143-64.34)

http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_143/Article_3D.html

North Carolina General Statutes: 55B, Professional Corporation Act (55B-1 to 89C-255B-16)

http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/ByChapter/Chapter_55B.html

National Society of Professional Engineers, Code of Ethics

<http://www.nspe.org/resources/ethics/code-ethics>