

**Chapter 3**  
**Reprints of the General Statutes**  
**Pertaining to the Enforcement of the North Carolina State Building Code**

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

The current language of the General Statutes may be viewed at [www.ncleg.net](http://www.ncleg.net) .  
The following list, while extensive, may not include all applicable General Statutes.

**§ 1-539.2. Dismantling portion of building.**

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

**§ 14-68. Failure of owner of property to comply with orders of public authorities.**

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

**Misconduct in Public Office**

**§ 14-228. Buying and selling offices.**

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

**§ 14-229. Acting as officer before qualifying as such.**

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

**§ 14-230. Willfully failing to discharge duties.**

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

**§ 14-231. Failing to make reports and discharge other duties.**

If any State or county officer shall fail, neglect or refuse to make, file or publish any report, statement or other paper, or to deliver to his successor all books and other property belonging to his office, or to pay over or deliver to the proper person all moneys which come into his hands by virtue or color of his office, or to discharge any duty devolving upon him by virtue of his office and required of him by law, he shall be guilty of a Class 1 misdemeanor.

**§ 14-232. Swearing falsely to official reports.**

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

**Administrative Search and Inspection Warrants**

**§ 15-27.2. Warrants to conduct inspections authorized by law.**

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

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

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

- (1) The one seeking the warrant must establish under oath or affirmation that the property to be searched or inspected is to be searched or inspected as part of a legally authorized program of inspection which naturally includes that property, or that there is probable cause for believing that there is a condition, object, activity or circumstance which legally justifies such a search or inspection of that property;
- (2) An affidavit indicating the basis for the establishment of one of the grounds described in (1) above must be signed under oath or affirmation by the affiant;
- (3) The issuing official must examine the affiant under oath or affirmation to verify the accuracy of the matters indicated by the statement in the affidavit;

- (d) The warrant shall be validly issued only if it meets the following requirements:
- (1) Except as provided in subsection (e), it must be signed by the issuing official and must bear the date and hour of its issuance above his signature with a notation that the warrant is valid for only 24 hours following its issuance;
  - (2) It must describe, either directly or by reference to the affidavit, the property where the search or inspection is to occur and be accurate enough in description so that the executor of the warrant and the owner or the possessor of the property can reasonably determine from it what person or property the warrant authorizes an inspection of;
  - (3) It must indicate the conditions, objects, activities or circumstances which the inspection is intended to check or reveal;
  - (4) It must be attached to the affidavit required to be made in order to obtain the warrant.

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

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

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

#### **§ 58-2-95. Commissioner to supervise local inspectors.**

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

#### **§ 58-31-40. Commissioner to inspect State property; plans submitted.**

(a) The Commissioner shall, at least once every year or more often if the Commissioner considers it necessary, visit, inspect, and thoroughly examine every State property to analyze and determine its protection from fire, including the property's occupants or contents. The Commissioner shall notify the agency or official in charge of the property of any defect noted by the Commissioner or any improvement considered by the Commissioner to be necessary.

(b) No agency or other person authorized or directed by law to select a plan and erect a building for the use of the State or any State institution shall receive and approve of the plan until it is submitted to and approved by the Commissioner as to the safety of the proposed building from fire, including the property's occupants or contents. No agency or person authorized or directed by law to select a plan or

erect a building comprising 10,000 square feet or more for the use of any county, city, or school district shall receive and approve of the plan until it is submitted to and approved by the Commissioner as to the safety of the proposed building from fire, including the property's occupants or contents.

(c) The Commissioner shall review a plan subject to subsection (b) of this section within 30 days of submission, provided that the Commissioner may require one additional 30-day extension if necessary to complete the review. If the Commissioner has neither approved nor denied the plan during the initial 30-day review period, the owner may proceed with the building site preparation, the building foundation, and any structural components of the building that are not subject to inspection for the purposes set forth in subsection (b) of this section. If the Commissioner has neither approved nor denied the plan within 60 days of submission, the owner may request review and final approval under subsection (b) of this section by the Department of Administration, State Construction Office, pursuant to rules adopted under G.S. 143-135.26.

#### **§ 58-79-20. Inspection of premises; dangerous material removed.**

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

### **Electrical Materials, Devices, Appliances and Equipment**

#### **§ 66-23. Sale of electrical goods regulated.**

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

#### **§ 66-24. Identification marks required.**

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

**§ 66-25. Acceptable listings as to safety of goods.**

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

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

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

**§ 66-26. Legal responsibility of proper installations unaffected.**

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

**§ 66-27. Violation made misdemeanor.**

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

**§ 66-27.01. Enforcement.**

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

**Safety Features of Hot Water Heaters**

**§ 66-27.1. Certain automatic hot water tanks or heaters to have approved relief valves; installation or sale of unapproved relief valves forbidden.**

(a) No individual, firm, corporation or business shall install, sell or offer for sale any automatic hot water tank or heater of 120-gallon capacity or less, except for a tankless water heater, which does not have installed thereon by the manufacturer of the tank or heater an American Society of Mechanical Engineers and National Board of Boiler and Pressure Vessel Inspectors approved type pressure-temperature relief valve set at or below the safe working pressure of the tank as indicated, and so labeled by the manufacturer's identification stamped or cast upon the tank or heater or upon a plate secured to it.

(b) No individual, firm, corporation or business shall install, sell, or offer for sale any relief valve, whether it be pressure type, temperature type or pressure-temperature type, which does not carry the stamp of approval of the American Society of Mechanical Engineers and the National Board of Boiler and Pressure Vessel Inspectors.

**§ 66-27.2. Certain hot water supply storage tank or heater baffles, heat traps, etc., to be tested before installation or sale.**

(a) No individual, firm, corporation or business shall install, sell or offer for sale any hot water supply storage tanks or heaters of 120-gallon capacity or less which utilize dip tubes, supply and hot water nipples, supply water baffles or heat traps that have not been tested to withstand a temperature of 400 degrees Fahrenheit without deteriorating in any manner, and such tank or heater so labeled by the manufacturer.

(b) No individual, firm, corporation or business shall install, sell, or offer for sale any water baffles or heat traps, which are not constructed and tested to withstand a temperature of 400 degrees Fahrenheit without deterioration in any manner and such baffles or heat traps to be so labeled by the manufacturer.

**§ 66-27.3. Violation of Article made misdemeanor.**

Violation of any provision of this Article is hereby made a Class 1 misdemeanor.

**§ 66-27.4. Local regulation of hot water heater safety features.**

Nothing in this Article shall be interpreted as relieving any individual, firm, corporation or business from complying with additional protective regulations relating to the safety features of hot water heaters as may be prescribed by local law, county or municipal charter or ordinance; provided, however, that no local law, county or municipal charter or ordinance shall fix or govern the temperature or pressure settings of a pressure-temperature relief valve on an automatic hot water tank or heater covered by this Article if there is installed on such tank or heater a pressure-temperature relief valve having settings in compliance with the North Carolina Building Code.

## **Architects**

**§ 83A-1. Definitions.**

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

- (1) "Architect" means a person who is duly licensed to practice architecture.
- (2) "Board" means the North Carolina Board of Architecture.
- (3) "Corporate certificate" means a certificate of corporate registration issued by the Board recognizing the corporation named in the certificate as meeting the requirements for the corporate practice of architecture.

- (4) "Corporate practice of architecture" means "practice" as defined in G.S. 83A-1(7) by a corporation which is organized or domesticated in this State, and which holds a current "corporate certificate" from this Board.
- (5) "Good moral character" means such character as tends to assure the faithful discharge of the fiduciary duties of an architect to his client. Evidence of lack of such character shall include the willful commission of an offense justifying discipline under this Chapter, the practice of architecture in violation of this Chapter, or of the laws of another jurisdiction, or the conviction of a felony.
- (6) "License" means a certificate of registration issued by the Board recognizing the individual named in the certificate as meeting the requirements for registration under this Chapter.
- (7) "Practice of architecture" means performing or offering to perform or holding oneself out as legally qualified to perform professional services in connection with the design, construction, enlargement or alteration of buildings, including consultations, investigations, evaluations, preliminary studies, the preparation of plans, specifications and contract documents, administration of construction contracts and related services or combination of services in connection with the design and construction of buildings, regardless of whether these services are performed in person or as the directing head of an office or organization.

#### **§ 83A-12. Prohibited practice.**

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

#### **§ 83A-13. Exemptions.**

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

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

nothing in this Chapter shall prevent the administration by any of the said licensees of construction contracts and related services or combination of services in connection with the construction of buildings.

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

- (1) A family residence, up to eight units attached with grade level exit, which is not a part of or physically connected with any other buildings or residential units;
- (2) A building upon any farm for the use of any farmer, unless the building is of such nature and intended for such use as to substantially involve the health or safety of the public;
- (3) An institutional or commercial building if it does not have a total value exceeding ninety thousand dollars (\$90,000);
- (4) An institutional or commercial building if the total building area does not exceed 2,500 square feet in gross floor area;
- (5) Alteration, remodeling, or renovation of an existing building that is exempt under this section, or alteration, remodeling, or renovation of an existing building or building site that does not alter or affect the structural system of the building; change the building's access or exit pattern; or change the live or dead load on the building's structural system. This subdivision shall not limit or change any other exemptions to this Chapter or to the practice of engineering under Chapter 89C of the General Statutes.
- (6) The preparation and use of details and shop drawings, assembly or erection drawings, or graphic descriptions utilized to detail or illustrate a portion of the work required to construct the project in accordance with the plans and specifications prepared or to be prepared under the requirements or exemptions of this Chapter.

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

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

### **General Contractors**

#### **§ 87-1. "General contractor" defined; exceptions.**

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

This section shall not apply to persons or firms or corporations furnishing or erecting industrial equipment, power plant equipment, radial brick chimneys, and monuments.

This section shall not apply to any person or firm or corporation who constructs or alters a building on land owned by that person, firm or corporation provided such building is intended solely for occupancy by



that person and his family, firm, or corporation after completion; and provided further that, if such building is not occupied solely by such person and his family, firm, or corporation for at least 12 months following completion, it shall be presumed that the person, firm, or corporation did not intend such building solely for occupancy by that person and his family, firm, or corporation.

This section shall not apply to any person engaged in the business of farming who constructs or alters a building on land owned by that person and used in the business of farming, when such building is intended for use by that person after completion.

#### **§ 87-14. Regulations as to issue of building permits.**

Any person, firm or corporation, upon making application to the building inspector or such other authority of any incorporated city, town or county in North Carolina charged with the duty of issuing building or other permits for the construction of any building, highway, sewer, grading or any improvement or structure where the cost thereof is to be thirty thousand dollars (\$30,000) or more, shall, before he be entitled to the issuance of such permit, furnish satisfactory proof to such inspector or authority that he or another person contracting to superintend or manage the construction is duly licensed under the terms of this Article to carry out or superintend the same, and that he has paid the license tax required by the Revenue Act of the State of North Carolina then in force so as to be qualified to bid upon or contract for the work for which the permit has been applied, and that he has in effect Workers' Compensation insurance as required by Chapter 97 of the General Statutes; and it shall be unlawful for such building inspector or other authority to issue or allow the issuance of such building permit unless and until the applicant has furnished evidence that he is either exempt from the provisions of this Article or is duly licensed under this Article to carry out or superintend the work for which permit has been applied; and further, that the applicant has paid the license tax required by the State Revenue Act then in force so as to be qualified to bid upon or contract for the work covered by the permit; and further, that the applicant has in effect Workers' Compensation insurance as required by Chapter 97 of the General Statutes. Any building inspector or other such authority who is subject to and violates the terms of this section shall be guilty of a Class 3 misdemeanor and subject only to a fine of not more than fifty dollars (\$50.00).

#### **§ 87-15.6. Homeowners Recovery Fund.**

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

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

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

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

## **Plumbing, Heating, and Fire Sprinkler Contractor**

### **§ 87-21. Definitions; contractors licensed by Board; examination; posting license, etc.**

- (a) Definitions. – For the purpose of this Article:
- (1) The word "plumbing" is hereby defined to be the system of pipes, fixtures, apparatus and appurtenances, installed upon the premises, or in a building, to supply water thereto and to convey sewage or other waste therefrom.
  - (2) The phrase "heating, group number one" shall be deemed and held to be the heating system of a building, which requires the use of high or low pressure steam, vapor or hot water, including all piping, ducts, and mechanical equipment appurtenant thereto, within, adjacent to or connected with a building, for comfort heating.
  - (3) The phrase "heating, group number two" means an integral system for heating or cooling a building consisting of an assemblage of interacting components producing conditioned air to raise or lower the temperature, and having a mechanical refrigeration capacity in excess of fifteen tons, and which circulates air. Systems installed in single-family residences are included under heating group number three, regardless of size. Holders of a heating group number three license who have heretofore installed systems classified as heating group number two systems may nevertheless service, replace, or make alterations to those installed systems until June 30, 2004.
  - (4) The phrase "heating, group number three" shall be deemed and held to be a direct heating or cooling system of a building that raises or lowers the temperature of the space within the building for the purpose of comfort in which electric heating elements or products of combustion exchange heat either directly with the building supply air or indirectly through a heat exchanger using an air distribution system of ducts and having a mechanical refrigeration capacity of 15 tons or less. A heating system requiring air distribution ducts and supplied by ground water or utilizing a coil supplied by water from a domestic hot water heater not exceeding 150 degrees Fahrenheit requires either plumbing or heating group number one license to extend piping from valved connections in the domestic hot water system to the heating coil and requires either heating group number one or heating group number three license for installation of coil, duct work, controls, drains and related appurtenances.
  - (5) Any person, firm or corporation, who for a valuable consideration, (i) installs, alters or restores, or offers to install, alter or restore, either plumbing, heating group number one, or heating group number two, or heating group number three, or (ii) lays out, fabricates, installs, alters or restores, or offers to lay out, fabricate, install, alter or restore fire sprinklers, or any combination thereof, as defined in this Article, shall be deemed and held to be engaged in the business of plumbing, heating, or fire sprinkler contracting; provided, however, that nothing herein shall be deemed to restrict the practice of qualified registered professional engineers. Any person who installs a plumbing, heating, or fire sprinkler system on property which at the time of installation was intended for sale or to be used primarily for rental is deemed to be engaged in the business of plumbing, heating, or fire sprinkler contracting without regard to receipt of consideration, unless exempted elsewhere in this Article.
  - (6) The word "contractor" is hereby defined to be a person, firm or corporation engaged in the business of plumbing, heating, or fire sprinkler contracting.

- (7) The word "heating" shall be deemed and held to mean heating group number one, heating group number two, heating group number three, or any combination thereof.
  - (8) Repealed by Session Laws 1997-298, s. 1.
  - (9) The word "Board" means the State Board of Examiners of Plumbing, Heating, and Fire Sprinkler Contractors.
  - (10) The word "experience" means actual and practical work directly related to the category of plumbing, heating group number one, heating group number two, heating group number three, or fire sprinkler contracting, and includes related work for which a license is not required.
  - (11) The phrase "fire sprinkler" means an automatic or manual sprinkler system designed to protect the interior or exterior of a building or structure from fire, and where the primary extinguishing agent is water. These systems include wet pipe and dry pipe systems, preaction systems, water spray systems, foam water sprinkler systems, foam water spray systems, nonfreeze systems, and circulating closed-loop systems. These systems also include the overhead piping, combination standpipes, inside hose connections, thermal systems used in connection with the sprinklers, tanks, and pumps connected to the sprinklers, and controlling valves and devices for actuating an alarm when the system is in operation. This subsection shall not apply to owners of property who are building or improving farm outbuildings. This subsection shall not include water and standpipe systems having no connection with a fire sprinkler system. Nothing herein shall prevent licensed plumbing contractors, utility contractors, or fire sprinkler contractors from installing underground water supplies for fire sprinkler systems.
- (b) Classes of Licenses; Eligibility and Examination of Applicant; Necessity for License. –
- (1) In order to protect the public health, comfort and safety, the Board shall establish two classes of licenses: Class I covering all plumbing, heating, and fire sprinkler systems for all structures, and Class II covering plumbing and heating systems in single-family detached residential dwellings.
  - (2) The Board shall establish and issue a fuel piping license for use by persons who do not possess the required Class I or Class II plumbing or heating license, but desire to engage in the contracting or installing of fuel piping extending from an approved fuel source at or near the premises, which piping is used or may be used to supply fuel to any systems, equipment, or appliances located inside the premises.

The Board may also establish additional restricted classifications to provide for: (i) the licensing of any person, partnership, firm, or corporation desiring to engage in a specific phase of heating, plumbing, or fire sprinkling contracting; (ii) the licensing of any person, partnership, firm, or corporation desiring to engage in a specific phase of heating, plumbing, or fire sprinkling contracting that is an incidental part of their primary business, which is a lawful business other than heating, plumbing, or fire sprinkling contracting; or (iii) the licensing of persons desiring to engage in contracting and installing fuel piping from an approved fuel source on the premises to a point inside the residence.
  - (3) The Board shall prescribe the standard of competence, experience and efficiency to be required of an applicant for license of each class, and shall give an examination designed to ascertain the technical and practical knowledge of the applicant concerning the analysis of plans and specifications, estimating costs, fundamentals of installation

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

- (4) Conditions of examination set by the Board shall be uniformly applied to each applicant within each license classification. It is the purpose and intent of this section that the Board shall provide an examination for plumbing, heating group number one, or heating group number two, or heating group number three, or each restricted classification, and may provide an examination for fire sprinkler contracting or may accept a current certification of the National Institute for Certification in Engineering Technologies for Fire Protection Engineering Technician, Level III, subfield of Automatic Sprinkler System Layout.
- (5) The Board is authorized to issue a certificate of license limited to either plumbing or heating group number one, or heating group number two, or heating group number three, or fire sprinkler contracting, or any combination thereof. The Board is also authorized to issue a certificate of license limited to one or more restricted classifications that are established pursuant to this section.
- (6) Examinations shall be given at least twice each year, and additional examinations may be given as the Board deems wise and necessary. The examination shall be conducted in two parts to include a business and law portion and a technical portion. Requests for examination applications and information shall be made available online without charge and supplied at no cost to the potential examinee. The Board may offer written examinations or administer examinations by computer within 30 days after approving an application. Applicants shall be permitted to obtain the test score from each part of computerized examinations immediately upon completion of the examination. Upon passing the examination and paying the annual license fee, the applicant shall be issued a license. A person who fails to pass any examination shall not be reexamined until after 90 days from the date the person was last examined. An applicant who fails to pass any examination may take the failed portion within six months of the date approved to take the examination without retaking the portion passed. The Board may require applicants who fail any part of the examination three times to receive additional

education before the applicant is allowed to retake the examination or wait one year before retaking any portion of the examination.

(c) To Whom Article Applies. – The provisions of this Article shall apply to all persons, firms, or corporations who engage in, or attempt to engage in, the business of plumbing, heating, or fire sprinkler contracting, or any combination thereof as defined in this Article. The provisions of this Article shall not apply to those who make minor repairs or minor replacements to an already installed system of plumbing, heating or air conditioning, but shall apply to those who make repairs, replacements, or modifications to an already installed fire sprinkler system. Minor repairs or minor replacements within the meaning of this subsection shall include the replacement of parts in an installed system which do not require any change in energy source, fuel type, or routing or sizing of venting or piping. Parts shall include a compressor, coil, contactor, motor, or capacitor.

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

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

(e) Posting License; License Number on Contracts, etc. – The current license issued in accordance with the provisions of this Article shall be posted in the business location of the licensee, and its number shall appear on all proposals or contracts and requests for permits issued by municipalities. The initial qualified licensee on a license is the permanent possessor of the license number under which that license is issued, except that a licensee, or the licensee's legal agent, personal representative, heirs or assigns, may designate in writing to the Board a qualified licensee to whom the Board shall assign the license number upon the payment of a ten dollar (\$10.00) assignment fee. Upon such assignment, the qualified licensee becomes the permanent possessor of the assigned license number. Notwithstanding the foregoing, the license number may be assigned only to a qualified licensee who has been employed by the initial licensee's plumbing and heating company for at least 10 years or is a lineal relative, sibling, first cousin, nephew, niece, daughter-in-law, son-in-law, brother-in-law, or sister-in-law of the initial licensee. Each successive licensee to whom a license number is assigned under this subsection may assign the license number in the same manner as provided in this subsection.

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

(i) The provisions of this Article shall not apply to a retailer, as defined in G.S. 105-164.3(35), who, in the ordinary course of business, enters into a transaction with a buyer in which the retailer of a water heater sold for installation in a one- or two-family residential dwelling contracts with a licensee under this Article to provide the installation services for the water heater if the retail sales and installation contract with the buyer is signed by the buyer, the retailer, and the licensee and bears the licensee's license number and telephone number. All installation services rendered by the licensee in connection with any such contract must be performed in compliance with all building code, permit, and inspection requirements.

(j) The provisions of this Article shall not apply to a person primarily engaged in the retail sale of goods and services who contracts for or arranges financing for the sale and installation of a single-family

residential heating or cooling system for which a license to install such system is required under this Article, provided all of the following requirements are met:

- (1) No contract or proposal for sale or installation may be presented to or signed by the buyer unless either (i) the specifications for and design of the system have been first reviewed and approved by an employee of the retail seller who is licensed under this Article or (ii) the specifications for and design of the system have been first reviewed and approved by the person licensed under this Article who will install the system, if the installer is not an employee of the retail seller. This subdivision does not prohibit the retailer from providing a written estimate to a potential buyer so long as no contract or proposal for contract is presented or signed prior to the review and approval required by this subsection.
  - (2) The person installing the system is licensed under this Article.
  - (3) The contract for sale and for installation is signed by the buyer, by an authorized representative of the retail seller, and by the licensed contractor and contains the contractor's name, license number, and telephone number and the license number of the person approving the system design specifications.
  - (4) Installation services are performed in compliance with all applicable building codes, manufacturer's installation instructions, and permit and inspection requirements.
  - (5) The retailer provides, in addition to any other warranties it may offer with respect to the system itself, a warranty for a period of at least one year for any defects in installation.
- (k) The provisions of subsections (i) and (j) of this section shall not apply to a system meeting the definition of subdivision (a)(11) of this section.

## **Electrical Contractors**

### **§ 87-43. Electrical contracting defined; licenses.**

Electrical contracting shall be defined as engaging or offering to engage in the business of installing, maintaining, altering or repairing any electric work, wiring, devices, appliances or equipment. No person, partnership, firm or corporation shall engage, or offer to engage, in the business of electrical contracting within the State of North Carolina without having received a license in the applicable classification described in G.S. 87-43.3 from the State Board of Examiners of Electrical Contractors in compliance with the provisions of this Article, regardless of whether the offer was made or the work was performed by a qualified individual as defined in G.S. 87-41.1. In each separate place of business operated by an electrical contractor at least one listed qualified individual shall be regularly on active duty and shall have the specific duty and authority to supervise and direct all electrical wiring or electrical installation work done or made by such separate place of business. Every person, partnership, firm or corporation engaging in the business of electrical contracting shall display a current certificate of license in his principal place of business and in each branch place of business which he operates. Licenses issued hereunder shall be signed by the chairman and the secretary-treasurer of the Board, under the seal of the Board. A registry of all licenses issued to electrical contractors shall be kept by the secretary-treasurer of the Board, and said registry shall be open for public inspection during ordinary business hours.

#### **§ 87-43.1. Exceptions.**

The provisions of this Article shall not apply:

- (1) To the installation, construction or maintenance of facilities for providing electric service to the public ahead of the point of delivery of electric service to the customer;
- (2) To the installation, construction, maintenance, or repair of telephone, telegraph, or signal systems, by public utilities, or their corporate affiliates, when said work pertains to the services furnished by said public utilities;
- (3) To any person in the course of his work as a bona fide employee of a licensee of this Board;
- (4) To the installation, construction or maintenance of electrical equipment and wiring for temporary use by contractors in connection with the work of construction;
- (5) To the installation, construction, maintenance or repair of electrical wiring, devices, appliances or equipment by persons, firms or corporations, upon their own property when such property is not intended at the time for rent, lease, sale or gift, who regularly employ one or more electricians or mechanics for the purpose of installing, maintaining, altering or repairing of electrical wiring, devices or equipment used for the conducting of the business of said persons, firms or corporations;
- (5a) To any person who is himself and for himself installing, maintaining, altering or repairing electric work, wiring, devices, appliances or equipment upon his own property when such property is not intended at the time for rent, lease, or sale;
- (6) To the installation, construction, maintenance or repair of electrical wiring, devices, appliances or equipment by State institutions and private educational institutions which maintain a private electrical department;
- (7) To the replacement of lamps and fuses and to the installation and servicing of cord-connected appliances and equipment connected by means of attachment plug-in devices to suitable receptacles which have been permanently installed or to the servicing of appliances connected to a permanently installed junction box. This exception does not apply to permanently installed receptacles or to the installation of the junction box.

**§ 87-43.2. Issuance of license.**

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

- (1) At least one listed qualified individual shall be regularly employed by the applicant at each separate place of business to have the specific duty and authority to supervise and direct electrical contracting done by or in the name of the licensee;
- (2) An application is filed with the Board which contains a statement of ownership, states the names and official positions of all employees who are listed qualified individuals and provides such other information as the Board may reasonably require;
- (3) The applicant, through an authorized officer or owner, shall agree in writing to report to the Board within five days any additions to or loss of the employment of listed qualified individuals; and
- (4) The applicant furnishes, upon the initial application for a license, a bonding ability statement completed by a bonding company licensed to do business in North Carolina, verifying the applicant's ability to furnish performance bonds for electrical contracting projects having a value in excess of twenty-five thousand dollars (\$25,000) for the intermediate license classification and in excess of seventy-five thousand dollars (\$75,000) for the unlimited license classification. In lieu of furnishing the bonding

ability statement, the applicant may submit for evaluation and specific approval of the Board other information certifying the adequacy of the applicant's financial ability to engage in projects of the license classification applied for. The bonding ability statement or other financial information must be submitted in the same name as the license to be issued. If the firm for which a license application is filed is owned by a sole proprietor, the bonding ability statement or other financial information may be furnished in either the firm name or the name of the proprietor. However, if the application is submitted in the name of a sole proprietor, the applicant shall submit information verifying that the person in whose name the application is made is in fact the sole proprietor of the firm.

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

### **§ 87-43.3. Classification of licenses.**

An electrical contracting license shall be issued in one of the following classifications: Limited, under which a licensee shall be permitted to engage in a single electrical contracting project of a value not in excess of twenty-five thousand dollars (\$25,000) and on which the equipment or installation in the contract is rated at not more than 600 volts; Intermediate, under which a licensee shall be permitted to engage in a single electrical contracting project of a value not in excess of seventy-five thousand dollars (\$75,000); Unlimited, under which a licensee shall be permitted to engage in any electrical contracting project regardless of value; and such other special Restricted classifications as the Board may establish from time to time to provide, (i) for the licensing of persons, partnerships, firms or corporations wishing to engage in special restricted electrical contracting, under which license a licensee shall be permitted to engage only in a specific phase of electrical contracting of a special, limited nature, and (ii) for the licensing of persons, partnerships, firms or corporations wishing to engage in electrical contracting work as an incidental part of their primary business, which is a lawful business other than electrical contracting, under which license a licensee shall be permitted to engage only in a specific phase of electrical contracting of a special, limited nature directly in connection with said primary business. The Board may establish appropriate standards for each classification, such standards not to be inconsistent with the provisions of G.S. 87-42.

## **Engineers**

### **§ 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) Engineering intern. – A person who complies with the requirements for education, experience and character, and has passed an examination in the fundamental engineering subjects, as provided in this Chapter.
- (3a) Inactive licensee. – Licensees who are not engaged in the practice of engineering or land surveying in this State.
- (4) Land surveyor intern. – A person who has qualified for, taken, and passed an examination on the basic disciplines 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 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 to be granted the use of the honorific title "Professional Land Surveyor, Retired".
- (10) Responsible charge. – Direct control and personal supervision, either of engineering work or of land surveying, as the case may be.

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

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

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

### **Refrigeration Contractors**

**§ 87-57. License required of persons, firms or corporations engaged in the refrigeration trade.**

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

**§ 87-58. Definitions; contractors licensed by Board; examinations.**

(a) As applied in this Article, "refrigeration trade or business" is defined to include all persons, firms or corporations engaged in the installation, maintenance, servicing and repairing of refrigerating machinery, equipment, devices and components relating thereto and within limits as set forth in the codes, laws and regulations governing refrigeration installation, maintenance, service and repairs within the State of North Carolina or any of its political subdivisions. This Article shall not apply to the replacement of

lamps and fuses and to the installation and servicing of domestic household refrigerators and freezers or domestic ice-making appliances connected by means of attachment plug-in devices to suitable receptacles which have been permanently installed. The provisions of this Article shall not repeal any wording, phrase, or paragraph as set forth in Article 2 of Chapter 87 of the General Statutes. This Article shall not apply to employees of persons, firms, or corporations or persons, firms or corporations, not engaged in refrigeration contracting as herein defined, that install, maintain and service their own refrigerating machinery, equipment and devices. The provisions of this Article shall not apply to any person, firm or corporation engaged in the business of selling, repairing and installing any comfort cooling devices or systems.

(b) The term "refrigeration contractor" means a person, firm or corporation engaged in the business of refrigeration contracting.

(b1) The term "transport refrigeration contractor" means a person, firm, or corporation engaged in the business of installation, maintenance, servicing, and repairing of transport refrigeration.

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

(d) In order to protect the public health, comfort and safety, the Board shall prescribe the standard of experience to be required of an applicant for license and shall give an examination designed to ascertain the technical and practical knowledge of the applicant concerning the analysis of plans and specifications, estimating cost, fundamentals of installation and design as they pertain to refrigeration; and as a result of the examination, the Board shall issue a certificate of license in refrigeration to applicants who pass the required examination and a license shall be obtained in accordance with the provisions of this Article, before any person, firm or corporation shall engage in, or offer to engage in the business of refrigeration contracting. The Board shall prescribe standards for and issue licenses for refrigeration contracting and for transport refrigeration contracting. A transport refrigeration contractor license is a specialty license that authorizes the licensee to engage only in transport refrigeration contracting. A refrigeration contractor licensee is authorized to engage in transport refrigeration and all other aspects of refrigeration contracting.

Each application for examination shall be accompanied by a check, post-office money order or cash in the amount of the annual license fee required by this Article. Regular examinations shall be given in the months of April and October of each year and additional examinations may be given at times the Board deems wise and necessary. Any person may demand in writing a special examination and upon payment by the applicant of the cost of holding the examination and the deposit of the amount of the annual license fee, the Board in its discretion will fix a time and place for the examination.

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

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

(h) A transport refrigeration contractor having an established place of business doing transport refrigeration contracting prior to October 1, 1995, shall be granted a transport refrigeration contracting specialty license, without examination, if the person produces satisfactory evidence the person is engaged

in transport refrigeration contracting, pays the required license fee, and applies to the Board prior to January 1, 1997. The current specialty license shall be posted in accordance with subsection (g) of this section.

(i) Nothing in this Article shall relieve the holder of a license issued under this section from complying with the building or electrical codes, statutes, or ordinances of the State or of any county or municipality or from responsibility or liability for negligent acts in connection with refrigeration contracting work. The Board shall not be liable in damages, or otherwise, for the negligent acts of licensees.

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

### **Uniform Boiler and Pressure Vessel Act**

#### **§ 95-69.8. Short title.**

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

#### **§ 95-69.9. Definitions.**

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

(b) The term "boiler" shall mean a closed vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum by the direct or indirect application of heat. The term "boiler" shall also include fired units for heating or vaporizing liquids other than water where these units are complete within themselves.

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

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

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

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

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

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

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

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

#### **§ 95-69.10. Application of Article; exemptions.**

(a) This Article shall apply to all boilers and pressure vessels constructed, used, or designed for operation in this State including all new and existing installations which are operated in connection with business buildings, institutional buildings, industrial buildings, assembly buildings, educational buildings, public residential buildings, recreation buildings, other public buildings, and water supplies. This Article shall also apply to boilers and hot water supply tanks, and heaters located in hotels, motels, tourist courts, camps, cottages, resort lodges, and similar places whenever the owner or operator advertises in any manner for transit patronage, or solicits such business for temporary abode by transit patrons.

(b) This Article shall not apply to:

- (1) Boilers and pressure vessels owned or operated by the federal government, unless the agency in question has asked for coverage by this Article.
- (2) Pressure vessels used for transportation or storage of compressed gases when constructed in compliance with the specifications of the United States Department of Transportation and when charged with gas marked, maintained, and periodically requalified for use, as required by appropriate regulations of the United States Department of Transportation.
- (3) Portable pressure vessels used for agricultural purposes only or for pumping or drilling in an open field for water, gas or coal, gold, talc, or other minerals and metals.
- (4) Boilers and pressure vessels which are located in private residences or in apartment houses of less than six families.
- (5) Pressure vessels used for transportation or storage of liquified petroleum gas.
- (6) Air tanks located on vehicles licensed under the rules and regulations of other state authorities operating under rules and regulations substantially similar to those of this State and used for carrying passengers or freight within interstate commerce.
- (7) Air tanks installed on right-of-way of railroads and used directly in the operation of trains.
- (8) Any of the following pressure vessels that do not exceed the listed limitations if the vessel is not equipped with a quick actuating closure:
  - a. Five cubic feet in volume and 250 psig.
  - b. Three cubic feet in volume and 350 psig.
  - c. One and one-half cubic feet in volume and 600 psig.
  - d. An inside diameter of six inches with no limitation on pressure.
- (9) Pressure vessels operating at a working pressure not exceeding 15 psig.
- (10) Pressure vessels with a nominal water capacity not exceeding 120 gallons and containing water under pressure at temperatures not exceeding 120° F, including those containing air, the compression of which serves as a cushion.
- (11) Boilers and pressure vessels on railroad steam locomotives that are subject to federal safety regulations.
- (12) Repealed by Session Laws 1985, c. 620, s. 2.
- (13) Coil-type hot water supply boilers, generally referred to as steam jennies, where the water can flash into steam when released directly to the atmosphere through a manually operated nozzle and where adequate safety relief valves and controls are installed on them, provided none of the following limitations are exceeded:
  - a. There is no drum, header, or other steam space.
  - b. No steam is generated within the coil.
  - c. Maximum 1 inch tube size.
  - d. Maximum ¾ inch nominal pipe size.

- e. Maximum 6 gallon nominal water storage capacity.
  - f. Water temperature of 350°F.
- (14) Pressure vessels containing water at a temperature not exceeding 110 degrees fahrenheit except that this provision shall not exclude hydropneumatic pressure vessels from regulation.
  - (15) An air tank that does not exceed eight cubic feet in volume that is installed on a service vehicle.
  - (16) Autoclaves in medical offices and hospitals that are less than five cubic feet in volume, even if they are equipped with a quick actuating closure.
  - (17) Coil-type hot water supply boilers of the instantaneous type where adequate safety relief valves and controls are installed if none of the following limitations are exceeded:
    - a. There is no drum, header, or other steam space.
    - b. No steam is generated within the coil.
    - c. Maximum one-inch tube size.
    - d. Maximum three-quarter-inch nominal pipe size.
    - e. Maximum six-gallon nominal water storage capacity.
    - f. Water temperature not to exceed 250°F.
    - g. Maximum heat input does not exceed 400,000 Btu/hr or 110 kW.
    - h. Maximum pressure of 260 psig.
  - (18) Toy boilers, if all of the following apply:
    - a. The water containing volume of the boiler is less than one quart.
    - b. The operating pressure does not exceed 15 psig.
    - c. The maximum outside diameter of the shell is no greater than six inches.
    - d. The boiler is manually fired by solid fuels.
  - (19) Pressure vessels associated with electrical apparatus in electrical switchyards if the pressure vessels have proper pressure relief devices.
  - (20) Carbon dioxide tanks used in beverage dispensing service.

(c) The construction and inspection requirements established by the Department of Labor shall not apply to hot water supply boilers which are directly fired with oil, gas or electricity, or hot water supply tanks heated by steam or any other indirect means, which do not exceed any of the following limitations:

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

provided that they are equipped with ASME Code and National Board certified safety relief valves.

(d) The construction requirements established by the Department of Labor shall not apply to pressure vessels installed in this State prior to December 31, 1981, that:

- (1) Are of one-piece, unwelded, forged construction;
- (2) Are constructed before January 1, 1981, and operating or could be operated, under the laws of any state or Canadian Province that has adopted one or more sections of the ASME Code;
- (3) Are transferred into this State without a change of ownership; and
- (4) Are determined by the Chief Inspector to be constructed under standards substantially equivalent to those established by the department at the time of transfer;

provided that they are equipped with ASME Code and National Board certified safety relief valves.

(e) The construction requirements established by the Department of Labor shall not apply to pressure vessels installed in this State prior to December 31, 1984, that:

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

provided that they are equipped with ASME Code and National Board certified safety relief valves.

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

### **Accessibility Tax Credit**

#### **§ 105-130.22. Tax credit for construction of dwelling units for handicapped persons.**

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

#### **§ 105-151.1. Credit for construction of dwelling units for handicapped persons.**

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



## **Public Schools**

### **§ 115C-525. Fire prevention.**

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

- (1) Every principal shall make certain that all corridors, halls, and tower stairways which are used for exits shall always be kept clear and that nothing shall be permitted to be stored or kept in corridors or halls, or in, on or under stairways that could in any way interfere with the orderly exodus of occupants. The principal shall make certain that all doors used for exits shall be kept in good working condition. During the occupancy of the building or any portion thereof by the public or for school purposes, the principal shall make certain that all doors necessary for prompt and orderly exodus of the occupants are kept unlocked.
- (2) Every principal shall make certain that no electrical wiring shall be installed within any school building or structure or upon the premises and that no alteration or addition shall be made in any existing wiring, except with the authorization of the superintendent. Any such work shall be performed by a licensed electrical contractor, or by a maintenance electrician regularly employed by the board of education and approved by the Commissioner of Insurance.
- (3) Every principal shall make certain that combustible materials necessary to the curriculum and for the operation of the school shall be stored in a safe and orderly manner.
- (4) Every principal shall make certain that all supplies, such as oily rags, mops, etc., which may cause spontaneous combustion, shall be stored in an orderly manner in a well-ventilated place.
- (5) Every principal shall make certain that all trash and rubbish shall be removed from the school building daily. No trash or rubbish shall be permitted to accumulate in a school attic, basement or other place on the premises.
- (6) Every principal shall cooperate in every way with the authorized building inspector, electrical inspector, county fire marshal or other designated person making the inspections required by G.S. 115C-525(b).

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

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

- (1) Each school building shall be inspected to make certain that none of the fire hazards enumerated in G.S. 115C-525(a)(1) through (5) exist, and to ensure that the building and all heating, mechanical, electrical, gas, and other equipment and appliances are properly installed and maintained in a safe and serviceable manner as prescribed by the North Carolina Building Code. Following each inspection, the persons making the

inspection shall furnish to the principal of the school a written report of conditions found during inspection, upon forms furnished by the Commissioner of Insurance, and the persons making the inspection shall also furnish a copy of the report to the superintendent of schools; the superintendent shall keep such copy on file for a period of three years. In addition to the periodic inspections herein required, any alterations or additions to existing school buildings or to school building utilities or appliances shall be inspected immediately following completion.

- (2) The board of county commissioners of each county shall designate the persons to make the inspections and reports required by subdivision (1) of this subsection. The board may designate any city or county building inspector, any city or county fire prevention bureau, any city or county electrical inspector, the county fire marshal, or any other qualified persons, but no person shall make any inspection unless he shall be qualified as required by G.S. 153A-351.1 and Section 7 of Chapter 531 of the 1977 Session Laws. Nothing in this section shall be construed as prohibiting two or more counties from designating the same persons to make the inspections and reports required by subdivision (1) of this subsection. The board of county commissioners shall compensate or provide for the compensation of the persons designated to make all such inspections and reports. The board of county commissioners may make appropriations in the general fund of the county to meet the costs of such inspections, or in the alternative the board may add appropriations to the school current expense fund to meet the costs thereof: Provided, that if appropriations are added to the school current expense fund, such appropriations shall be in addition to and not in substitution of existing school current expense appropriations.
- (3) It shall be the duty of the Commissioner of Insurance, the Superintendent of Public Instruction, and the State Board of Education to prescribe any additional rules and regulations which they may deem necessary in connection with such inspections and reports for the reduction of fire hazards and protection of life and property in public schools.
- (4) It shall be the duty of each principal to make certain that all fire hazards called to his attention in the course of the inspections and reports required by subdivision (1) of this subsection are immediately removed or corrected, if such removal or correction can be accomplished by the principal. If such removal or correction cannot be accomplished by the principal, it shall be the duty of the principal to bring the matter to the attention of the superintendent.
- (5) It shall be the duty of each superintendent of schools to make certain that all fire hazards called to his attention in the course of the inspections and reports required by subdivision (1) of this subsection and not removed or corrected by the principals as required by subdivision (4) of this subsection are removed or corrected, if such removal or correction can be brought about within the current appropriations available to the superintendent. Where any removal or correction of a hazard will require the expenditure of funds in excess of current appropriations, it shall be the duty of the superintendent to bring the matter to the attention of the appropriate board of education, and the board of education in turn shall bring the same to the attention of the board of county commissioners, in order that immediate steps be taken, within the framework of existing law, to remove or correct the hazard.

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

**§ 130A-336. Improvement permit and authorization for wastewater system construction required.**

(a) Any proposed site for a residence, place of business, or place of public assembly in an area not served by an approved wastewater system shall be evaluated by the local health department in accordance with rules adopted pursuant to this Article. An improvement permit shall be issued in compliance with the rules adopted pursuant to this Article. An improvement permit shall include:

- (1) For permits that are valid without expiration, a plat or, for permits that are valid for five years, a site plan.
- (2) A description of the facility the proposed site is to serve.
- (3) The proposed wastewater system and its location.
- (4) The design wastewater flow and characteristics.
- (5) The conditions for any site modifications.
- (6) Any other information required by the rules of the Commission.

The improvement permit shall not be affected by change in ownership of the site for the wastewater system provided both the site for the wastewater system and the facility the system serves are unchanged and remain under the ownership or control of the person owning the facility. No person shall commence or assist in the construction, location, or relocation of a residence, place of business, or place of public assembly in an area not served by an approved wastewater system unless an improvement permit and an authorization for wastewater system construction are obtained from the local health department. This requirement shall not apply to a manufactured residence exhibited for sale or stored for later sale and intended to be located at another site after sale.

(b) The local health department shall issue an authorization for wastewater system construction authorizing work to proceed and the installation or repair of a wastewater system when it has determined after a field investigation that the system can be installed and operated in compliance with this Article and rules adopted pursuant to this Article. This authorization for wastewater system construction shall be valid for a period equal to the period of validity of the improvement permit, not to exceed five years, and may be issued at the same time the improvement permit is issued. No person shall commence or assist in the installation, construction, or repair of a wastewater system unless an improvement permit and an authorization for wastewater system construction have been obtained from the Department or the local health department. No improvement permit or authorization for wastewater system construction shall be required for maintenance of a wastewater system. The Department and the local health department may impose conditions on the issuance of an improvement permit and an authorization for wastewater system construction.

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

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

**§ 130A-337. Inspection; operation permit required.**

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

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

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

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

**§ 130A-338. Authorization for wastewater system construction required before other permits to be issued.**

Where construction, location or relocation is proposed to be done upon a residence, place of business or place of public assembly, no permit required for electrical, plumbing, heating, air conditioning or other construction, location or relocation activity under any provision of general or special law shall be issued until an authorization for wastewater system construction has been issued under G.S. 130A-336 or authorization has been obtained under G.S. 130A-337(c).

**§ 130A-339. Limitation on electrical service.**

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

**Public Works**

**§ 133-1. Employment of architects, etc., on public works when interested in use of materials prohibited.**

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

**§ 133-1.1. Certain buildings involving public funds to be designed, etc., by architect or engineer.**

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

- (1) Three hundred thousand dollars (\$300,000) for the repair of public buildings where such repair does not include major structural change in framing or foundation support systems,
- (1a) One hundred thousand dollars (\$100,000) for the repair of public buildings affecting life safety systems,
- (2) One hundred thirty-five thousand dollars (\$135,000) for the repair of public buildings where such repair includes major structural change in framing or foundation support systems, or
- (3) One hundred thirty-five thousand dollars (\$135,000) for the construction of, or additions to, public buildings or State-owned and operated utilities,

shall require that such plans and specifications be prepared by a registered architect, in accordance with the provisions of Chapter 83A of the General Statutes, or by a registered engineer, in accordance with the provisions of Chapter 89C of the General Statutes, or by both architect and engineer, particularly qualified by training and experience for the type of work involved, and that the North Carolina seal of such architect or engineer together with the name and address of such architect or engineer, or both, be placed on all these plans and specifications.

- (b) (1) On all projects requiring the services of an architect, an architect shall conduct frequent and regular inspections or such inspections as required by contract and shall issue a signed and sealed certificate of compliance to the awarding authority that:
    - a. The inspections of the construction, repairs or installations have been conducted with the degree of care and professional skill and judgment ordinarily exercised by a member of that profession; and
    - b. To the best of his knowledge and in the professional opinion of the architect, the contractor has fulfilled the obligations of such plans, specifications, and contract.
  - (2) On all projects requiring the services of an engineer, an engineer shall conduct frequent and regular inspections or such inspections as required by contract and shall issue a signed and sealed certificate of compliance to the awarding authority that:
    - a. The inspections of the construction, repairs, or installations have been conducted with the degree of care and professional skill and judgment ordinarily exercised by a member of that profession; and
    - b. To the best of his knowledge and in the professional opinion of the engineer, the contractor has fulfilled the obligations of such plans, specifications, and contract.
  - (3) No certificate of compliance shall be issued until the architect and/or engineer is satisfied that the contractor has fulfilled the obligations of such plans, specifications, and contract.
- (c) The following shall be excepted from the requirements of subsection (a) of this section:
- (1) Dwellings and outbuildings in connection therewith, such as barns and private garages.
  - (2) Apartment buildings used exclusively as the residence of not more than two families.
  - (3) Buildings used for agricultural purposes other than schools or assembly halls which are not within the limits of a city or an incorporated village.

- (4) Temporary buildings or sheds used exclusively for construction purposes, not exceeding 20 feet in any direction, and not used for living quarters.
- (5) Pre-engineered garages, sheds, and workshops up to 5,000 square feet used exclusively by city, county, public school, or State employees for purposes related to their employment. For pre-engineered garages, sheds, and workshops constructed pursuant to this subdivision, there shall be a minimum separation of these structures from other buildings or property lines of 30 feet.

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

- (1) The plans and specifications are approved by the Department of Administration, Division of State Construction, and the completed project is inspected by the Division of State Construction and the State Electrical Inspector.
- (2) The project is exempt from the State Building Code.
- (3) The project has a total projected cost of less than \$100,000 and does not alter life safety systems.

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

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

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

### **§ 133-2. Drawing of plans by material furnisher prohibited.**

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

### **§ 133-3. Specifications to carry competitive items; substitution of materials.**

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

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

**§ 133-4. Violation of Chapter made misdemeanor.**

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

**Inspection of State Owned Buildings**

**§ 143-135.1. State buildings exempt from county and municipal building requirements; consideration of recommendations by counties and municipalities.**

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

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

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

**Building Code Council and Building Code**

**§ 143-136. Building Code Council created; membership.**

(a) Creation; Membership; Terms. – There is hereby created a Building Code Council, which shall be composed of 17 members appointed by the Governor, consisting of two registered architects, one licensed general contractor, one licensed general contractor specializing in residential construction, one licensed general contractor specializing in coastal residential construction, one registered engineer practicing structural engineering, one registered engineer practicing mechanical engineering, one registered engineer practicing electrical engineering, one licensed plumbing and heating contractor, one municipal or county building inspector, one licensed liquid petroleum gas dealer/contractor involved in the design of natural and liquid petroleum gas systems who has expertise and experience in natural and liquid petroleum gas piping, venting and appliances, a representative of the public who is not a member of the building construction industry, a licensed electrical contractor, a registered engineer on the engineering staff of a State agency charged with approval of plans of State-owned buildings, a municipal elected official or city manager, a county commissioner or county manager, and an active member of the North Carolina fire service with expertise in fire safety. In selecting the municipal and county members, preference should be given to members who qualify as either a registered architect, registered engineer, or licensed general contractor. Of the members initially appointed by the Governor, three shall serve for terms of two years each, three shall serve for terms of four years each, and three shall serve for terms of six years each. Thereafter, all appointments shall be for terms of six years. The Governor may remove appointive members at any time. Neither the architect nor any of the above named engineers shall be engaged in the manufacture, promotion or sale of any building material, and any member who shall, during his term, cease to meet the qualifications for original appointment (through ceasing to be a practicing member of the profession indicated or otherwise) shall thereby forfeit his membership on the Council. In making new appointments or filling vacancies, the Governor shall ensure that minorities and women are represented on the Council.

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

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

**§ 143-137. Organization of Council; rules; meetings; staff; fiscal affairs.**

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



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

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

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

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

#### **§ 143-138. North Carolina State Building Code.**

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

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

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

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

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

The Code may contain provisions regulating every type of building or structure, wherever it might be situated in the State.

Provided further, that nothing in this Article shall be construed to make any building rules applicable to farm buildings located outside the building-rules jurisdiction of any municipality.

Provided further, that no building permit shall be required under the Code or any local variance thereof approved under subsection (e) for any construction, installation, repair, replacement, or alteration costing five thousand dollars (\$5,000) or less in any single family residence or farm building unless the work involves: the addition, repair, or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment, the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing.

Provided further, that no building permit shall be required under such Code from any State agency for the construction of any building or structure, the total cost of which is less than twenty thousand dollars (\$20,000), except public or institutional buildings.

For the information of users thereof, the Code shall include as appendices

- (1) Any rules governing boilers adopted by the Board of Boiler and Pressure Vessels Rules,
- (2) Any rules relating to the safe operation of elevators adopted by the Commissioner of Labor, and
- (3) Any rules relating to sanitation adopted by the Commission for Health Services which the Building Code Council believes pertinent.

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

Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of (1) equipment for storing, handling, transporting, and utilizing liquefied petroleum gases for fuel purposes or anhydrous ammonia or other liquid fertilizers, except for liquefied petroleum gas from the outlet of the first stage pressure regulator to and including each liquefied petroleum gas utilization device within a building or structure covered by the Code, or (2) equipment or facilities, other than buildings, of a public utility, as defined in G.S. 62-3, or an

electric or telephone membership corporation, including without limitation poles, towers, and other structures supporting electric or communication lines.

In addition, the Code may contain rules concerning minimum efficiency requirements for replacement water heaters, which shall consider reasonable availability from manufacturers to meet installation space requirements.

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

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

(d) Amendments of the Code. – The Building Code Council may revise and amend the North Carolina State Building Code, either on its own motion or upon application from any citizen, State agency, or political subdivision of the State. In adopting any amendment, the Council shall comply with the same procedural requirements and the same standards set forth above for adoption of the Code.

(e) Effect upon Local Codes. – The North Carolina State Building Code shall apply throughout the State, from the time of its adoption. Approved rules shall become effective in accordance with G.S. 150B-21.3. However, any political subdivision of the State may adopt a fire prevention code and floodplain management regulations within its jurisdiction. The territorial jurisdiction of any municipality or county for this purpose, unless otherwise specified by the General Assembly, shall be as follows: Municipal jurisdiction shall include all areas within the corporate limits of the municipality and extraterritorial jurisdiction areas established as provided in G.S. 160A-360 or a local act; county jurisdiction shall include all other areas of the county. No such code or regulations, other than floodplain management regulations and those permitted by G.S. 160A-436, shall be effective until they have been officially approved by the Building Code Council as providing adequate minimum standards to preserve and protect health and safety, in accordance with the provisions of subsection (c) above. Local floodplain regulations may regulate all types and uses of buildings or structures located in flood hazard areas identified by local, State, and federal agencies, and include provisions governing substantial improvements, substantial damage, cumulative substantial improvements, lowest floor elevation, protection of mechanical and electrical systems, foundation construction, anchorage, acceptable flood resistant materials, and other measures the political subdivision deems necessary considering the

characteristics of its flood hazards and vulnerability. In the absence of approval by the Building Code Council, or in the event that approval is withdrawn, local fire prevention codes and regulations shall have no force and effect. Provided any local regulations approved by the local governing body which are found by the Council to be more stringent than the adopted statewide fire prevention code and which are found to regulate only activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion or related hazards, and are not matters in conflict with the State Building Code, shall be approved. Local governments may enforce the fire prevention code of the State Building Code using civil remedies authorized under G.S. 143-139, 153A-123, and 160A-175. If the Commissioner of Insurance or other State official with responsibility for enforcement of the Code institutes a civil action pursuant to G.S. 143-139, a local government may not institute a civil action under G.S. 143-139, 153A-123, or 160A-175 based upon the same violation. Appeals from the assessment or imposition of such civil remedies shall be as provided in G.S. 160A-434.

(f) Repealed.

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

OFFICIAL OR AGENCY	NUMBER OF COPIES
State Departments and Officials	
Governor .....	1
Lieutenant Governor .....	1
Auditor .....	1
Treasurer .....	1
Secretary of State .....	1
Superintendent of Public Instruction .....	1
Attorney General (Library) .....	1
Commissioner of Agriculture .....	1
Commissioner of Labor .....	1
Commissioner of Insurance .....	1
Department of Environment and	
Natural Resources .....	1
Department of Health and Human Services .....	1
Office of Juvenile Justice .....	1
Board of Transportation .....	1
Utilities Commission .....	1
Department of Administration .....	1
Clerk of the Supreme Court .....	1
Clerk of the Court of Appeals .....	1
Department of Cultural Resources [State	
Library] .....	1
Supreme Court Library .....	1
Legislative Library .....	1
Schools	
All state-supported colleges and universities	
in the State of North Carolina .....	* 1 each Local Officials

Clerks of the Superior Courts ..... 1 each  
 Chief Building Inspector of each incorporated  
 municipality or county ..... 1

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

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

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

**Section 1008 - Existing High-Rise Buildings**

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

**1008 – GENERAL.**

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

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

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

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

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

- (2) The building official may permit time extensions beyond five years to accomplish compliance in accordance with the overall plan when the owner can show just cause for such extension of time at the time the overall plan is approved.
- (3) The local building official shall send second request notices as per 1008(b) to building owners who have made no response to the request at the end of six months and a third request notice to no response building owners at the end of nine months.
- (4) If the building owner makes no response to any of the three requests for information on how the owner plans to comply with Section 1008 within 12 months from the first request, the building official shall issue a "written order" to the building owner to provide his building with the safety to life facilities as required by this section and to submit an overall plan specified by (1) above within six months with the five-year time period starting on the date of the "written order".
- (5) For purposes of this section, the Construction Section of the Division of Facility Services, Department of Health and Human Services, will notify all non-State owned I-Institutional buildings requiring licensure by the Division of Facility Services and coordinate compliance requirements with the Department of Insurance and the local building official.

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

NOTE: Suggested Time Period For Compliance:

**SUGGESTED TIME PERIOD FOR COMPLIANCE**

<u>ITEM</u>	<u>CLASS I (SECTION)</u>	<u>CLASS II (SECTION)</u>	<u>CLASS III (SECTION)</u>	<u>TIME FOR COMPLETION</u>
Signs in Elevator Lobbies and Elevator Cabs	1008.2(h)	1008.3(h)	1008.4(h)	180 days
Emergency Evacuation Plan	1008(b)	NOTE:		180 days
Corridor Smoke Detectors (Includes alternative door closers)	1008.2(c)	1008.3(c)	1008.4(c)	1 year
Manual Fire Alarm	1008.2(a)	1008.3(a)	1008.4(a)	1 year
Voice Communication System Required	1008.2(b)	1008.3(b)	1008.4(b)	2 years
Smoke Detectors Required	1008.2(c)	1008.3(c)	1008.4(c)	1 year
Protection and Fire Stopping for Vertical Shafts	1008.2(f)	1008.3(f)	1008.4(f)	3 years
Special Exit Requirements- Number, Location and Illumination to be in				

accordance with Section 1007	1008.2(e)	1008.3(e)	1008.4(e)	3 years
Emergency Electrical Power Supply	1008.2(d)	1008.3(d)	1008.4(d)	4 years
Special Exit Facilities Required	1008.2(e)	1008.3(e)	1008.4(e)	5 years
Compartmentation for Institutional Buildings	1008.2(f)	1008.3(f)	1008.4(f)	5 years
Emergency Elevator Requirements	1008.2(h)	1008.3(h)	1008.4(h)	5 years
Central Alarm Facility Required		1008.3(i)	1008.4(i)	5 years
Areas of Refuge Required on Every Eighth Floor			1008.4(j)	5 years
Smoke Venting			1008.4(k)	5 years
Fire Protection of Electrical Conductors			1008.4(l)	5 years
Sprinkler System Required			1008.4(m)	5 years

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

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

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

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

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

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

- (1) Assignment of a responsible person to work with the fire authority in the establishment, implementation and maintenance of the emergency pre-fire plan.
- (2) Emergency plan procedures shall be supplied to all tenants and shall be posted conspicuously in each hotel guest room, each office area, and each schoolroom.
- (3) Submission to the local fire authority of an annual renewal or amended emergency plan.
- (4) Plan should be completed as soon as possible.

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

TABLE 1008.1

Scope

CLASS	OCCUPANCY GROUP (3)(4)	OCCUPIED FLOOR ABOVE AVERAGE GRADE EXCEEDING HEIGHT (2)	Group
R-Residential	60' but less than 120' above		
CLASS I	Group B-Business	average grade or 6 but less than	
	Group E-Educational	12 stories above average grade.	
CLASS I	Group A-Assembly		
	Group H-Hazardous		
CLASS I	Group I-Institutional-Restrained		
	Group I-Institutional-Unrestrained	36' but less than 60' above average grade or 3 but less than 6 stories above average grade.	Group
R-Residential	120' but less than 250' above		
CLASS II	Group B-Business	average grade or 12 but less	
	Group E-Educational	than 25 stories above average grade.	
CLASS II	Group A-Assembly		
	Group H-Hazardous		
CLASS II	Group I-Institutional-Restrained		
	Group I-Institutional-Unrestrained	60' but less than 250' above average grade or 6 but less than 25 stories above average grade.	Group
R-Residential	250' or 25 stories above average		
CLASS III	Group B-Business	grade.	
	Group E-Educational		



Group I-Institutional  
Group A-Assembly  
Group H-Hazardous

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

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

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

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

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

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

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

#### 1008.2-REQUIREMENTS FOR EXISTING CLASS I BUILDINGS.

All Class I buildings shall be provided with the following:

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

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

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

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

(2) In every mechanical equipment, boiler, electrical equipment, elevator equipment or similar room unless the room is sprinklered or the room is separated from other areas by two-hour fire resistance construction with all openings therein protected with

approved fire dampers and Class B fire doors. (Approved listed fire (heat) detectors may be submitted for these rooms.)

- (3) In the return air portion of every air conditioning and mechanical ventilation system that serves more than one floor.
- (4) The activation of any detector shall activate the alarm system, and shall cause such other operations as required by this Code.
- (5) The annunciator shall be located near the main entrance or in a central alarm and control facility.

NOTE 1: Limited area sprinklers may be supplied from the domestic water system provided the domestic water system is designed to support the design flow of the largest number of sprinklers in any one of the enclosed areas. When supplied by the domestic water system, the maximum number of sprinklers in any one enclosed room or area shall not exceed 20 sprinklers which must totally protect the room or area.

(d) Emergency Electrical Power Supply. – An emergency electrical power supply shall be provided to supply the following for a period of not less than two hours. An emergency electrical power supply may consist of generators, batteries, a minimum of two remote connections to the public utility grid supplied by multiple generating stations, a combination of the above.

- (1) Emergency, exit and elevator cab lighting.
- (2) Emergency illumination for corridors, stairs, etc.
- (3) Emergency Alarms and Detection Systems. – Power supply for fire alarm and fire detection. Emergency power does not need to be connected to fire alarm or detection systems when they are equipped with their own emergency power supply from float or trickle charge battery in accordance with NFPA standards.

(e) Special Exit Requirements. – Exits and exitways shall meet the following requirements:

- (1) Protection of Stairways Required. – All required exit stairways shall be enclosed with noncombustible one-hour fire rated construction with a minimum of 1¾ inch solid core wood door or hollow metal door or 20 minute UL listed doors as entrance thereto. (See Section 1007.5).
- (2) Number and Location of Exits. – All required exit stairways shall meet the requirements of Section 1007 to provide for proper number and location and proper fire rated enclosures and illumination of and designation for means of egress.
- (3) Exit Outlets. – Each required exit stair shall exit directly outside or through a separate one-hour fire rated corridor with no openings except the necessary openings to exit into the fire rated corridor and from the fire rated corridor and such openings shall be protected with 1¾ inch solid wood core or hollow metal door or equivalent unless the exit floor level and all floors below are equipped with an approved automatic sprinkler system meeting the requirements of NFPA No. 13.

(f) Smoke Compartments Required for I-Institutional Buildings. – Each occupied floor shall be divided into at least two compartments with each compartment containing not more than 30 institutional occupants. Such compartments shall be subdivided with one-half hour fire rated partitions which shall extend from outside wall to outside wall and from floor to and through any concealed space to the floor slab or roof above and meet the following requirements:

- (1) Maximum area of any smoke compartment shall be not more than 22,500 square feet in area with both length and width limited to 150 feet.
- (2) At least one smoke partition per floor regardless of building size forming two smoke zones of approximately equal size.

- (3) All doors located in smoke partitions shall be properly gasketed to insure a substantial barrier to the passage of smoke and gases.
- (4) All doors located in smoke partitions shall be no less than 1¾ inch thick solid core wood doors with UL, ¼ inch wire glass panel in metal frames. This glass panel shall be a minimum of 100 square inches and a maximum of 720 square inches.
- (5) Every door located in a smoke partition shall be equipped with an automatic closer. Doors that are normally held in the open position shall be equipped with an electrical device that shall, upon actuation of the fire alarm or smoke detection system in an adjacent zone, close the doors in that smoke partition.
- (6) Glass in all corridor walls shall be ¼", UL approved, wire glass in metal frames in pieces not to exceed 1296 square inches.
- (7) Doors to all patient rooms and treatment areas shall be a minimum of 1¾ inch solid core wood doors except in fully sprinklered buildings.

(g) Protection and Fire Stopping for Vertical Shafts. – All vertical shafts extending more than one floor including elevator shafts, plumbing shafts, electrical shafts and other vertical openings shall be protected with noncombustible one-hour fire rated construction with shaft wall openings protected with 1¾ inch solid core wood door or hollow metal door. Vertical shafts (such as electrical wiring shafts) which have openings such as ventilated doors on each floor must be fire stopped at the floor slab level with noncombustible materials having a fire resistance rating not less than one hour to provide an effective barrier to the passage of smoke, heat and gases from floor to floor through such shafts.

EXCEPTION: Shaft wall openings protected in accordance with NFPA No. 90A and openings connected to metal ducts equipped with approved fire dampers within the shaft wall openings do not need any additional protection.

(h) Signs in Elevator Lobbies and Elevator Cabs. – Each elevator lobby call station on each floor shall have an emergency sign located adjacent to the call button and each elevator cab shall have an emergency sign located adjacent to the floor status indicator. The required emergency sign shall be readable at all times and shall be a minimum of 1/2" high block letters with the words: "IN CASE OF FIRE DO NOT USE ELEVATOR – USE THE EXIT STAIRS" or other words to this effect.

### 1008.3 – REQUIREMENTS FOR EXISTING CLASS II BUILDINGS.

All Class II buildings must meet the following requirements:

(a) Manual Fire Alarm. – Provide manual fire alarm system in accordance with Section 1008.2(a). In addition, buildings so equipped with sprinkler alarm system or automatic fire detection system must have at least one manual fire alarm station near an exit on each floor as a part of such sprinkler or automatic fire detection and alarm system. Such manual fire alarm systems shall report a fire by floor.

(b) Voice Communication System Required. – An approved voice communication system or systems operated from the central alarm and control facilities shall be provided and shall consist of the following:

- (1) One-Way Voice Communication Public Address System Required. – A one-way voice communication system shall be established on a selective basis which can be heard clearly by all occupants in all exit stairways, elevators, elevator lobbies, corridors, assembly rooms and tenant spaces.

NOTE 1: This system shall function so that in the event of one circuit or speaker being damaged or out of service, the remainder of the system shall continue to be operable.

NOTE 2: This system shall include provisions for silencing the fire alarm devices when the loud speakers are in use, but only after the fire alarm devices have operated initially for not less than 15 seconds.

(c) Smoke Detectors Required. – Smoke detectors are required as per Section 1008.2(c). The following are additional requirements:

- (1) Storage rooms larger than 24 square feet or having a maximum dimension of over eight feet shall be provided with approved fire detectors or smoke detectors installed in an approved manner unless the room is sprinklered.
- (2) The actuation of any detectors shall activate the fire alarm system.

(d) Emergency Electrical Power Supply. – An emergency electrical power supply shall be provided to supply the following for a period of not less than two hours. An emergency electrical power supply may consist of generators, batteries, a minimum of two remote connections to the public utility grid supplied by multiple generating stations, a combination of the above. Power supply shall furnish power for items listed in Section 1008.2(d) and the following:

- (1) Pressurization Fans. – Fans to provide required pressurization, smoke venting or smoke control for stairways.
- (2) Elevators. – The designated emergency elevator.

(e) Special Exit Facilities Required. – The following exit facilities are required:

- (1) The special exit facilities required in 1008.2(e) are required. All required exit stairways shall be enclosed with noncombustible two-hour fire rated construction with a minimum of 1½ hour Class B-labeled doors as entrance thereto: (See Section 1007.5).
- (2) Smoke-Free Stairways Required. – At least one stairway shall be a smoke free stairway in accordance with Section 1104.2 or at least one stairway shall be pressurized to between 0.15 inch and 0.35 inch water column pressure with all doors closed. Smoke-free stairs and pressurized stairs shall be identified with signs containing letters a minimum of ½ inch high containing the words "PRIMARY EXIT STAIRS" unless all stairs are smoke free or pressurized. Approved exterior stairways meeting the requirements of Chapter XI or approved existing fire escapes meeting the requirements of Chapter X with all openings within 10 feet protected with wire glass or other properly designed stairs protected to assure similar smoke-free vertical egress may be permitted. All required exit stairways shall also meet the requirements of Section 1008.2(e).
- (3) If stairway doors are locked from the stairway side, keys shall be provided to unlock all stairway doors on every eighth floor leading into the remainder of the building and the key shall be located in a glass enclosure adjacent to the door at each floor level (which may sound an alarm when the glass is broken). When the key unlocks the door, the hardware shall be of the type that remains unlocked after the key is removed. Other means, approved by the building official may be approved to enable occupants and fire fighters to readily unlock stairway doors on every eighth floor that may be locked from the stairwell side. The requirements of this section may be eliminated in smoke-free stairs and pressurized stairs provided fire department access keys are provided in locations acceptable to the local fire authority.

(f) Compartmentation for I-Institutional Buildings Required. – See Section 1008.2(f).

(g) Protection and Fire Stopping for Vertical Shafts. – All vertical shafts extending more than one floor including elevator shafts, plumbing shafts, electrical shafts and other vertical openings shall be

protected with noncombustible two-hour fire rated construction with Class B-labeled door except for elevator doors which shall be hollow metal or equivalent. All vertical shafts which are not so enclosed must be fire stopped at each floor slab with noncombustible materials having a fire resistance rating of not less than two hours to provide an effective barrier to the passage of smoke, heat and gases from floor to floor through such shaft.

EXCEPTION: Shaft wall openings protected in accordance with NFPA No. 90A and openings connected to metal ducts equipped with approved fire dampers within the shaft wall opening do not need any additional protection.

(h) Emergency Elevator Requirements.

- (1) Elevator Recall. – Each elevator shall be provided with an approved manual return. When actuated, all cars taking a minimum of one car at a time, in each group of elevators having common lobby, shall return directly at normal car speed to the main floor lobby, or to a smoke-free lobby leading most directly to the outside. Cars that are out of service are exempt from this requirement. The manual return shall be located at the main floor lobby.

NOTE: Manually operated cars are considered to be in compliance with this provision if each car is equipped with an audible or visual alarm to signal the operator to return to the designated level.

- (2) Identification of Emergency Elevator. – At least one elevator shall be identified as the emergency elevator and shall serve all floor levels. NOTE: This elevator will have a manual control in the cab which will override all other controls including floor call buttons and door controls.
- (3) Signs in Elevator Lobbies and Elevator Cabs. – Each elevator lobby call station on each floor shall have an emergency sign located adjacent to the call button and each elevator cab shall have an emergency sign located adjacent to the floor status indicator. These required emergency signs shall be readable at all times and shall be a minimum of ½ inch high block letters with the words: "IN CASE OF FIRE DO NOT USE ELEVATOR – USE THE EXIT STAIRS" or other words to this effect.

(i) Central Alarm Facility Required. – A central alarm facility accessible at all times to fire department personnel or attended 24 hours a day, shall be provided and shall contain the following:

- (1) Facilities to automatically transmit manual and automatic alarm signals to the fire department either directly or through a signal monitoring service.
- (2) Public service telephone.
- (3) Fire detection and alarm systems annunciator panels to indicate the type of signal and the floor or zone from which the fire alarm is received. These signals shall be both audible and visual with a silence switch for the audible.  
NOTE: Detectors in HVAC systems used for fan shut down need not be annunciated.
- (4) Master keys for access from all stairways to all floors.
- (5) One-way voice emergency communications system controls.

#### 1008.4 – REQUIREMENTS FOR EXISTING CLASS III BUILDINGS.

All Class III Buildings shall be provided with the following:

- (a) Manual Fire Alarm System. – A manual fire alarm system meeting the requirements of Section 1008.3(a).

(b) Voice Communication System Required. – An approved voice communication system or systems operated from the central alarm and control facilities shall be provided and shall consist of the following:

- (1) One-Way Voice Communication Public Address System Required. – A one-way voice communication system shall be established on a selective or general basis which can be heard clearly by all occupants in all elevators, elevator lobbies, corridors, and rooms or tenant spaces exceeding 1,000 sq. ft. in area.

NOTE 1: This system shall be designed so that in the event of one circuit or speaker being damaged or out of service the remainder of the system shall continue to be operable.

NOTE 2: This system shall include provisions for silencing the fire alarm devices when the loud speakers are in use, but only after the fire alarm devices have operated initially for not less than 15 seconds.

- (2) Two-way system for use by both fire fighters and occupants at every fifth level in stairways and in all elevators.
- (3) Within the stairs at levels not equipped with two-way voice communications, signs indicating the location of the nearest two-way device shall be provided.

NOTE: The one-way and two-way voice communication systems may be combined.

(c) Smoke Detectors Required. – Approved listed smoke detectors shall be installed in accordance with Section 1008.3(c) and in addition, such detectors shall terminate at the central alarm and control facility and be so designed that it will indicate the fire floor or the zone on the fire floor.

(d) Emergency Electrical Power Supply. – Emergency electrical power supply meeting the requirements of Section 1008.3(d) to supply all emergency equipment required by Section 1008.3(d) shall be provided and in addition, provisions shall be made for automatic transfer to emergency power in not more than ten seconds for emergency illumination, emergency lighting and emergency communication systems. Provisions shall be provided to transfer power to a second designated elevator located in a separate shaft from the primary emergency elevator. Any standpipe or sprinkler system serving occupied floor areas 400 feet or more above grade shall be provided with on-site generated power or diesel driven pump.

(e) Special Exit Requirements. – All exits and exitways shall meet the requirements of Section 1008.3(e).

(f) Compartmentation of Institutional Buildings Required. – See Section 1008.2(f).

(g) Protection and Fire Stopping for Vertical Shafts. – Same as Class II buildings. See Section 1008.3(g).

(h) Emergency Elevator Requirements.

- (1) Primary Emergency Elevator. – At least one elevator serving all floors shall be identified as the emergency elevator with identification signs both outside and inside the elevator and shall be provided with emergency power to meet the requirements of Section 1008.3(c).

NOTE: This elevator will have a manual control in the cab which will override all other controls including floor call buttons and door controls.

- (2) Elevator Recall. – Each elevator shall be provided with an approved manual return. When actuated, all cars taking a minimum of one car at a time, in each group of elevators having common lobby, shall return directly at normal car speed to the main floor lobby or to a smoke-free lobby leading most directly to the outside. Cars that are

out of service are exempt from this requirement. The manual return shall be located at the main floor lobby.

NOTE: Manually operated cars are considered to be in compliance with this provision if each car is equipped with an audible or visual alarm to signal the operator to return to the designated level.

- (3) Signs in Elevator Lobbies and Elevator Cabs. – Each elevator lobby call station on each floor shall have an emergency sign located adjacent to the call button and each elevator cab shall have an emergency sign located adjacent to the floor status indicator. These required emergency signs shall be readable at all times and have a minimum of ½" high block letters with the words: "IN CASE OF FIRE, UNLESS OTHERWISE INSTRUCTED, DO NOT USE THE ELEVATOR – USE THE EXIT STAIRS" or other words to this effect.
- (4) Machine Room Protection. – When elevator equipment located above the hoistway is subject to damage from smoke particulate matter, cable slots entering the machine room shall be sleeved beneath the machine room floor to inhibit the passage of smoke into the machine room.
- (5) Secondary Emergency Elevator. – At least one elevator located in separate shaft from the Primary Emergency Elevator shall be identified as the "Secondary Emergency Elevator" with identification signs both outside and inside the elevator. It will serve all occupied floors above 250 feet and shall have all the same facilities as the primary elevator and will be capable of being transferred to the emergency power system.

NOTE: Emergency power supply can be sized for nonsimultaneous use of the primary and secondary emergency elevators.

(i) Central Alarm and Control Facilities Required.

- (1) A central alarm facility accessible at all times to Fire Department personnel or attended 24 hours a day, shall be provided. The facility shall be located on a completely sprinklered floor or shall be enclosed in two-hour fire resistive construction. Openings are permitted if protected by listed 1½ hour Class B-labeled closures or water curtain devices capable of a minimum discharge of three gpm per lineal foot of opening. The facility shall contain the following:
  - (i) Facilities to automatically transmit manual and automatic alarm signals to the fire department either directly or through a signal monitoring service.
  - (ii) Public service telephone.
  - (iii) Direct communication to the control facility.
  - (iv) Controls for the voice communication systems.
  - (v) Fire detection and alarm system annunciator panels to indicate the type of signal and the floor or zone from which the fire alarm is received, those signals, shall be both audible and visual with a silence switch for the audible.

NOTE: Detectors in HVAC systems used for fan shut down need not be annunciated.

- (2) A control facility (fire department command station) shall be provided at or near the fire department response point and shall contain the following:
  - (i) Elevator status indicator.

NOTE: Not required in buildings where there is a status indicator at the main elevator lobby.
  - (ii) Master keys for access from all stairways to all floors.
  - (iii) Controls for the two-way communication system.

- (iv) Fire detection and alarm system annunciator panels to indicate the type of signal and the floor or zone from which the fire alarm is received.
- (v) Direct communication to the central alarm facility.
- (3) The central alarm and control facilities may be combined in a single approved location. If combined, the duplication of facilities and the direct communication system between the two may be deleted.

(j) Areas of Refuge Required. – Class III buildings shall be provided with a designated "area of refuge" at the 250 ft. level and on at least every eighth floor or fraction thereof above that level to be designed so that occupants above the 250 ft. level can enter at all times and be safely accommodated in floor areas meeting the following requirements unless the building is completely sprinklered:

- (1) Identification and Size. – These areas of refuge shall be identified on the plans and in the building as necessary. The area of refuge shall provide not less than 3 sq. ft. per occupant for the total number of occupants served by the area based on the occupancy content calculated by Section 1105. A minimum of two percent (2%) of the number of occupants on each floor shall be assumed to be handicapped and no less than 16 sq. ft. per handicapped occupant shall be provided. Smoke proof stairways meeting the requirements of Section 1104.2 and pressurized stairways meeting the requirements of Section 1108.3(e)(2) may be used for ambulatory occupants at the rate of 3 sq. ft. of area of treads and landings per person, but in no case shall the stairs count for more than one-third of the total occupants. Doors leading to designated areas of refuge from stairways or other areas of the building shall not have locking hardware or shall be automatically unlocked upon receipt of any manual or automatic fire alarm signal.
- (2) Pressurized. – The area of refuge shall be pressurized with 100% fresh air utilizing the maximum capacity of existing mechanical building air conditioning system without recirculation from other areas or other acceptable means of providing fresh air into the area.
- (3) Fire Resistive Separation. – Walls, partitions, floor assemblies and roof assemblies separating the area of refuge from the remainder of the building shall be noncombustible and have a fire resistance rating of not less than one hour. Duct penetrations shall be protected as required for penetrations of shafts. Metallic piping and metallic conduit may penetrate or pass through the separation only if the openings around the piping or conduit are sealed on each side of the penetrations with impervious noncombustible materials to prevent the transfer of smoke or combustion gases from one side of the separation to the other. The fire door serving as a horizontal exit between compartments shall be so installed, fitted and gasketed to provide a barrier to the passage of smoke.
- (4) Access Corridors. – Any corridor leading to each designated area of refuge shall be protected as required by Sections 1104 and 702. The capacity of an access corridor leading to an area of refuge shall be based on 150 persons per unit width as defined in Section 1105.2. An access corridor may not be less than 44 inches in width. The width shall be determined by the occupant content of the most densely populated floor served. Corridors with one-hour fire resistive separation may be utilized for area of refuge at the rate of three sq. ft. per ambulatory occupant provided a minimum of one cubic ft. per minute of outside air per square foot of floor area is introduced by the air conditioning system.



(5) Penetrations. – The continuity of the fire resistance at the juncture of exterior walls and floors must be maintained.

(k) Smoke Venting. – Smoke venting shall be accomplished by one of the following methods in nonsprinklered buildings:

(1) In a nonsprinklered building, the heating, ventilating and air conditioning system shall be arranged to exhaust the floor of alarm origin at its maximum exhausting capacity without recirculating air from the floor of alarm origin to any other floor. The system may be arranged to accomplish this either automatically or manually. If the air conditioning system is also used to pressurize the areas of refuge, this function shall not be compromised by using the system for smoke removal.

(2) Venting facilities shall be provided at the rate of 20 square feet per 100 lineal feet or 10 square feet per 50 lineal feet of exterior wall in each story and distributed around the perimeter at not more than 50 or 100 foot intervals openable from within the fire floor. Such panels and their controls shall be clearly identified.

(3) Any combination of the above two methods or other approved designs which will produce equivalent results and which is acceptable to the building official.

(l) Fire Protection of Electrical Conductors. – New electrical conductors furnishing power for pressurization fans for stairways, power for emergency elevators and fire pumps required by Section 1008.4(d) shall be protected by a two-hour fire rated horizontal or vertical enclosure or structural element which does not contain any combustible materials. Such protection shall begin at the source of the electrical power and extend to the floor level on which the emergency equipment is located. It shall also extend to the emergency equipment to the extent that the construction of the building components on that floor permits. New electrical conductors in metal raceways located within a two-hour fire rated assembly without any combustible therein are exempt from this requirement.

(m) Automatic Sprinkler Systems Required.

(1) All areas which are classified as Group M-mercantile and Group H-hazardous shall be completely protected with an automatic sprinkler system.

(2) All areas used for commercial or institutional food preparation and storage facilities adjacent thereto shall be provided with an automatic sprinkler system.

(3) An area used for storage or handling of hazardous substances shall be provided with an automatic sprinkler system.

(4) All laboratories and vocational shops in Group E, Educational shall be provided with an automatic sprinkler system.

(5) Sprinkler systems shall be in strict accordance with NFPA No. 13 and the following requirements:

The sprinkler system must be equipped with a water flow and supervisory signal system that will transmit automatically a water flow signal directly to the fire department or to an independent signal monitoring service satisfactory to the fire department.

(j) Subsection (i) of this section does not apply to business occupancy buildings as defined in the North Carolina State Building Code except that evacuation plans as required on page 8, lines 2 through 16 [Section 1008, footnote following subsection (h)], and smoke detectors as required for Class I Buildings as required by Section 1008.2, page 11, lines 5 through 21 [Section 1008.2, subdivision (c)(1)]; Class II Buildings as required by Section 1008.3, page 17, lines 17 through 28 and page 18, lines 1 through 10 [Section 1008.3, subsections (c) and (d)]; and Class III Buildings, as required by Section 1008.4, lines 21 through 25 [Section 1008.4, subsection (c)] shall not be exempted from operation of this act as applied to

business occupancy buildings, except that the Council shall adopt rules that allow a business occupancy building built prior to 1953 to have a single exit to remain if the building complies with the Building Code on or before December 31, 2006.

(j1) A nonbusiness occupancy building built prior to the adoption of the 1953 Building Code that is not in compliance with Section 402.1.3.5 of Volume IX of the Building Code or Section 3407.2.2 of Volume I of the Building Code must comply with the applicable sections by December 31, 2006.

(k) For purposes of use in the Code, the term "Family Care Home" shall mean an adult care home having two to six residents.

(l) When any question arises as to any provision of the Code, judicial notice shall be taken of that provision of the Code.

### **§ 143-138.1. Introduction and instruction of the North Carolina Building Code.**

Prior to the effective date of Code changes pursuant to G.S. 143-138, the State Building Code Council and Department of Insurance shall provide for instructional classes for the various trades affected by the Code. The Department of Insurance shall develop the curriculum for each class but shall consult the affected licensing boards and trade organizations. The curriculum shall include explanations of the rationale and need for each Code amendment or revision. Classes may also be conducted by, on behalf of, or in cooperation with licensing boards, trade associations, and professional societies. The Department of Insurance may charge fees sufficient to recover the costs it incurs under this section. The Council shall ensure that courses are accessible to persons throughout the State.

### **§ 143-139. Enforcement of Building Code.**

(a) Procedural Requirements. – Subject to the provisions set forth herein, the Building Code Council shall adopt such procedural requirements in the North Carolina State Building Code as shall appear reasonably necessary for adequate enforcement of the Code while safeguarding the rights of persons subject to the Code.

(b) General Building Regulations. – The Insurance Commissioner shall have general supervision, through the Division of Engineering of the Department of Insurance, of the administration and enforcement of all sections of the North Carolina State Building Code pertaining to plumbing, electrical systems, general building restrictions and regulations, heating and air conditioning, fire protection, and the construction of buildings generally, except those sections of the Code, the enforcement of which is specifically allocated to other agencies by subsections (c) and (d) below. The Insurance Commissioner, by means of the Division of Engineering, shall exercise his duties in the enforcement of the North Carolina State Building Code (including local building codes which have superseded the State Building Code in a particular political subdivision pursuant to G.S. 143-138(e)) in cooperation with local officials and local inspectors duly appointed by the governing body of any municipality or board of county commissioners pursuant to Part 5 of Article 19 of Chapter 160A of the General Statutes or Part 4 of Article 18 of Chapter 153A of the General Statutes, or any other applicable statutory authority.

(b1) Remedies. – In case any building or structure is maintained, erected, constructed, or reconstructed or its purpose altered, so that it becomes in violation of this Article or of the North Carolina State Building Code, either the local enforcement officer or the State Commissioner of Insurance or other State official with responsibility under this section may, in addition to other remedies, institute any appropriate action or proceeding to: (i) prevent the unlawful maintenance, erection, construction, or reconstruction or alteration of purpose, or overcrowding, (ii) restrain, correct, or abate the violation, or (iii) prevent the occupancy or use of the building, structure, or land until the violation is corrected. In addition to the civil remedies set out in G.S. 160A-175 and G.S. 153A-123, a county, city, or other

political subdivision authorized to enforce the North Carolina State Building Code within its jurisdiction may, for the purposes stated in (i) through (iii) of this subsection, levy a civil penalty for violation of the fire prevention code of the North Carolina State Building Code, which penalty may be recovered in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after the offender has been cited for the violation. If the Commissioner or other State official institutes an action or proceeding under this section, a county, city, or other political subdivision may not institute a civil action under this section based upon the same violation. Appeals from the imposition of any remedy set forth herein, including the imposition of a civil penalty by a county, city, or other political subdivision, shall be as provided in G.S. 160A-434.

(c) Boilers. – The Bureau of Boiler Inspection of the Department of Labor shall have general supervision of the administration and enforcement of those sections of the North Carolina State Building Code which pertain to boilers of the types enumerated in Article 7 of Chapter 95 of the General Statutes.

(d) Elevators. – The Department of Labor shall have general supervision of the administration and enforcement of those sections of the North Carolina State Building Code which pertain to elevators, moving stairways, and amusement devices such as merry-go-rounds, roller coasters, Ferris wheels, etc.

**§ 143-139.1. Certification of manufactured buildings, structures or components by recognized independent testing laboratory; minimum standards for modular homes.**

(a) Certification. – The State Building Code may provide, in circumstances deemed appropriate by the Building Code Council, for testing, evaluation, inspection, and certification of buildings, structures or components manufactured off the site on which they are to be erected, by a recognized independent testing laboratory having follow-up inspection services approved by the Building Code Council. Approval of such buildings, structures or components shall be evidenced by labels or seals acceptable to the Council. All building units, structures or components bearing such labels or seals shall be deemed to meet the requirements of the State Building Code and this Article without further inspection or payment of fees, except as may be required for the enforcement of the Code relative to the connection of units and components and enforcement of local ordinances governing zoning, utility connections, and foundations permits. The Building Code Council shall adopt and may amend from time to time such reasonable and appropriate rules and regulations as it deems necessary for approval of agencies offering such testing, evaluation, inspection, and certification services and for overseeing their operations. Such rules and regulations shall include provisions to insure that such agencies are independent and free of any potential conflicts of interest which might influence their judgment in exercising their functions under the Code. Such rules and regulations may include a schedule of reasonable fees to cover administrative expenses in approving and overseeing operations of such agencies and may require the posting of a bond or other security satisfactory to the Council guaranteeing faithful performance of duties under the Code.

The Building Code Council may also adopt rules to insure that any person that is not licensed, in accordance with G.S. 87-1, and that undertakes to erect a North Carolina labeled manufactured modular building, meets the manufacturer's installation instructions and applicable provisions of the State Building Code. Any such person, before securing a permit to erect a modular building, shall provide the code enforcement official proof that he has in force for each modular building to be erected a \$5,000 surety bond insuring compliance with the regulations of the State Building Code governing installation of modular buildings.

(b) Minimum Standards for Modular Homes. – To qualify for a label or seal under subsection (a) of this section, a single-family modular home must meet or exceed the following construction and design standards:

- (1) Roof pitch. – For homes with a single predominant roofline, the pitch of the roof shall be no less than five feet rise for every 12 feet of run.
- (2) Eave projection. – The eave projections of the roof shall be no less than 10 inches, which may not include a gutter around the perimeter of the home, unless the roof pitch is 8/12 or greater.
- (3) Exterior wall. – The minimum height of the exterior wall shall be at least seven feet six inches for the first story.
- (4) Siding and roofing materials. – The materials and texture for the exterior materials shall be compatible in composition, appearance, and durability to the exterior materials commonly used in standard residential construction.
- (5) Foundations. – The home shall be designed to require foundation supports around the perimeter. The supports may be in the form of piers, pier and curtain wall, piling foundations, a perimeter wall, or other approved perimeter supports.

**§ 143-139.2. Enforcement of insulation requirements; certificate for occupancy; no electric service without compliance.**

(a) In addition to other enforcement provisions set forth in this Chapter, no single family or multi-unit residential building on which construction is begun in North Carolina on or after January 1, 1978, shall be occupied until it has been certified as being in compliance with the minimum insulation standards for residential construction, as prescribed in the North Carolina State Building Code or as approved by the Building Code Council as provided in G.S. 143- 138(e).

(b) No public supplier of electric service, including regulated public utilities, municipal electric service and electric membership corporations, shall connect for electric service to an occupant any residential building on which construction is begun on or after January 1, 1978, unless said building complies with the insulation requirements of the North Carolina State Building Code or of local building codes approved by the Building Codes Council as provided in G.S. 143-138(e), and has been certified for occupancy in compliance with the minimum insulation standards of the North Carolina State Building Code or of any local modification approved as provided in G.S. 143-138(e), by a person designated as an inspector pursuant to subsection (a) of this section.

(c) This section shall apply only in any county or city that elects to enforce the insulation and energy utilization standards of the State Building Code pursuant to G.S. 143-151.27.

**§ 143-139.3. Inspection of liquified petroleum gas piping systems for residential structures.**

If the test required under the North Carolina State Building Code for a liquified petroleum gas piping system serving a one or two-family residential dwelling is not performed by a qualified code enforcement official, as defined in G.S. 143-151.8(a)(5), the contractor who installed the system shall verify that the system complies with the test requirements and shall certify the results, in writing, to the code official.

**§ 143-140. Hearings before enforcement agencies as to questions under Building Code.**

Any person desiring to raise any question under this Article or under the North Carolina State Building Code shall be entitled to a technical interpretation from the appropriate enforcement agency, as designated in the preceding section. Upon request in writing by any such person, the enforcement agency through an appropriate official shall within a reasonable time provide a written interpretation, setting forth the facts found, the decision reached, and the reasons therefor. In the event of dissatisfaction with such decision, the person affected shall have the options of:

- (1) Appealing to the Building Code Council or

- (2) Appealing directly to the Superior Court, as provided in G.S. 143-141.

**§ 143-141. Appeals to Building Code Council.**

(a) Method of Appeal. – Whenever any person desires to take an appeal to the Building Code Council from the decision of a State enforcement agency relating to any matter under this Article or under the North Carolina State Building Code, he shall within 30 days after such decision give written notice to the Building Code Council through the Division of Engineering of the Department of Insurance that he desires to take an appeal. A copy of such notice shall be filed at the same time with the enforcement agency from which the appeal is taken. The chairman of the Building Code Council shall fix a reasonable time and place for a hearing, giving reasonable notice to the appellant and to the enforcement agency. Such hearing shall be not later than the next regular meeting of the Council. The Building Code Council shall thereupon conduct a full and complete hearing as to the matters in controversy, after which it shall within a reasonable time give a written decision setting forth its findings of fact and its conclusions.

(b) Interpretations of the Code. – The Building Code Council shall have the duty, in hearing appeals, to give interpretations of such provisions of the Building Code as shall be pertinent to the matter at issue. Where the Council finds that an enforcement agency was in error in its interpretation of the Code, it shall remand the case to the agency with instructions to take such action as it directs. Interpretations by the Council and local enforcement officials shall be based on a reasonable construction of the Code provisions.

(c) Variations of the Code. – Where the Building Code Council finds on appeal that materials or methods of construction proposed to be used are as good as those required by the Code, it shall remand the case to the enforcement agency with instructions to permit the use of such materials or methods of construction. The Council shall thereupon immediately initiate procedures for amending the Code as necessary to permit the use of such materials or methods of construction.

(d) Further Appeals to the Courts. – Whenever any person desires to take an appeal from a decision of the Building Code Council or from the decision of an enforcement agency (with or without an appeal to the Building Code Council), he may take an appeal either to the Wake County Superior Court or to the superior court of the county in which the proposed building is to be situated, in accordance with the provisions of Chapter 150B of the General Statutes.

**§ 143-142. Further duties of the Building Code Council.**

(a) Recommended Statutory Changes. – It shall be the duty of the Building Code Council to make a thorough study of the building laws of the State, including both the statutes enacted by the General Assembly and the rules and regulations adopted by State and local agencies. On the basis of such study, the Council shall recommend to the 1959 and subsequent General Assemblies desirable statutory changes to simplify and improve such laws.

(b) Recommend Changes in Enforcement Procedures. – It shall be the duty of the Building Code Council to make a thorough and continuing study of the manner in which the building laws of the State are enforced by State, local, and private agencies. On the basis of such studies, the Council may recommend to the General Assembly any statutory changes necessary to improve and simplify the enforcement machinery. The Council may also advise State agencies as to any changes in administrative practices which could be made to improve the enforcement of building laws without statutory changes.

**§ 143-143. Effect on certain existing laws.**

Nothing in this Article shall be construed as abrogating or otherwise affecting the power of any State department or agency to promulgate regulations, make inspections, or approve plans in accordance with any other applicable provisions of law not in conflict with the provisions herein.

**§ 143-143.2. Electric wiring of houses, buildings, and structures.**

The electric wiring of houses or buildings for lighting or for other purposes shall conform to the requirements of the State Building Code, which includes the National Electric Code and any amendments and supplements thereto as adopted and approved by the State Building Code Council, and any other applicable State and local laws. In order to protect the property of citizens from the dangers incident to defective electric wiring of buildings, it shall be unlawful for any firm or corporation to allow any electric current for use in any newly erected building to be turned on without first having had an inspection made of the wiring by the appropriate official electrical inspector or inspection department and having received from that inspector or department a certificate approving the wiring of such building. It shall be unlawful for any person, firm, or corporation engaged in the business of selling electricity to furnish initially any electric current for use in any building, unless said building shall have first been inspected by the appropriate official electrical inspector or inspection department and a certificate given as above provided. In the event that there is no legally appointed inspector or inspection department with jurisdiction over the property involved, the two preceding sentences shall have no force or effect. As used in this section, "building" includes any structure.

**§ 143-143.3. Temporary toilet facilities at construction sites.**

(a) Suitable toilet facilities shall be provided and maintained in a sanitary condition during construction. An adequate number of facilities must be provided for the number of employees at the construction site. There shall be at least one facility for every two contiguous construction sites. Such facilities may be portable, enclosed, chemically treated, tank-tight units. Portable toilets shall be enclosed, screened, and weatherproofed with internal latches. Temporary toilet facilities need not be provided on-site for crews on a job site for no more than one working day and having transportation readily available to nearby toilet facilities.

(b) It shall be the duty of the Building Code Council to establish standards to carry out the provisions of subsection (a) of this section not inconsistent with the requirements for toilet facilities at construction sites established pursuant to federal occupational safety and health rules.

**§ 143-143.4. Door lock exemption for certain businesses.**

(a) Notwithstanding this Article or any other law to the contrary, any business entity licensed to sell automatic weapons as a federal firearms dealer that is in the business of selling firearms or ammunition and that operates a firing range which rents firearms and sells ammunition shall be exempt from the door lock requirements of Chapter 10 of Volume 1 of the North Carolina State Building Code when issued a permit to that effect by the Department of Insurance in accordance with this section.

(b) The Department of Insurance shall issue a permit to a business entity specified in subsection (a) of this section for an exemption from the door lock requirements of Chapter 10 of Volume 1 of the North Carolina State Building Code if all of the following conditions are met:

- (1) The building or facility in which business is conducted has a sales floor and customer occupancy space that is contained on one floor and is no larger than 15,000 square feet of retail sales space. Retail sales space is that area where firearms or ammunition are displayed and merchandised for sale to the public.

- (2) The building or facility in which business is conducted is equipped with an approved smoke, fire, and break-in alarm system installed and operated in accordance with rules adopted by the Department of Insurance. An approved smoke, fire, or break-in alarm system does not have to include an automatic door unlocking mechanism triggered when the smoke, fire, or break-in alarm system is triggered.
- (3) The owner or operator of the business will provide to all applicable employees within 10 days of the issuance of the permit under this section or at the time the employee is hired, whichever time is later, a written facility locking plan applicable for the close of business each day.
- (4) Each entrance to the building or facility in which business is conducted is posted with a sign conspicuously located that warns that the building is exempt from the door lock requirements of the State Building Code, and that after business hours the building or facility's doors will remain locked from the inside even in the case of fire.
- (5) Payment of a permit fee of five hundred dollars (\$500.00) to the Department of Insurance.

(c) The Department of Insurance shall file a copy of the permit issued in accordance with subsection (b) of this section with all local law enforcement and fire protection agencies that provide protection for the business entity.

(d) The Department of Insurance shall be responsible for any inspections necessary for the issuance of permits under this section and, in conjunction with local inspection departments, shall be responsible for periodic inspections to ensure compliance with the requirements of this section. The Department of Insurance may contract with local inspection departments to conduct inspections under this subsection.

(e) The Department of Insurance shall revoke a permit issued under this section upon a finding that the requirements for the original issuance of the permit are not being complied with.

(f) Appeals of decisions of the Department of Insurance regarding the issuance or revocation of permits under this section shall be in accordance with Chapter 150B of the General Statutes.

(g) For the purposes of this section, "business entity" has the same meaning as in G.S. 59-102.

(h) In addition to the provisions of G.S. 143-138(h), the owner or operator of any business entity who is issued a permit as a door lock exempt business in accordance with subsection (b) of this section who fails to comply with the permit requirements of subsection (b) of this section shall be subject to a civil penalty of five hundred dollars (\$500.00) for the first offense, one thousand dollars (\$1,000) for the second offense, and five thousand dollars (\$5,000) for the third and subsequent offenses, except when the building or facility in which business is conducted is in compliance with the door lock requirements of Chapter 10 of Volume 1 of the North Carolina State Building Code. Penalties authorized in this subsection shall be imposed by the city or county in which the violation occurs. Each day the building or facility in which business is conducted is not in compliance with the provisions of this subsection constitutes a separate offense.

(i) The Department of Insurance shall adopt rules to implement this section.

#### **§ 143-143.5. Access to toilets in shopping malls.**

Notwithstanding any other law or rule, a horizontal travel distance of 300 feet for access to public use toilets in covered mall buildings shall be allowed.

### **Code Officials Qualification Board**

**§ 143-151.8. Definitions.**

- (a) As used in this Article, unless the context otherwise requires:
- (1) "Board" means the North Carolina Code Officials Qualification Board.
  - (2) "Code" means the North Carolina State Building Code and related local building rules approved by the Building Code Council enacted, adopted or approved under G.S. 143-138, any resolution adopted by a federally recognized Indian Tribe under G.S. 153A-350.1 in which the Tribe adopts the North Carolina State Building Code and related local building rules, and the standards adopted by the Commissioner of Insurance under G.S. 143-143.15(a).
  - (3) "Code enforcement" means the examination and approval of plans and specifications, or the inspection of the manner of construction, workmanship, and materials for construction of buildings and structures and components thereof, or the enforcement of fire code regulations as an employee of the State or local government or as an employee of a federally recognized Indian Tribe employed to perform inspections on tribal lands under G.S. 153A-350.1, as an individual contracting with the State or a local government or a federally recognized Indian Tribe who performs inspections on tribal lands under G.S. 153A-350.1 to conduct inspections, or as an individual who is employed by a company contracting with a county or a city to conduct inspections, except an employee of the State Department of Labor engaged in the administration and enforcement of those sections of the Code which pertain to boilers and elevators, to assure compliance with the State Building Code and related local building rules.
  - (4) "Local inspection department" means the agency or agencies of local government, or any government agency of a federally recognized Indian Tribe under G.S. 153A-350.1, with authority to make inspections of buildings and to enforce the Code and other laws, ordinances, and rules enacted by the State and the local government or a federally recognized Indian Tribe under G.S. 153A-350.1, which establish standards and requirements applicable to the construction, alteration, repair, or demolition of buildings, and conditions that may create hazards of fire, explosion, or related hazards.
  - (5) "Qualified Code-enforcement official" means a person qualified under this Article to engage in the practice of Code enforcement.
- (b) For purposes of this Article, the population of a city or county shall be determined according to the most current federal census, unless otherwise specified.

**§ 143-151.9. North Carolina Code Officials Qualification Board established; members; terms; vacancies.**

- (a) There is hereby established the North Carolina Code Officials Qualification Board in the Department of Insurance. The Board shall be composed of 20 members appointed as follows:
- (1) One member who is a city or county manager;
  - (2) Two members, one of whom is an elected official representing a city over 5,000 population and one of whom is an elected official representing a city under 5,000 population;
  - (3) Two members, one of whom is an elected official representing a county over 40,000 population and one of whom is an elected official representing a county under 40,000 population;



- (4) Two members serving as building officials with the responsibility for administering building, plumbing, electrical and heating codes, one of whom serves a county and one of whom serves a city;
- (5) One member who is a registered architect;
- (6) One member who is a registered engineer;
- (7) Two members who are licensed general contractors, at least one of whom specializes in residential construction;
- (8) One member who is a licensed electrical contractor;
- (9) One member who is a licensed plumbing or heating contractor;
- (10) One member selected from the faculty of the North Carolina State University School of Engineering and one member selected from the faculty of the School of Engineering of the North Carolina Agricultural and Technical State University;
- (11) One member selected from the faculty of the Institute of Government;
- (12) One member selected from the Community Colleges System Office;
- (13) One member selected from the Division of Engineering and Building Codes in the Department of Insurance; and,
- (14) One member who is a local government fire prevention inspector and one member who is a citizen of the State.

The various categories shall be appointed as follows: (1), (2), (3), and (14) by the Governor; (4), (5), and (6) by the General Assembly upon the recommendation of the President Pro Tempore in accordance with G.S. 120-121; (7), (8), and (9) by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121; (10) by the deans of the respective schools of engineering of the named universities; (11) by the Director of the Institute of Government; (12) by the President of the Community College System; and (13) by the Commissioner of Insurance.

(b) The members shall be appointed for staggered terms and the initial appointments shall be made prior to September 1, 1977, and the appointees shall hold office until July 1 of the year in which their respective terms expire and until their successors are appointed and qualified as provided hereafter:

For the terms of one year: the members from subdivisions (1), (6) and (10) of subsection (a), and one member from subdivision (3).

For the terms of two years: the member from subdivision (11) of subsection (a), one member from subdivision (2), one member from subdivision (4), one member from subdivision (7), and one member from subdivision (14).

For the terms of three years: the members from subdivisions (8) and (12) of subsection (a), one member from subdivision (2), one member from subdivision (4), and one member from subdivision (14).

For the terms of four years: the members from subdivision (5), (9) and (13) of subsection (a), one member from subdivision (3), and one member from subdivision (7).

Thereafter, as the term of each member expires, his successor shall be appointed for a term of four years. Notwithstanding the appointments for a term of years, each member shall serve at the will of the Governor.

Members of the Board who are public officers shall serve ex officio and shall perform their duties on the Board in addition to the duties of their office.

(c) Vacancies in the Board occurring for any reason shall be filled for the unexpired term by the person making the appointment.

#### **§ 143-151.10. Compensation.**

Members of the Board who are State officers or employees shall receive no salary for serving on the Board, but shall be reimbursed for their expenses in accordance with G.S. 138-6. Members of the Board who are full-time salaried public officers or employees other than State officers or employees shall receive no salary for serving on the Board, but shall be reimbursed for subsistence and travel expenses in accordance with G.S. 138-5(a)(2) and (3). All other members of the Board shall receive compensation and reimbursement for expenses in accordance with G.S. 138-5(a).

**§ 143-151.11. Chairman; vice-chairman; other officers; meetings; reports.**

(a) The members of the Board shall select one of their members as chairman upon its creation, and shall select the chairman each July 1 thereafter.

(b) The Board shall select a vice-chairman and such other officers and committee chairmen from among its members, as it deems desirable, at the first regular meeting of the Board after its creation and at the first regular meeting after July 1 of each year thereafter. Provided, nothing in this subsection shall prevent the creation or abolition of committees or offices of the Board, other than the office of vice-chairman, as the need may arise at any time during the year.

(c) The Board shall hold at least four regular meetings per year upon the call of the chairman. Special meetings shall be held upon the call of the chairman or the vice-chairman, or upon the written request of four members of the Board.

(d) The activities and recommendations of the Board with respect to standards for Code officials training and certification shall be set forth in regular and special reports made by the Board. Additionally, the Board shall present special reports and recommendations to the Governor or the General Assembly, or both, as the need may arise or as the Governor or the General Assembly may request.

**§ 143-151.12. Powers.**

In addition to powers conferred upon the Board elsewhere in this Article, the Board shall have the power to:

- (1) Adopt rules necessary to administer this Article;
- (1a) Require State agencies, local inspection departments, and local governing bodies to submit reports and information about the employment, education, and training of Code-enforcement officials;
- (2) Establish minimum standards for employment as a Code-enforcement official: (i) in probationary or temporary status, and (ii) in permanent positions;
- (3) Certify persons as being qualified under the provisions of this Article to be Code-enforcement officials, including persons employed by a federally recognized Indian Tribe to perform inspections on tribal lands under G.S. 153A-350.1;
- (4) Consult and cooperate with counties, municipalities, agencies of this State, other governmental agencies, and with universities, colleges, junior colleges, community colleges and other institutions concerning the development of Code-enforcement training schools and programs or courses of instruction;
- (5) Establish minimum standards and levels of education or equivalent experience for all Code-enforcement instructors, teachers or professors;
- (6) Conduct and encourage research by public and private agencies which shall be designed to improve education and training in the administration of Code enforcement;
- (7) Adopt and amend bylaws, consistent with law, for its internal management and control; appoint such advisory committees as it may deem necessary; and enter into contracts

and do such other things as may be necessary and incidental to the exercise of its authority pursuant to this Article; and,

- (8) Make recommendations concerning any matters within its purview pursuant to this Article.

**§ 143-151.13. Required standards and certificates for Code-enforcement officials.**

(a) No person may engage in Code enforcement pursuant to this Article unless he possesses one of the following types of certificates, currently valid, issued by the Board attesting to his qualifications to hold such position: (i) a standard certificate; (ii) a limited certificate provided for in subsection (c); or (iii) a probationary certificate provided for in subsection (d). To obtain a standard certificate, a person must pass an examination, as prescribed by the Board, which is based on the North Carolina State Building Code and administrative procedures required to enforce the Code. The Board shall issue a standard certificate of qualification to each person who successfully completes the examination authorizing the person named therein to practice as a qualified Code-enforcement official in North Carolina. The certificate of qualification shall bear the signatures of the chairman and secretary of the Board.

(b) The Board shall establish appropriate performance levels, including designation of territory and type and size of buildings and structures, and classes of qualified Code-enforcement officials and may develop examinations and prescribe course of instruction for the various levels and classes. The certificate of qualification shall set forth the performance level for which the Code-enforcement official is qualified. The Board may limit the jurisdiction of Code-enforcement officials based on the performance level for which they have qualified; provided, a person who receives a certificate of qualification at the highest performance level established by the Board shall be entitled to serve anywhere in North Carolina.

(c) A Code-enforcement official holding office as of the date specified in this subsection for the county or municipality by which he is employed, shall not be required to possess a standard certificate as a condition of tenure or continued employment but shall be required to complete such in-service training as may be prescribed by the Board. At the earliest practicable date, such official shall receive from the Board a limited certificate qualifying him to engage in Code enforcement at the performance level and within the governmental jurisdiction in which he is employed. The limited certificate shall be valid only as an authorization for the official to continue in the position he held on the applicable date and shall become invalid if he does not complete in-service training within two years following the applicable date in the schedule below, according to the governmental jurisdiction's population as published in the 1970 U.S. Census:

Counties and Municipalities over 75,000 population – July 1, 1979

Counties and Municipalities between 50,001 and 75,000 – July 1, 1981

Counties and Municipalities between 25,001 and 50,000 – July 1, 1983

Counties and Municipalities 25,000 and under – July 1, 1985

All fire prevention inspectors holding office – July 1, 1989. Fire prevention inspectors have until July 1, 1993, to complete in-service training.

An official holding a limited certificate can be promoted to a position requiring a higher level certificate only upon issuance by the Board of a standard certificate or probationary certificate appropriate for such new position.

(d) The Board may provide for the issuance of probationary or temporary certificates valid for such period (not less than one year nor more than three years) as specified by the Board's rules, or until June 30, 1983, whichever is later, to any Code-enforcement official newly employed or newly promoted who lacks the qualifications prescribed by the Board as prerequisite to applying for a standard certificate under subsection (a). No official may have his probationary or temporary certificate extended beyond the

specified period by renewal or otherwise. The Board may provide for appropriate levels of probationary or temporary certificates and may issue these certificates with such special conditions or requirements relating to the place of employment of the person holding the certificate, his supervision on a consulting or advisory basis, or other matters as the Board may deem necessary to protect the public safety and health.

(e) The Board shall, without requiring an examination, issue a standard certificate to any person who is currently certified as a county electrical inspector pursuant to G.S. 153A-351. The certificate issued by the Board shall authorize the person to serve at the electrical inspector level approved by the Commissioner of Insurance in G.S. 153A-351.

(f) The Board shall issue a standard certificate to any person who is currently licensed to practice as a(n):

- (1) Architect, registered pursuant to Chapter 83A;
- (2) General contractor, licensed pursuant to Article 1 of Chapter 87;
- (3) Plumbing or heating contractor, licensed pursuant to Article 2 of Chapter 87;
- (4) Electrical contractor, licensed pursuant to Article 4 of Chapter 87; or,
- (5) Professional engineer, registered pursuant to Chapter 89C;

provided the person successfully completes a short course, as prescribed by the Board, relating to the State Building Code regulations and Code-enforcement administration. The standard certificate shall authorize the person to practice as a qualified Code-enforcement official at the performance level determined by the Board, based on the type of license or registration held in any profession specified above.

#### **§ 143-151.13A. Professional development program for officials.**

(a) As used in this section, "official" means a qualified Code-enforcement official as that term is defined in G.S. 143-151.8.

(b) The Board may establish professional development requirements for officials as a condition of the renewal or reactivation of their certificates. The purposes of these professional development requirements are to assist officials in maintaining professional competence in their enforcement of the Code and to assure the health, safety, and welfare of the citizens of North Carolina. An official subject to this section shall present evidence to the Board at each certificate renewal after initial certification, that during the 12 months before the certificate expiration date, the official has completed the required number of credit hours in courses approved by the Board. Annual continuing education hour requirements shall be determined by the Board but shall not be more than six credit hours.

(c) The Board may require an individual who earns a certificate under programs established in G.S. 143-151.13 to complete professional development courses, not to exceed six hours in each technical area of certification, within one year after that individual is first employed by a city or county inspection department.

(d) As a condition of reactivating a standard or limited certificate, the Board may require the completion of professional development courses within one year after reemployment as an official as follows:

- (1) An individual who has been on inactive status for more than two years and who has not been continuously employed by a city or county inspection department during the period of inactive status shall complete professional development courses not to exceed 12 hours for each technical area in which the individual is certified.
- (2) An individual who has been on inactive status for more than two years and who has been continuously employed by a city or county inspection department during the

period of inactive status shall complete professional development courses not to exceed six hours for each technical area in which the individual is certified.

- (3) An individual who has been on inactive status for two years or less shall complete professional development courses not to exceed four hours for each technical area in which the individual is certified.

(e) The Board may, for good cause shown, grant extensions of time to officials to comply with these requirements. An official who, after obtaining an extension under this subsection, offers evidence satisfactory to the Board that the official has satisfactorily completed the required professional development courses, is in compliance with this section.

- (f) The Board may adopt rules to implement this section, including rules that govern:
  - (1) The content and subject matter of professional development courses.
  - (2) The criteria, standards, and procedures for the approval of courses, course sponsors, and course instructors.
  - (3) The methods of instruction.
  - (4) The computation of course credit.
  - (5) The ability to carry-forward course credit from one year to another.
  - (6) The waiver of or variance from the professional development required for hardship or other reasons.
  - (7) The procedures for compliance and sanctions for noncompliance. (2005-102, s. 1.)

#### **§ 143-151.14. Comity.**

The Board may, without requiring an examination, grant a standard certificate as a qualified Code-enforcement official to any person who, at the time of application, is certified as a qualified Code-enforcement official by a similar board of another state, district or territory where standards are acceptable to the Board and not lower than those required by this Article. A fee of not more than twenty dollars (\$20.00), as determined by the Board, must be paid by the applicant to the Board for the issuance of a certificate under the provisions of this section. The provisions of G.S. 143-151.16(b) relating to renewal fees and late renewals shall apply to every person granted a standard certificate in accordance with this section.

#### **§ 143-151.15. Return of certificate to Board; reissuance by Board.**

A certificate issued by the Board under this Article is valid as long as the person certified is employed by the State of North Carolina or any political subdivision thereof as a Code-enforcement official, or is employed by a federally recognized Indian Tribe to perform inspections on tribal lands under G.S. 153A-350.1 as a Code-enforcement official. When the person certified leaves that employment for any reason, he shall return the certificate to the Board. If the person subsequently obtains employment as a Code-enforcement official in any governmental jurisdiction described above, the Board may reissue the certificate to him. The provisions of G.S. 143-151.16(b) relating to renewal fees and late renewals shall apply, if appropriate. The provisions of G.S. 143-151.16(c) shall not apply. This section does not affect the Board's powers under G.S. 143-151.17.

#### **§ 143-151.16. Certification fees; renewal of certificates; examination fees.**

(a) The Board shall establish a schedule of fees to be paid by each applicant for certification as a qualified Code-enforcement official. Such fee shall not exceed twenty dollars (\$20.00) for each applicant.

(b) A certificate, other than a probationary certificate, as a qualified Code-enforcement official issued pursuant to the provisions of this Article must be renewed annually on or before the first day of

July. Each application for renewal must be accompanied by a renewal fee to be determined by the Board, but not to exceed ten dollars (\$10.00). The Board is authorized to charge an extra two dollar (\$2.00) late renewal fee for renewals made after the first day of July each year.

(c) Any person who fails to renew his certificate for a period of two consecutive years may be required by the Board to take and pass the same examination as unlicensed applicants before allowing such person to renew his certificate.

(d) The Board may establish and collect a fee to be paid by each applicant for examination in an amount not to exceed one hundred twenty-five dollars (\$125.00). In addition, the Board may establish and collect a fee to be paid by each applicant applying for a review of the applicant's examination. The amount of the examination review fee shall not exceed fifty dollars (\$50.00). Examination and examination review fees may be paid directly to approved testing services that maintain regional facilities for the purpose of administering the Board's examinations.

**§ 143-151.17. Grounds for disciplinary actions; investigation; administrative procedures.**

(a) The Board shall have the power to suspend, revoke or refuse to grant any certificate issued under the provisions of this Article to any person who:

- (1) Has been convicted of a felony against this State or the United States, or convicted of a felony in another state that would also be a felony if it had been committed in this State;
- (2) Has obtained certification through fraud, deceit, or perjury;
- (3) Has knowingly aided or abetted any person practicing contrary to the provisions of this Article or the State Building Code or any building codes adopted by a federally recognized Indian Tribe under G.S. 153A-350.1;
- (4) Has defrauded the public or attempted to do so;
- (5) Has affixed his signature to a report of inspection or other instrument of service if no inspection has been made by him or under his immediate and responsible direction; or,
- (6) Has been guilty of willful misconduct, gross negligence or gross incompetence.

(b) The Board may investigate the actions of any qualified Code-enforcement official or applicant upon the verified complaint in writing of any person alleging a violation of subsection (a). The Board may suspend or revoke the certification of any qualified Code-enforcement official and refuse to grant a certificate to any applicant, whom it finds to have been guilty of one or more of the actions set out in subsection (a) as grounds for disciplinary action.

(c) A denial, suspension, or revocation of a certificate issued under this Article shall be made in accordance with Chapter 150B of the General Statutes.

(d) The Board may deny an application for a certificate for any of the grounds that are described in subsection (a) of this section. Within 30 days after receipt of a notification that an application for a certificate has been denied, the applicant may make a written request for a review by a committee designated by the chairman of the Board to determine the reasonableness of the Board's action. The review shall be completed without undue delay, and the applicant shall be notified promptly in writing as to the outcome of the review. Within 30 days after service of the notification as to the outcome, the applicant may make a written request for a hearing under Article 3A of Chapter 150B of the General Statutes if the applicant disagrees with the outcome.

(e) The provisions of this section shall apply to Code-enforcement officials and applicants who are employed or seek to be employed by a federally recognized Indian Tribe to perform inspections on tribal lands under G.S. 153A-350.1.

**§ 143-151.18. Violations; penalty; injunction.**

On and after July 1, 1979, it shall be unlawful for any person to represent himself as a qualified Code-enforcement official who does not hold a currently valid certificate of qualification issued by the Board. Any person violating any of the provisions of this Article shall be guilty of a Class 1 misdemeanor. The Board is authorized to apply to any judge of the superior court for an injunction in order to prevent any violation or threatened violation of the provisions of this Article.

**§ 143-151.19. Administration.**

(a) The Division of Engineering and Building Codes in the Department of Insurance shall provide clerical and other staff services required by the Board, and shall administer and enforce all provisions of this Article and all rules promulgated pursuant to this Article, subject to the direction of the Board, except as delegated by this Article to local units of government, other State agencies, corporations, or individuals.

(b) The Board shall make copies of this Article and the rules adopted under this Article available to the public at a price determined by the Board.

(c) The Board shall keep current a record of the names and addresses of all qualified Code-enforcement officials and additional personal data as the Board deems necessary. The Board annually shall publish a list of all currently certified Code-enforcement officials.

(d) Each certificate issued by the Board shall contain such identifying information as the Board requires.

(e) The Board shall issue a duplicate certificate to practice as a qualified Code-enforcement official in place of one which has been lost, destroyed, or mutilated upon proper application and payment of a fee to be determined by the Board.

**§ 143-151.20. Donations and appropriations.**

(a) In addition to appropriations made by the General Assembly, the Board may accept for any of its purposes and functions under this Article any and all donations, both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize, disburse and transfer the same, subject to the approval of the Council of State. Any arrangements pursuant to this section shall be detailed in the next regular report of the Board. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any moneys received by the Board pursuant to this section shall be deposited in the State treasury to the account of the Board.

(b) The Board may provide grants as a reimbursement for actual expenses incurred by the State or political subdivision thereof for the provisions of training programs of officials from other jurisdictions within the State. The Board, by rules, shall provide for the administration of the grant program authorized herein. In promulgating such rules, the Board shall promote the most efficient and economical program of Code-enforcement training, including the maximum utilization of existing facilities and programs for the purpose of avoiding duplication.

**§ 143-151.21. Disposition of fees.**

Fees collected by the Commissioner under this Article shall be credited to the Insurance Regulatory Fund created under G.S. 58-6-25.

**Master Electrical and Natural Gas Meters Prohibited**

**§ 143-151.42. Prohibition of master meters for electric and natural gas service.**

From and after September 1, 1977, in order that each occupant of an apartment or other individual dwelling unit may be responsible for his own conservation of electricity and gas, it shall be unlawful for any new residential building, as hereinafter defined, to be served by a master meter for electric service or natural gas service. Each individual dwelling unit shall have individual electric service with a separate electric meter and, if it has natural gas, individual natural gas service with a separate natural gas meter, which service and meters shall be in the name of the tenant or other occupant of said apartment or other dwelling unit. No electric supplier or natural gas supplier, whether regulated public utility or municipal corporation or electric membership corporation supplying said utility service, shall connect any residential building for electric service or natural gas service through a master meter, and said electric or natural gas supplier shall serve each said apartment or dwelling unit by separate service and separate meter and shall bill and charge each individual occupant of said separate apartment or dwelling unit for said electric or natural gas service. A new residential building is hereby defined for the purposes of this section as any building for which a building permit is issued on or after September 1, 1977, which includes two or more apartments or other family dwelling units. Provided, however, that any owner or builder of a multi-unit residential building who desires to provide central heat or air conditioning or central hot water from a central furnace, air conditioner or hot water heater which incorporates solar assistance or other designs which accomplish greater energy conservation than separate heat, hot water, or air conditioning for each dwelling unit, may apply to the North Carolina Utilities Commission for approval of said central heat, air conditioning or hot water system, which may include a central meter for electricity or gas used in said central system, and the Utilities Commission shall promptly consider said application and approve it for such central meters if energy is conserved by said design. This section shall apply to any dwelling unit normally rented or leased for a minimum period of one month or longer, including apartments, condominiums and townhouses, but shall not apply to hotels, motels, dormitories, rooming houses or nursing homes, or homes for the elderly.

**North Carolina Home Inspector Board**

**§ 143-151.43. Short title.**

This Article is the Home Inspector Licensure Act and may be cited by that name.

**§ 143-151.44. Purpose.**

This Article safeguards the public health, safety, and welfare and protects the public from being harmed by unqualified persons by regulating the use of the title "Licensed Home Inspector" and by providing for the licensure and regulation of those who perform home inspections for compensation.

**§ 143-151.45. Definitions.**

The following definitions apply in this Article:

- (1) Associate home inspector. – An individual who is affiliated with or employed by a licensed home inspector to conduct a home inspection of a residential building on behalf of the licensed home inspector.
- (2) Board. – The North Carolina Home Inspector Licensure Board.
- (3) Compensation. – A fee or anything else of value.



- (4) Home inspection. – A written evaluation of two or more of the following components of a residential building: heating system, cooling system, plumbing system, electrical system, structural components, foundation, roof, masonry structure, exterior and interior components, or any other related residential housing component.
- (5) Home inspector. – An individual who engages in the business of performing home inspections for compensation.
- (6) Residential building. – A structure intended to be, or that is in fact, used as a residence by one or more individuals.

**§ 143-151.46. North Carolina Home Inspector Licensure Board established; members; terms; vacancies.**

(a) Membership. – The North Carolina Home Inspector Licensure Board is established in the Department of Insurance. The Board shall be composed of the Commissioner of Insurance or the Commissioner's designee and seven additional members appointed as follows:

- (1) A public member who is not in one of the professional categories in subdivisions (2) through (4) of this subsection, appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.
- (2) Four home inspectors, two of whom shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, one of whom shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and one of whom shall be appointed by the Governor.
- (3) A licensed general contractor appointed by the Governor upon the recommendation of the North Carolina Home Builders Association.
- (4) A licensed real estate broker appointed by the Governor upon the recommendation of the North Carolina Association of Realtors.

All members of the Board must be citizens of the State. Appointments by the General Assembly must be made in accordance with G.S. 120-121.

(b) Terms. – The members shall be appointed for staggered terms and the initial appointments shall be made prior to August 1, 1995. The appointees shall hold office until July 1 of the year in which their respective terms expire and until their successors are appointed and qualified.

Of the members initially appointed, the home inspector appointed by the Governor shall serve a one-year term. The home inspector appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives and the licensed real estate broker shall serve two-year terms. One home inspector appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate and the licensed contractor shall serve three-year terms. The remaining home inspector appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate and the citizen of the State shall serve four-year terms.

Thereafter, as the term of each member expires, a successor shall be appointed for a term of four years.

(c) Vacancies. – Vacancies in the Board occurring for any reason shall be filled for the unexpired term by the appointing official making the original appointment. Vacancies in positions appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate or the Speaker of the House of Representatives shall be filled in accordance with G.S. 120-122.

**§ 143-151.47. Compensation of Board members.**

Members of the Board shall receive no salary for serving on the Board. Members may be reimbursed for their travel and other expenses in accordance with G.S. 93B-5 but may not receive the per diem authorized by that statute.

**§ 143-151.48. Election of officers; meetings of Board.**

(a) Officers. – Within 30 days after making appointments to the Board, the Governor shall call the first meeting of the Board. The Board shall elect a chair and a vice-chair who shall hold office according to rules adopted by the Board.

(b) Meetings. – The Board shall hold at least two regular meetings each year as provided by rules adopted by the Board. The Board may hold additional meetings upon the call of the chair or any two Board members. A majority of the Board membership constitutes a quorum.

**§ 143-151.49. Powers and responsibilities of Board.**

(a) General. – The Board has the power to do all of the following:

- (1) Determine the qualifications and fitness of applicants for a new or renewed license.
- (2) Adopt and publish a code of ethics and standard of practice for persons licensed under this Article.
- (3) Issue, renew, deny, revoke, and suspend licenses under this Article.
- (4) Conduct investigations, subpoena individuals and records, and do all other things necessary and proper to discipline persons licensed under this Article and to enforce this Article.
- (5) Employ professional, clerical, investigative, or special personnel necessary to carry out the provisions of this Article.
- (6) Purchase or rent office space, equipment, and supplies necessary to carry out the provisions of this Article.
- (7) Adopt a seal by which it shall authenticate its proceedings, official records, and licenses.
- (8) Conduct administrative hearings in accordance with Article 3A of Chapter 150B of the General Statutes.
- (9) Establish fees as allowed by this Article.
- (10) Publish and make available upon request the licensure standards prescribed under this Article and all rules adopted by the Board.
- (11) Request and receive the assistance of State educational institutions or other State agencies.
- (12) Establish continuing education requirements for persons licensed under this Article.
- (13) Adopt rules necessary to implement this Article.

(b) Exam. – In developing a licensing examination to determine the knowledge of an applicant, the Board must emphasize knowledge gained through experience.

**§ 143-151.50. License required to perform home inspections for compensation or to claim to be a "licensed home inspector".**

(a) Requirement. – To perform a home inspection for compensation on or after October 1, 1996, or to claim to be a licensed home inspector or a licensed associate home inspector on or after that date, an individual must be licensed by the Board. An individual who is not licensed by the Board may perform a home inspection without compensation.

(b) Form of License. – The Board may issue a license only to an individual and may not issue a license to a partnership, an association, a corporation, a firm, or another group. A licensed home inspector or licensed associate home inspector, however, may perform home inspections for or on behalf of a partnership, an association, a corporation, a firm, or another group, may conduct business as one of these entities, and may enter into and enforce contracts as one of these entities.

**§ 143-151.51. Requirements to be licensed as a home inspector.**

To be licensed as a home inspector, an applicant must do all of the following:

- (1) Submit a completed application to the Board upon a form provided by the Board.
- (2) Pass a licensing examination prescribed by the Board.
- (3) Have minimum net assets or a bond in an amount determined by the Board. The amount may not be less than five thousand dollars (\$5,000) nor more than ten thousand dollars (\$10,000).
- (4) Pay the applicable fees.
- (5) Meet one of the following three conditions:
  - a. Have a high school diploma or its equivalent, have been engaged as a licensed associate home inspector for at least one year, and have completed 100 home inspections for compensation.
  - b. Have education and experience the Board considers to be equivalent to that required by subpart a. of this subdivision.
  - c. Be licensed as a general contractor under Article 1 of Chapter 87 of the General Statutes, as an architect under Chapter 83A of the General Statutes, or as a professional engineer under Chapter 89C of the General Statutes.

**§ 143-151.52. Requirements to be licensed as an associate home inspector.**

To be licensed as an associate home inspector, a person must do all of the following:

- (1) Submit a completed application to the Board upon a form provided by the Board.
- (2) Pass a licensing examination prescribed by the Board.
- (3) Pay the applicable fees.
- (4) Have a high school diploma or its equivalent.
- (5) Be employed by or affiliated with or intend to be employed by or affiliated with a licensed home inspector and submit a sworn statement by that licensed home inspector certifying that the licensed home inspector will actively supervise and train the applicant.

**§ 143-151.53. Notification to applicant following evaluation of application.**

If the Board finds that the applicant has not met fully the requirements for licensing, the Board shall refuse to issue the license and shall notify in writing the applicant of the denial, stating the grounds of the denial. The application may also be denied for any reason for which a license may be suspended or revoked or not renewed under G.S. 143-151.56. Within 30 days after service of the notification, the applicant may make a written demand upon the Board for a review to determine the reasonableness of the Board's action. The review shall be completed without undue delay, and the applicant shall be notified promptly in writing as to the outcome of the review. Within 30 days after service of the notification as to the outcome, the applicant may make a written demand upon the Board for a hearing under Article 3A of Chapter 150B of the General Statutes if the applicant disagrees with the outcome.

**§ 143-151.54. Miscellaneous license provisions.**

A license issued by the Board is the property of the Board. If the Board suspends or revokes a license issued by it, the individual to whom it is issued must give it to the Board upon demand. An individual who is licensed by the Board must display the license certificate in the manner prescribed by the Board. A license holder whose address changes must report the change to the Board.

**§ 143-151.55. Renewal of license; inactive licenses; lapsed licenses.**

(a) **Renewal.** – A license expires on September 30 of each year. A license may be renewed by filing an application for renewal with the Board and paying the required renewal fee. The Board must notify license holders at least 30 days before their licenses expire. The Board must renew the license of a person who files an application for renewal, pays the required renewal fee, has fulfilled the continuing education requirements set by the Board, and is not in violation of this Article when the application is filed. If the Board imposes a continuing education requirement as a condition of renewing a license, the Board must ensure that the courses needed to fulfill the requirement are available in all geographic areas of the State.

(b) **Late Renewal.** – The Board may provide for the late renewal of a license upon the payment of a late fee, but no late renewal of a license may be granted more than five years after the license expires.

(c) **Inactive License.** – A license holder may apply to the Board to be placed on inactive status. An applicant for inactive status must follow the procedure set by the Board. A license holder who is granted inactive status is not subject to the license renewal requirements during the period the license holder remains on inactive status.

A license holder whose application is granted and is placed on inactive status may apply to the Board to be reinstated to active status at any time. The Board may set conditions for reinstatement to active status. An individual who is on inactive status and applies to be reinstated to active status must comply with the conditions set by the Board.

(d) **Lapsed License.** – The license of a licensed home inspector shall lapse if the licensee fails to continuously maintain minimum net assets or a bond as required by G.S. 143-151.58. The license of a licensed associate home inspector shall lapse if the licensee fails to continuously be employed by or affiliated with a licensed home inspector as required by G.S. 143-151.58.

**§ 143-151.56. Suspension, revocation, and refusal to renew license.**

(a) The Board may deny or refuse to issue or renew a license, may suspend or revoke a license, or may impose probationary conditions on a license if the license holder or applicant for licensure has engaged in any of the following conduct:

- (1) Employed fraud, deceit, or misrepresentation in obtaining or attempting to obtain or renew a license.
- (2) Committed an act of malpractice, gross negligence, or incompetence in the practice of home inspections.
- (3) Without having a current license, either performed home inspections for compensation or claimed to be licensed.
- (4) Engaged in conduct that could result in harm or injury to the public.
- (5) Been convicted of or pled guilty or nolo contendere to any misdemeanor involving moral turpitude or to any felony.
- (6) Been adjudicated incompetent.

(7) Engaged in any act or practice that violates any of the provisions of this Article or any rule issued by the Board, or aided, abetted, or assisted any person in a violation of any of the provisions of this Article.

(b) A denial of licensure, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a license holder may be ordered by the Board after a hearing held in accordance with Article 3A of Chapter 150B of the General Statutes and rules adopted by the Board. An application may be made to the Board for reinstatement of a revoked license if the revocation has been in effect for at least one year.

**§ 143-151.57. Fees.**

(a) Maximum Fees. – The Board may adopt fees that do not exceed the amounts set in the following table for administering this Article:

<u>Item</u>	<u>Maximum Fee</u>
Application for home inspector license	\$25.00
Application for associate home inspector	15.00
Home inspector examination	75.00
Issuance of home inspector license	150.00
Issuance of associate home inspector license	100.00
Late renewal of home inspector license	25.00
Late renewal of associate home inspector license	15.00
Application for course approval	150.00
Renewal of course approval	75.00
Course fee, per credit hour per license	5.00
Credit for unapproved continuing education course	50.00
Copies of Board rules or licensure standards	Cost of printing and mailing.

(b) Subsequent Application. – An individual who applied for a license as a home inspector and who failed the home inspector examination is not required to pay an additional application fee if the individual submits another application for a license as a home inspector. The individual must pay the examination fee, however, to be eligible to take the examination again.

**§ 143-151.58. Duties of licensed home inspector or licensed associate home inspector.**

(a) Home Inspection Report. – A licensed home inspector or licensed associate home inspector must give to each person for whom the inspector performs a home inspection for compensation a written report of the home inspection. The inspector must give the person the report by the date set in a written agreement by the parties to the home inspection. If the parties to the home inspection did not agree on a date in a written agreement, the inspector must give the person the report within three business days after the inspection was performed.

(b) Bond Required. – A licensed home inspector must continuously maintain minimum net assets or a bond as required in G.S. 143-151.51(3).

(c) Supervision. – A licensed associate home inspector must be continuously employed by or affiliated with a licensed home inspector as required in G.S. 143-151.52(5).

(d) Record Keeping. – All licensees under this Article shall make and keep full and accurate records of business done under their licenses. Records shall include the written, signed contract and the written report required by the standards of practice referred to in G.S. 143-151.49(a)(2) and any other information the Board requires by rule. Records shall be retained by licensees for not less than three years. Licensees shall furnish their records to the Board on demand.

**§ 143-151.59. Violation is a misdemeanor.**

A person who violates a provision of this Article is guilty of a Class 2 misdemeanor. Each unlawful act or practice constitutes a distinct and separate offense.

**§ 143-151.60. Injunctions.**

The Board may make application to any appropriate court for an order enjoining violations of this Article. Upon a showing by the Board that any person has violated or is about to violate this Article, the court may grant an injunction or a restraining order or take other appropriate action.

**§ 143-151.61. Certain applicants do not have to be licensed as an associate home inspector before being eligible for licensure as a home inspector.**

The requirement that an applicant for licensure as a home inspector first have a license as an associate home inspector does not apply to a person who, prior to October 1, 1996, had been engaged in the business of performing home inspections for compensation for at least one year and had conducted at least 100 home inspections for compensation. All other requirements for licensure as a home inspector, including passing a licensing examination provided by the Board, apply to an applicant who is exempted by this section from the requirement of prior licensure as an associate home inspector.

**§ 143-151.62. Persons and practices not affected.**

This Article does not apply to any of the following:

- (1) A person who is employed as a code enforcement official by the State or a political subdivision of the State and is certified pursuant to Article 9C of Chapter 143 of the General Statutes, when acting within the scope of that employment.
- (2) A plumbing or heating contractor who does not claim to be a home inspector and is licensed under Article 2 of Chapter 87 of the General Statutes, when acting pursuant to that Article.
- (3) An electrical contractor who does not claim to be a home inspector and is licensed under Article 4 of Chapter 87 of the General Statutes, when acting pursuant to that Article.
- (4) A real estate broker or a real estate sales representative who does not claim to be a home inspector and is licensed under Article 1 of Chapter 93A of the General Statutes, when acting pursuant to that Article.
- (5) A structural pest control licensee licensed under the provisions of Article 4C of Chapter 106 of the General Statutes, an employee of the licensee, or a certified applicator licensed under the provisions of Article 4C of Chapter 106 of the General Statutes who does not claim to be a home inspector, while performing structural pest control activities pursuant to that Article.

**§ 143-151.63. Administration.**

(a) The Division of Engineering and Building Code in the Department of Insurance shall provide clerical and other staff services required by the Board, and shall administer and enforce all provisions of this Article and all rules adopted under this Article, subject to the direction of the Board. The Board shall reimburse the Division for its services to the Board.

(b) Any monies received by the Board pursuant to this Article shall be deposited in the State treasury to the account of the Board and shall be used to administer this Article.

(c) The books and records of the Board are subject to the oversight of the State Auditor, as provided in G.S. 93B-4.

**§ 143-151.64. Continuing education requirements.**

(a) Requirements. – The Board may establish programs of continuing education for licensees under this Article. A licensee subject to a program under this section shall present evidence to the Board upon the license renewal following initial licensure, and every renewal thereafter, that during the 12 months preceding the annual license expiration date the licensee has completed the required number of classroom hours of instruction in courses approved by the Board. Annual continuing education hour requirements shall be determined by the Board, but shall not be more than 12 credit hours. No member of the Board shall provide or sponsor a continuing education course under this section while that person is serving on the Board.

(b) Fees. – The Board may establish a nonrefundable course application fee to be charged to a course sponsor for the review and approval of a proposed continuing education course. Approval of a continuing education course must be renewed annually. The Board may also require a course sponsor to pay a fee for each licensee completing an approved continuing education course conducted by the sponsor.

(c) Credit for Unapproved Course. – The Board may award continuing education credit for an unapproved course or related educational activity. The Board may prescribe procedures for a licensee to submit information on an unapproved course or related educational activity for continuing education credit. The Board may charge a fee to the licensee for each course or activity submitted.

(d) Extension of Time. – The Board may, for good cause shown, grant extensions of time to licensees to comply with these requirements. Any licensee who, after obtaining an extension under this subsection, offers evidence satisfactory to the Board that the licensee has satisfactorily completed the required continuing education courses, is in compliance with this section.

(e) Rules. – The Board may adopt rules governing continuing education requirements, including rules that govern:

- (1) The content and subject matter of continuing education courses.
- (2) The criteria, standards, and procedures for the approval of courses, course sponsors, and course instructors.
- (3) The methods of instruction.
- (4) The computation of course credit.
- (5) The ability to carry forward course credit from one year to another.
- (6) The waiver of or variance from the continuing education requirement for hardship or other reasons.
- (7) The procedures for compliance and sanctions for noncompliance.

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**§ 150B-18. Scope and effect.**

This Article applies to an agency's exercise of its authority to adopt a rule. A rule is not valid unless it is adopted in substantial compliance with this Article.

**§ 150B-19. Restrictions on what can be adopted as a rule.**

An agency may not adopt a rule that does one or more of the following:

- (1) Implements or interprets a law unless that law or another law specifically authorizes the agency to do so.
- (2) Enlarges the scope of a profession, occupation, or field of endeavor for which an occupational license is required.
- (3) Imposes criminal liability or a civil penalty for an act or omission, including the violation of a rule, unless a law specifically authorizes the agency to do so or a law declares that violation of the rule is a criminal offense or is grounds for a civil penalty.
- (4) Repeats the content of a law, a rule, or a federal regulation. A brief statement that informs the public of a requirement imposed by law does not violate this subdivision and satisfies the "reasonably necessary" standard of review set in G.S. 150B-21.9(a)(3).
- (5) Establishes a fee or other charge for providing a service in fulfillment of a duty unless a law specifically authorizes the agency to do so or the fee or other charge is for one of the following:
  - a. A service to a State, federal, or local governmental unit.
  - b. A copy of part or all of a State publication or other document, the cost of mailing a document, or both.
  - c. A transcript of a public hearing.
  - d. A conference, workshop, or course.
  - e. Data processing services.
- (6) Allows the agency to waive or modify a requirement set in a rule unless a rule establishes specific guidelines the agency must follow in determining whether to waive or modify the requirement.

**§ 150B-20. Petitioning an agency to adopt a rule.**

(a) Petition. – A person may petition an agency to adopt a rule by submitting to the agency a written rule-making petition requesting the adoption. A person may submit written comments with a rule-making petition. If a rule-making petition requests the agency to create or amend a rule, the person must submit the proposed text of the requested rule change and a statement of the effect of the requested rule change. Each agency must establish by rule the procedure for submitting a rule-making petition to it and the procedure the agency follows in considering a rule-making petition.

(b) Time. – An agency must grant or deny a rule-making petition submitted to it within 30 days after the date the rule-making petition is submitted, unless the agency is a board or commission. If the agency is a board or commission, it must grant or deny a rule-making petition within 120 days after the date the rule-making petition is submitted.

(c) Action. – If an agency denies a rule-making petition, it must send the person who submitted the petition a written statement of the reasons for denying the petition. If an agency grants a rule-making petition, it must inform the person who submitted the rule-making petition of its decision and must initiate rule-making proceedings. When an agency grants a rule-making petition, the notice of text it publishes in the North Carolina Register may state that the agency is initiating rule making as the result of a rule-making petition and state the name of the person who submitted the rule-making petition. If the rule-making petition requested the creation or amendment of a rule, the notice of text the agency publishes may set out the text of the requested rule change submitted with the rule-making petition and state whether the agency endorses the proposed text.



(d) Review. – Denial of a rule-making petition is a final agency decision and is subject to judicial review under Article 4 of this Chapter. Failure of an agency to grant or deny a rule-making petition within the time limits set in subsection (b) is a denial of the rule-making petition.

(e) Repealed.

**§ 150B-21.2. Procedure for adopting a permanent rule.**

(a) Steps. – Before an agency adopts a permanent rule, it must take the following actions:

- (1) Publish a notice of text in the North Carolina Register.
- (2) When required by G.S. 150B-21.4, prepare or obtain a fiscal note for the proposed rule.
- (3) Repealed.
- (4) When required by subsection (e) of this section, hold a public hearing on the proposed rule after publication of the proposed text of the rule.
- (5) Accept oral or written comments on the proposed rule as required by subsection (f) of this section.

(b) Repealed.

(c) Notice of Text. – A notice of the proposed text of a rule must include all of the following:

- (1) The text of the proposed rule.
- (2) A short explanation of the reason for the proposed rule.
- (3) A citation to the law that gives the agency the authority to adopt the rule.
- (4) The proposed effective date of the rule.
- (5) The date, time, and place of any public hearing scheduled on the rule.
- (6) Instructions on how a person may demand a public hearing on a proposed rule if the notice does not schedule a public hearing on the proposed rule and subsection (e) of this section requires the agency to hold a public hearing on the proposed rule when requested to do so.
- (7) The period of time during which and the person to whom written comments may be submitted on the proposed rule.
- (8) If a fiscal note has been prepared for the rule, a statement that a copy of the fiscal note can be obtained from the agency.
- (9) The procedure by which a person can object to a proposed rule and the requirements for subjecting a proposed rule to the legislative review process.

(d) Mailing List. – An agency must maintain a mailing list of persons who have requested notice of rule making. When an agency publishes in the North Carolina Register a notice of text of a proposed rule, it must mail a copy of the notice or text to each person on the mailing list who has requested notice on the subject matter described in the notice or the rule affected. An agency may charge an annual fee to each person on the agency's mailing list to cover copying and mailing costs.

(e) Hearing. – An agency must hold a public hearing on a rule it proposes to adopt if the agency publishes the text of the proposed rule in the North Carolina Register and the agency receives a written request for a public hearing on the proposed rule within 15 days after the notice of text is published.

An agency may hold a public hearing on a proposed rule in other circumstances. When an agency is required to hold a public hearing on a proposed rule or decides to hold a public hearing on a proposed rule when it is not required to do so, the agency must publish in the North Carolina Register a notice of the date, time, and place of the public hearing. The hearing date of a public hearing held after the agency publishes notice of the hearing in the North Carolina Register must be at least 15 days after the date the notice is published. If notice of a public hearing has been published in the North Carolina Register and

that public hearing has been cancelled, the agency shall publish notice in the North Carolina Register at least 15 days prior to the date of any rescheduled hearing.

(f) Comments. – An agency must accept comments on the text of a proposed rule that is published in the North Carolina Register for at least 60 days after the text is published or until the date of any public hearing held on the proposed rule, whichever is longer. An agency must consider fully all written and oral comments received.

(g) Adoption. – An agency shall not adopt a rule until the time for commenting on the proposed text of the rule has elapsed and shall not adopt a rule if more than 12 months have elapsed since the end of the time for commenting on the proposed text of the rule. An agency shall not adopt a rule that differs substantially from the text of a proposed rule published in the North Carolina Register unless the agency publishes the text of the proposed different rule in the North Carolina Register and accepts comments on the proposed different rule for the time set in subsection (f) of this section.

An adopted rule differs substantially from a proposed rule if it does one or more of the following:

- (1) Affects the interests of persons who, based on the proposed text of the rule published in the North Carolina Register, could not reasonably have determined that the rule would affect their interests.
- (2) Addresses a subject matter or an issue that is not addressed in the proposed text of the rule.
- (3) Produces an effect that could not reasonably have been expected based on the proposed text of the rule.

When an agency adopts a rule, it shall not take subsequent action on the rule without following the procedures in this Part. An agency must submit an adopted rule to the Rules Review Commission within 30 days of the agency's adoption of the rule.

(h) Explanation. – An agency must issue a concise written statement explaining why the agency adopted a rule if, within 15 days after the agency adopts the rule, a person asks the agency to do so. The explanation must state the principal reasons for and against adopting the rule and must discuss why the agency rejected any arguments made or considerations urged against the adoption of the rule. The agency must issue the explanation within 15 days after receipt of the request for an explanation.

(i) Record. – An agency must keep a record of a rule-making proceeding. The record must include all written comments received, a transcript or recording of any public hearing held on the rule, and any written explanation made by the agency for adopting the rule.

### **§ 150B-21.3. Effective date of rules.**

(a) Temporary and Emergency Rules. – A temporary rule or an emergency rule becomes effective on the date the Codifier of Rules enters the rule in the North Carolina Administrative Code.

(b) Permanent Rule. – A permanent rule approved by the Commission becomes effective on the first day of the month following the month the rule is approved by the Commission, unless the Commission received written objections to the rule in accordance with subsection (b2) of this section, or unless the agency that adopted the rule specifies a later effective date.

(b1) Delayed Effective Dates. – If the Commission received written objections to the rule in accordance with subsection (b2) of this section, the rule becomes effective on the earlier of the thirty-first legislative day or the day of adjournment of the next regular session of the General Assembly that begins at least 25 days after the date the Commission approved the rule, unless a different effective date applies under this section. If a bill that specifically disapproves the rule is introduced in either house of the General Assembly before the thirty-first legislative day of that session, the rule becomes effective on the earlier of either the day an unfavorable final action is taken on the bill or the day that session of the

General Assembly adjourns without ratifying a bill that specifically disapproves the rule. If the agency adopting the rule specifies a later effective date than the date that would otherwise apply under this subsection, the later date applies. A permanent rule that is not approved by the Commission or that is specifically disapproved by a bill enacted into law before it becomes effective does not become effective.

A bill specifically disapproves a rule if it contains a provision that refers to the rule by appropriate North Carolina Administrative Code citation and states that the rule is disapproved. Notwithstanding any rule of either house of the General Assembly, any member of the General Assembly may introduce a bill during the first 30 legislative days of any regular session to disapprove a rule that has been approved by the Commission and that either has not become effective or has become effective by executive order under subsection (c) of this section.

(b2) Objection. – Any person who objects to the adoption of a permanent rule may submit written comments to the agency. If the objection is not resolved prior to adoption of the rule, a person may submit written objections to the Commission. If the Commission receives written objections from 10 or more persons, no later than 5:00 P.M. of the day following the day the Commission approves the rule, clearly requesting review by the legislature in accordance with instructions contained in the notice pursuant to G.S. 150B-21.2(c)(9), and the Commission approves the rule, the rule will become effective as provided in subsection (b1) of this section. The Commission shall notify the agency that the rule is subject to legislative disapproval on the day following the day it receives 10 or more written objections. When the requirements of this subsection have been met and a rule is subject to legislative disapproval, the agency may adopt the rule as a temporary rule if the rule would have met the criteria listed in G.S. 150B-21.1(a) at the time the notice of text for the permanent rule was published in the North Carolina Register. If the Commission receives objections from 10 or more persons clearly requesting review by the legislature, and the rule objected to is one of a group of related rules adopted by the agency at the same time, the agency that adopted the rule may cause any of the other rules in the group to become effective as provided in subsection (b1) of this section by submitting a written statement to that effect to the Commission before the other rules become effective.

(c) Executive Order Exception. – The Governor may, by executive order, make effective a permanent rule that has been approved by the Commission but the effective date of which has been delayed in accordance with subsection (b1) of this section upon finding that it is necessary that the rule become effective in order to protect public health, safety, or welfare. A rule made effective by executive order becomes effective on the date the order is issued or at a later date specified in the order. When the Codifier of Rules enters in the North Carolina Administrative Code a rule made effective by executive order, the entry must reflect this action.

A rule that is made effective by executive order remains in effect unless it is specifically disapproved by the General Assembly in a bill enacted into law on or before the day of adjournment of the regular session of the General Assembly that begins at least 25 days after the date the executive order is issued. A rule that is made effective by executive order and that is specifically disapproved by a bill enacted into law is repealed as of the date specified in the bill. If a rule that is made effective by executive order is not specifically disapproved by a bill enacted into law within the time set by this subsection, the Codifier of Rules must note this in the North Carolina Administrative Code.

(c1) Fees. – Notwithstanding any other provision of this section, a rule that establishes a new fee or increases an existing fee shall not become effective until the agency has complied with the requirements of G.S. 12-3.1.

(d) Legislative Day and Day of Adjournment. – As used in this section:

- (1) A "legislative day" is a day on which either house of the General Assembly convenes in regular session.

- (2) The "day of adjournment" of a regular session held in an odd-numbered year is the day the General Assembly adjourns by joint resolution for more than 10 days.
- (3) The "day of adjournment" of a regular session held in an even-numbered year is the day the General Assembly adjourns sine die.

(e) OSHA Standard. – A permanent rule concerning an occupational safety and health standard that is adopted by the Occupational Safety and Health Division of the Department of Labor and is identical to a federal regulation promulgated by the Secretary of the United States Department of Labor becomes effective on the date the Division delivers the rule to the Codifier of Rules, unless the Division specifies a later effective date. If the Division specifies a later effective date, the rule becomes effective on that date.

(f) Technical Change. – A permanent rule for which no notice or hearing is required under G.S. 150B-21.5(a)(1) through (a)(5) or G.S. 150B-21.5(b) becomes effective on the first day of the month following the month the rule is approved by the Rules Review Commission.

#### **§ 150B-21.4. Fiscal notes on rules.**

(a) State Funds. – Before an agency publishes in the North Carolina Register the proposed text of a permanent rule change that would require the expenditure or distribution of funds subject to the Executive Budget Act, Article 1 of Chapter 143, it must submit the text of the proposed rule change and a fiscal note on the proposed rule change to the Director of the Budget and obtain certification from the Director that the funds that would be required by the proposed rule change are available. The fiscal note must state the amount of funds that would be expended or distributed as a result of the proposed rule change and explain how the amount was computed. The Director of the Budget must certify a proposed rule change if funds are available to cover the expenditure or distribution required by the proposed rule change.

(a1) DOT Analyses. – In addition to the requirements of subsection (a) of this section, any agency that adopts a rule affecting environmental permitting of Department of Transportation projects shall conduct an analysis to determine if the rule will result in an increased cost to the Department of Transportation. The analysis shall be conducted and submitted to the Board of Transportation before the agency publishes the proposed text of the rule change in the North Carolina Register. The agency shall consider any recommendations offered by the Board of Transportation prior to adopting the rule. Once a rule subject to this subsection is adopted, the Board of Transportation may submit any objection to the rule it may have to the Rules Review Commission. If the Rules Review Commission receives an objection to a rule from the Board of Transportation no later than 5:00 P.M. of the day following the day the Commission approves the rule, then the rule shall only become effective as provided in G.S. 150B-21.3(b1).

(b) Local Funds. – Before an agency publishes in the North Carolina Register the proposed text of a permanent rule change that would affect the expenditures or revenues of a unit of local government, it must submit the text of the proposed rule change and a fiscal note on the proposed rule change to the Office of the Governor as provided by G.S. 150B-21.26, the Fiscal Research Division of the General Assembly, the Office of State Budget and Management, the North Carolina Association of County Commissioners, and the North Carolina League of Municipalities. The fiscal note must state the amount by which the proposed rule change would increase or decrease expenditures or revenues of a unit of local government and must explain how the amount was computed.

(b1) Substantial Economic Impact. – Before an agency publishes in the North Carolina Register the proposed text of a permanent rule change that would have a substantial economic impact and that is not identical to a federal regulation that the agency is required to adopt, the agency must obtain a fiscal note for the proposed rule change from the Office of State Budget and Management or prepare a fiscal note for

the proposed rule change and have the note approved by that Office. If an agency requests the Office of State Budget and Management to prepare a fiscal note for a proposed rule change, that Office must prepare the note within 90 days after receiving a written request for the note. If the Office of State Budget and Management fails to prepare a fiscal note within this time period, the agency proposing the rule change may prepare a fiscal note. A fiscal note prepared in this circumstance does not require approval of the Office of State Budget and Management.

If an agency prepares the required fiscal note, the agency must submit the note to the Office of State Budget and Management for review. The Office of State Budget and Management must review the fiscal note within 14 days after it is submitted and either approve the note or inform the agency in writing of the reasons why it does not approve the fiscal note. After addressing these reasons, the agency may submit the revised fiscal note to that Office for its review. If an agency is not sure whether a proposed rule change would have a substantial economic impact, the agency may ask the Office of State Budget and Management to determine whether the proposed rule change has a substantial economic impact.

As used in this subsection, the term "substantial economic impact" means an aggregate financial impact on all persons affected of at least three million dollars (\$3,000,000) in a 12-month period.

- (b2) Content. – A fiscal note required by subsection (b1) of this section must contain the following:
  - (1) A description of the persons who would be affected by the proposed rule change.
  - (2) A description of the types of expenditures that persons affected by the proposed rule change would have to make to comply with the rule and an estimate of these expenditures.
  - (3) A description of the purpose and benefits of the proposed rule change.
  - (4) An explanation of how the estimate of expenditures was computed.
- (c) Errors. – An erroneous fiscal note prepared in good faith does not affect the validity of a rule.

#### **§ 150B-21.5. Circumstances when notice and rule-making hearing not required.**

(a) Amendment. – An agency is not required to publish a notice of text in the North Carolina Register or hold a public hearing when it proposes to amend a rule to do one of the following:

- (1) Reletter or renumber the rule or subparts of the rule.
- (2) Substitute one name for another when an organization or position is renamed.
- (3) Correct a citation in the rule to another rule or law when the citation has become inaccurate since the rule was adopted because of the repeal or renumbering of the cited rule or law.
- (4) Change information that is readily available to the public, such as an address or a telephone number.
- (5) Correct a typographical error in the North Carolina Administrative Code.
- (6) Change a rule in response to a request or an objection by the Commission, unless the Commission determines that the change is substantial.

(b) Repeal. – An agency is not required to publish a notice of text in the North Carolina Register or hold a public hearing when it proposes to repeal a rule as a result of any of the following:

- (1) The law under which the rule was adopted is repealed.
- (2) The law under which the rule was adopted or the rule itself is declared unconstitutional.
- (3) The rule is declared to be in excess of the agency's statutory authority.

(c) OSHA Standard. – The Occupational Safety and Health Division of the Department of Labor is not required to publish a notice of text in the North Carolina Register or hold a public hearing when it proposes to adopt a rule that concerns an occupational safety and health standard and is identical to a federal regulation promulgated by the Secretary of the United States Department of Labor. The

Occupational Safety and Health Division is not required to submit to the Commission for review a rule for which notice and hearing is not required under this subsection.

(d) State Building Code. – The Building Code Council is not required to publish a notice of text in the North Carolina Register when it proposes to adopt a rule that concerns the North Carolina State Building Code. The Building Code Council is required to publish a notice in the North Carolina Register when it proposes to adopt a rule that concerns the North Carolina State Building Code. The notice must include all of the following:

- (1) A statement of the subject matter of the proposed rule making.
- (2) A short explanation of the reason for the proposed action.
- (3) A citation to the law that gives the agency the authority to adopt a rule on the subject matter of the proposed rule making.
- (4) The person to whom questions or written comments may be submitted on the subject matter of the proposed rule making.

The Building Code Council is required to submit to the Commission for review a rule for which notice of text is not required under this subsection. In adopting a rule, the Council shall comply with the procedural requirements of G.S. 150B-21.3.

#### **§ 150B-21.6. Incorporating material in a rule by reference.**

An agency may incorporate the following material by reference in a rule without repeating the text of the referenced material:

- (1) Another rule or part of a rule adopted by the agency.
- (2) All or part of a code, standard, or regulation adopted by another agency, the federal government, or a generally recognized organization or association.
- (3) Repealed by Session Laws 1997-34, s. 5.

In incorporating material by reference, the agency must designate in the rule whether or not the incorporation includes subsequent amendments and editions of the referenced material. The agency can change this designation only by a subsequent rule-making proceeding. The agency must have copies of the incorporated material available for inspection and must specify in the rule both where copies of the material can be obtained and the cost on the date the rule is adopted of a copy of the material.

A statement in a rule that a rule incorporates material by reference in accordance with former G.S. 150B-14(b) is a statement that the rule does not include subsequent amendments and editions of the referenced material. A statement in a rule that a rule incorporates material by reference in accordance with former G.S. 150B-14(c) is a statement that the rule includes subsequent amendments and editions of the referenced material.

#### **§ 150B-21.7. Effect of transfer of duties or termination of agency on rules.**

When a law that authorizes an agency to adopt a rule is repealed and another law gives the same or another agency substantially the same authority to adopt a rule, the rule remains in effect until the agency amends or repeals the rule. When a law that authorizes an agency to adopt a rule is repealed and another law does not give the same or another agency substantially the same authority to adopt a rule, a rule adopted under the repealed law is repealed as of the date the law is repealed.

When an executive order abolishes part or all of an agency and transfers a function of that agency to another agency, a rule concerning the transferred function remains in effect until the agency to which the function is transferred amends or repeals the rule. When an executive order abolishes part or all of an agency and does not transfer a function of that agency to another agency, a rule concerning a function abolished by the executive order is repealed as of the effective date of the executive order.

The Director of Fiscal Research of the General Assembly must notify the Codifier of Rules when a rule is repealed under this section. When notified of a rule repealed under this section, the Codifier of Rules must enter the repeal of the rule in the North Carolina Administrative Code.

### Part 3. Review by Commission.

#### **§ 150B-21.8. Review of rule by Commission.**

- (a) Emergency Rule. – The Commission does not review an emergency rule.
- (b) Temporary and Permanent Rules. – An agency must submit temporary and permanent rules adopted by it to the Commission before the rule can be included in the North Carolina Administrative Code. The Commission reviews a temporary or permanent rule in accordance with the standards in G.S. 150B-21.9 and follows the procedure in this Part in its review of a rule.
- (c) Scope. – When the Commission reviews an amendment to a permanent rule, it may review the entire rule that is being amended. The procedure in G.S. 150B-21.12 applies when the Commission objects to a part of a permanent rule that is within its scope of review but is not changed by a rule amendment.
- (d) Judicial Review. – When the Commission returns a permanent rule to an agency in accordance with G.S. 150B-21.12(d), the agency may file an action for declaratory judgment in Wake County Superior Court pursuant to Article 26 of Chapter 1 of the General Statutes.

#### **§ 150B-21.9. Standards and timetable for review by Commission.**

- (a) Standards. – The Commission must determine whether a rule meets all of the following criteria:
  - (1) It is within the authority delegated to the agency by the General Assembly.
  - (2) It is clear and unambiguous.
  - (3) It is reasonably necessary to implement or interpret an enactment of the General Assembly, or of Congress, or a regulation of a federal agency. The Commission shall consider the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed.
  - (4) It was adopted in accordance with Part 2 of this Article.

The Commission shall not consider questions relating to the quality or efficacy of the rule but shall restrict its review to determination of the standards set forth in this subsection.

The Commission may ask the Office of State Budget and Management to determine if a rule has a substantial economic impact and is therefore required to have a fiscal note. The Commission must ask the Office of State Budget and Management to make this determination if a fiscal note was not prepared for a rule and the Commission receives a written request for a determination of whether the rule has a substantial economic impact.

(a1) Entry of a rule in the North Carolina Administrative Code after review by the Commission creates a rebuttable presumption that the rule was adopted in accordance with Part 2 of this Article.

(b) Timetable. – The Commission must review a permanent rule submitted to it on or before the twentieth of a month by the last day of the next month. The Commission must review a rule submitted to it after the twentieth of a month by the last day of the second subsequent month. The Commission must review a temporary rule in accordance with the timetable and procedure set forth in G.S. 150B-21.1.

#### **§ 150B-21.10. Commission action on permanent rule.**

At the first meeting at which a permanent rule is before the Commission for review, the Commission must take one of the following actions:

- (1) Approve the rule, if the Commission determines that the rule meets the standards for review.
- (2) Object to the rule, if the Commission determines that the rule does not meet the standards for review.
- (3) Extend the period for reviewing the rule, if the Commission determines it needs additional information on the rule to be able to decide whether the rule meets the standards for review.

In reviewing a new rule or an amendment to an existing rule, the Commission may request an agency to make technical changes to the rule and may condition its approval of the rule on the agency's making the requested technical changes.

**§ 150B-21.11. Procedure when Commission approves permanent rule.**

When the Commission approves a permanent rule, it must notify the agency that adopted the rule of the Commission's approval, deliver the approved rule to the Codifier of Rules, and include the text of the approved rule and a summary of the rule in its next report to the Joint Legislative Administrative Procedure Oversight Committee.

If the approved rule will increase or decrease expenditures or revenues of a unit of local government, the Commission must also notify the Governor of the Commission's approval of the rule and deliver a copy of the approved rule to the Governor by the end of the month in which the Commission approved the rule.

**§ 150B-21.12. Procedure when Commission objects to a permanent rule.**

(a) Action. – When the Commission objects to a permanent rule, it must send the agency that adopted the rule a written statement of the objection and the reason for the objection. The agency that adopted the rule must take one of the following actions:

- (1) Change the rule to satisfy the Commission's objection and submit the revised rule to the Commission.
- (2) Submit a written response to the Commission indicating that the agency has decided not to change the rule.

(b) Time Limit. – An agency that is not a board or commission must take one of the actions listed in subsection (a) of this section within 30 days after receiving the Commission's statement of objection. A board or commission must take one of these actions within 30 days after receiving the Commission's statement of objection or within 10 days after the board or commission's next regularly scheduled meeting, whichever comes later.

(c) Changes. – When an agency changes a rule in response to an objection by the Commission, the Commission must determine whether the change satisfies the Commission's objection. If it does, the Commission must approve the rule. If it does not, the Commission must send the agency a written statement of the Commission's continued objection and the reason for the continued objection. The Commission must also determine whether the change is substantial. In making this determination, the Commission shall use the standards set forth in G.S. 150B-21.2(g). If the change is substantial, the revised rule shall be published and reviewed in accordance with the procedure set forth in G.S. 150B-21.1(a3) and (b).

(d) Return of Rule. – A rule to which the Commission has objected remains under review by the Commission until the agency that adopted the rule decides not to satisfy the Commission's objection and



makes a written request to the Commission to return the rule to the agency. When the Commission returns a rule to which it has objected, it must notify the Codifier of Rules of its action and must send a copy of the record of the Commission's review of the rule to the Joint Legislative Administrative Procedure Oversight Committee in its next report to that Committee. If the rule that is returned would have increased or decreased expenditures or revenues of a unit of local government, the Commission must also notify the Governor of its action and must send a copy of the record of the Commission's review of the rule to the Governor. The record of review consists of the rule, the Commission's letter of objection to the rule, the agency's written response to the Commission's letter, and any other relevant documents before the Commission when it decided to object to the rule.

## **Counties**

### **§ 153A-97. Defense of officers, employees and others.**

A county may, pursuant to G.S. 160A-167, provide for the defense of:

- (1) Any county officer or employee, including the county board of elections or any county election official.
- (2) Any member of a volunteer fire department or rescue squad which receives public funds.
- (2a) Any soil and water conservation supervisor, and any local soil and water conservation employee, whether the employee is a county employee or an employee of a soil and water conservation district.
- (3) Any person or professional association who at the request of the board of county commissioners provides medical or dental services to inmates in the custody of the sheriff and is sued pursuant to 42 U.S.C. § 1983 with respect to the services.

### **§ 153A-134. Regulating and licensing businesses, trades, etc.**

A county may by ordinance, subject to the general law of the State, regulate and license occupations, businesses, trades, professions, and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience. In licensing trades, occupations, and professions, the county may, consistent with the general law of the State, require applicants for licenses to be examined and charge a reasonable fee therefor. This section does not authorize a county to examine or license a person holding a license issued by an occupational licensing board of this State as to the profession or trade that he has been licensed to practice or pursue by the State.

This section does not impair the county's power to levy privilege license taxes on occupations, businesses, trades, professions, and other activities pursuant to G.S. 153A-152.

### **§ 153A-350. "Building" defined.**

As used in this Part, the words "building" or "buildings" include other structures.

### **§ 153A-350.1. Tribal lands.**

As used in this Part, the term:

- (1) "Board of commissioners" includes the Tribal Council of such tribe.
- (2) "County" or "counties" also means a federally recognized Indian Tribe, and as to such tribe includes lands held in trust for the tribe.

**§ 153A-351. Inspection department; certification of electrical inspectors.**

(a) A county may create an inspection department, consisting of one or more inspectors who may be given the titles of building inspector, electrical inspector, plumbing inspector, housing inspector, zoning inspector, heating and air-conditioning inspector, fire prevention inspector, deputy or assistant inspector, or any other title that is generally descriptive of the duties assigned. The department may be headed by a superintendent or director of inspections.

- (a1) Every county shall perform the duties and responsibilities set forth in G.S. 153A-352 either by:
- (1) Creating its own inspection department;
  - (2) Creating a joint inspection department in cooperation with one or more other units of local government, pursuant to G.S. 153A-353 or Part 1 of Article 20 of Chapter 160A; or,
  - (3) Contracting with another unit of local government for the provision of inspection services pursuant to Part 1 of Article 20 of Chapter 160A.

Such action shall be taken no later than the applicable date in the schedule below, according to the county's population as published in the 1970 United States Census:

Counties over 75,000 population – July 1, 1979

Counties between 50,001 and 75,000 – July 1, 1981

Counties between 25,001 and 50,000 – July 1, 1983

Counties 25,000 and under – July 1, 1985.

In the event that any county shall fail to provide inspection services by the date specified above or shall cease to provide such services at any time thereafter, the Commissioner of Insurance shall arrange for the provision of such services, either through personnel employed by his Department or through an arrangement with other units of government. In either event, the Commissioner shall have and may exercise within the county's jurisdiction all powers made available to the board of county commissioners with respect to building inspection under Part 4 of Article 18 of this Chapter and Part 1 of Article 20 of Chapter 160A. Whenever the Commissioner has intervened in this manner, the county may assume provision of inspection services only after giving the Commissioner two years' written notice of its intention to do so; provided, however, that the Commissioner may waive this requirement or permit assumption at an earlier date if he finds that such earlier assumption will not unduly interfere with arrangements he has made for the provision of those services.

(b) No person may perform electrical inspections pursuant to this Part unless he has been certified as qualified by the Commissioner of Insurance. To be certified a person must pass a written examination based on the electrical regulations included in the latest edition of the State Building Code as filed with the Secretary of State. The examination shall be under the supervision of and conducted according to rules and regulations prescribed by the Chief State Electrical Inspector or Engineer of the State Department of Insurance and the Board of Examiners of Electrical Contractors. It shall be held quarterly, in Raleigh or any other place designated by the Chief State Electrical Inspector or Engineer.

The rules and regulations may provide for the certification of class I, class II, and class III inspectors, according to the results of the examination. The examination shall be based on the type and character of electrical installations being made in the territory in which the applicant wishes to serve as an electrical inspector. A class I inspector may serve anywhere in the State, but class II and class III inspectors shall be limited to service in the territory for which they have qualified.

The Commissioner of Insurance shall issue a certificate to each person who passes the examination, approving the person for service in a designated territory. To remain valid, a certificate must be renewed each January by payment of an annual renewal fee of one dollar (\$1.00). The examination fee shall be five dollars (\$5.00).

If the person appointed by a county as electrical inspector fails to pass the examination, the county shall continue to make appointments until an appointee has passed the examination. For the interim the Commissioner of Insurance may authorize the county to use a temporary inspector.

The provisions of this subsection shall become void and ineffective on such date as the North Carolina Code Officials Qualification Board certifies to the Secretary of State that it has placed in effect a certification system for electrical inspectors pursuant to its authority granted by Article 9C of Chapter 143 of the General Statutes.

#### **§ 153A-351.1. Qualifications of inspectors.**

On and after the applicable date set forth in the schedule in G.S. 153A-351, no county shall employ an inspector to enforce the State Building Code as a member of a county or joint inspection department who does not have one of the following types of certificates issued by the North Carolina Code Officials Qualification Board attesting to his qualifications to hold such position: (i) a probationary certificate, valid for one year only; (ii) a standard certificate; or (iii) a limited certificate, which shall be valid only as an authorization for him to continue in the position held on the date specified in G.S. 143-151.10(c) and which shall become invalid if he does not successfully complete in-service training prescribed by the Qualification Board within the period specified in G.S. 143-151.10(c). An inspector holding one of the above certificates can be promoted to a position requiring a higher level certificate only upon issuance by the Board of a standard certificate or probationary certificate appropriate for such new position.

#### **§ 153A-352. Duties and responsibilities.**

The duties and responsibilities of an inspection department and of the inspectors in it are to enforce within the county's territorial jurisdiction State and local laws and local ordinances and regulations relating to:

- (1) The construction of buildings;
- (2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems;
- (3) The maintenance of buildings in a safe, sanitary, and healthful condition;
- (4) Other matters that may be specified by the board of commissioners.

These duties and responsibilities include receiving applications for permits and issuing or denying permits, making necessary inspections, issuing or denying certificates of compliance, issuing orders to correct violations, bringing judicial actions against actual or threatened violations, keeping adequate records, and taking any other actions that may be required to adequately enforce the laws and ordinances and regulations. The board of commissioners may enact reasonable and appropriate provisions governing the enforcement of the laws and ordinances and regulations.

#### **§ 153A-353. Joint inspection department; other arrangements.**

A county may enter into and carry out contracts with one or more other counties or cities under which the parties agree to create and support a joint inspection department for enforcing those State and local laws and local ordinances and regulations specified in the agreement. The governing bodies of the contracting units may make any necessary appropriations for this purpose.

In lieu of a joint inspection department, a county may designate an inspector from another county or from a city to serve as a member of the county inspection department, with the approval of the governing body of the other county or city. A county may also contract with an individual who is not a city or county employee but who holds one of the applicable certificates as provided in G.S. 153A-351.1 or G.S. 160A-411.1 or with the employer of an individual who holds one of the applicable certificates as provided

in G.S. 153A-351.1 or G.S. 160A-411.1. The inspector, if designated from another county or city under this section, while exercising the duties of the position, is a county employee. The county shall have the same potential liability, if any, for inspections conducted by an individual who is not an employee of the county as it does for an individual who is an employee of the county. The company or individual with whom the county contracts shall have errors and omissions and other insurance coverage acceptable to the county.

**§ 153A-354. Financial support.**

A county may appropriate any available funds for the support of its inspection department. It may provide for paying inspectors fixed salaries, or it may reimburse them for their services by paying over part or all of any fees collected. It may fix reasonable fees for issuing permits, for inspections, and for other services of the inspection department.

**§ 153A-355. Conflicts of interest.**

Unless he or she is the owner of the building, no member of an inspection department shall be financially interested or employed by a business that is financially interested in furnishing labor, material, or appliances for the construction, alteration, or maintenance of any building within the county's territorial jurisdiction or any part or system thereof, or in making plans or specifications therefor. No member of any inspection department or other individual or an employee of a company contracting with a county to conduct inspections may engage in any work that is inconsistent with his or her duties or with the interest of the county, as determined by the county. The county must find a conflict of interest if any of the following is the case:

- (1) If the individual, company, or employee of a company contracting to perform inspections for the county has worked for the owner, developer, contractor, or project manager of the project to be inspected within the last two years.
- (2) If the individual, company, or employee of a company contracting to perform inspections for the county is closely related to the owner, developer, contractor, or project manager of the project to be inspected.
- (3) If the individual, company, or employee of a company contracting to perform inspections for the county has a financial or business interest in the project to be inspected.

**§ 153A-356. Failure to perform duties.**

If a member of an inspection department willfully fails to perform the duties required of him by law, or willfully improperly issues a permit, or gives a certificate of compliance without first making the inspections required by law, or willfully improperly gives a certificate of compliance, he is guilty of a Class 1 misdemeanor.

**§ 153A-357. Permits.**

- (a) No person may commence or proceed with:
  - (1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building;
  - (2) The installation, extension, or general repair of any plumbing system;
  - (3) The installation, extension, alteration, or general repair of any heating or cooling equipment system; or

- (4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment

without first securing from the inspection department with jurisdiction over the site of the work each permit required by the State Building Code and any other State or local law or local ordinance or regulation applicable to the work. A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws and local ordinances and regulations. Nothing in this section shall require a county to review and approve residential building plans submitted to the county pursuant to Section R-110 of Volume VII of the North Carolina State Building Code; provided that the county may review and approve such residential building plans as it deems necessary. No permit may be issued unless the plans and specifications are identified by the name and address of the author thereof; and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit may be issued unless the plans and specifications bear the North Carolina seal of a registered architect or of a registered engineer. If a provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work may be issued unless the work is to be performed by such a duly licensed contractor. No permit issued under Articles 9 or 9C of G.S. Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing five thousand dollars (\$5,000) or less in any single-family residence or farm building unless the work involves: the addition, repair or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section constitutes a Class 1 misdemeanor.

(b) No permit shall be issued pursuant to subsection (a) for any land-disturbing activity, as defined in G.S. 113A-52(6), for any activity covered by G.S. 113A-57, unless an erosion and sedimentation control plan has been approved by the Sedimentation Pollution Control Commission pursuant to G.S. 113A-54(d)(4) or by a local government pursuant to G.S. 113A-61 for the site of the activity or a tract of land including the site of the activity.

#### **§ 153A-358. Time limitations on validity of permits.**

A permit issued pursuant to G.S. 153A-357 expires six months, or any lesser time fixed by ordinance of the county, after the date of issuance if the work authorized by the permit has not commenced. If after commencement the work is discontinued for a period of 12 months, the permit therefor immediately expires. No work authorized by a permit that has expired may thereafter be performed until a new permit has been secured.

#### **§ 153A-359. Changes in work.**

After a permit has been issued, no change or deviation from the terms of the application, the plans and specifications, or the permit, except if the change or deviation is clearly permissible under the State Building Code, may be made until specific written approval of the proposed change or deviation has been obtained from the inspection department.

#### **§ 153A-360. Inspections of work in progress.**

As the work pursuant to a permit progresses, local inspectors shall make as many inspections of the work as may be necessary to satisfy them that it is being done according to the provisions of the

applicable State and local laws and local ordinances and regulations and of the terms of the permit. In exercising this power, each member of the inspection department has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

**§ 153A-361. Stop orders.**

Whenever a building or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, or in substantial violation of a State or local building law or local building ordinance or regulation, or in a manner that endangers life or property, the appropriate inspector may order the specific part of the work that is in violation or that presents such a hazard to be immediately stopped. The stop order shall be in writing and directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. The owner or builder may appeal from a stop order involving alleged violation of the State Building Code or any approved local modification thereof to the North Carolina Commissioner of Insurance or his designee within five days after the day the order is issued. The owner or builder shall give to the Commissioner of Insurance or his designee written notice of appeal, with a copy to the local inspector. The Commissioner or his designee shall promptly conduct an investigation and the appellant and the inspector shall be permitted to submit relevant evidence. The Commissioner or his designee shall as expeditiously as possible provide a written statement of the decision setting forth the facts found, the decision reached, and the reasons for the decision. Pending the ruling by the Commissioner of Insurance or his designee on an appeal, no further work may take place in violation of a stop order. In the event of dissatisfaction with the decision, the person affected shall have the options of:

- (1) Appealing to the Building Code Council, or
- (2) Appealing to the Superior Court as provided in G.S.143-141.

Violation of a stop order constitutes a Class 1 misdemeanor.

**§ 153A-362. Revocation of permits.**

The appropriate inspector may revoke and require the return of any permit by giving written notice to the permit holder, stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application or plans and specifications, for refusal or failure to comply with the requirements of any applicable State or local laws or local ordinances or regulations, or for false statements or misrepresentations made in securing the permit. A permit mistakenly issued in violation of an applicable State or local law or local ordinance or regulation also may be revoked.

**§ 153A-363. Certificates of compliance.**

At the conclusion of all work done under a permit, the appropriate inspector shall make a final inspection. If he finds that the completed work complies with all applicable State and local laws and local ordinances and regulations and with the terms of the permit, he shall issue a certificate of compliance. No new building or part thereof may be occupied, no addition or enlargement of an existing building may be occupied, and no existing building that has been altered or removed may be occupied until the inspection department has issued a certificate of compliance. A temporary certificate of compliance may be issued permitting occupancy for a stated period of specified portions of the building that the inspector finds may safely be occupied before completion of the entire building. Violation of this section constitutes a Class 1 misdemeanor.

**§ 153A-364. Periodic inspections for hazardous or unlawful conditions.**

The inspection department shall make periodic inspections, subject to the board of commissioners' directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings within its territorial jurisdiction. In addition, it shall make any necessary inspections when it has reason to believe that such conditions may exist in a particular building. In exercising these powers, each member of the inspection department has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

**§ 153A-365. Defects in buildings to be corrected.**

If a local inspector finds any defect in a building, or finds that the building has not been constructed in accordance with the applicable State and local laws and local ordinances and regulations, or finds that a building because of its condition is dangerous or contains fire-hazardous conditions, he shall notify the owner or occupant of the building of its defects, hazardous conditions, or failure to comply with law. The owner and the occupant shall each immediately remedy the defects, hazardous conditions, or violations of law in the property each owns.

**§ 153A-366. Unsafe buildings condemned.**

The inspector shall condemn as unsafe each building that appears to him to be especially dangerous to life because of its liability to fire, bad conditions of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes; and he shall affix a notice of the dangerous character of the building to a conspicuous place on its exterior wall.

**§ 153A-367. Removing notice from condemned building.**

If a person removes a notice that has been affixed to a building by a local inspector and that states the dangerous character of the building, he is guilty of a Class 1 misdemeanor.

**§ 153A-368. Action in event of failure to take corrective action.**

If the owner of a building that has been condemned as unsafe pursuant to G.S. 153A-366 fails to take prompt corrective action, the local inspector shall by certified or registered mail to his last known address or by personal service give him written notice:

- (1) That the building is in a condition that appears to constitute a fire or safety hazard or to be dangerous to life, health, or other property;
- (2) That a hearing will be held before the inspector at a designated place and time, not later than 10 days after the date of the notice, at which time the owner is entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
- (3) That following the hearing, the inspector may issue any order to repair, close, vacate, or demolish the building that appears appropriate.

If the name or whereabouts of the owner cannot after due diligence be discovered, the notice shall be considered properly and adequately served if a copy thereof is posted on the outside of the building in question at least 10 days before the day of the hearing and a notice of the hearing is published at least once not later than one week before the hearing.

**§ 153A-369. Order to take corrective action.**

If, upon a hearing held pursuant to G.S. 153A-368, the inspector finds that the building is in a condition that constitutes a fire or safety hazard or renders it dangerous to life, health, or other property,

he shall issue a written order, directed to the owner of the building, requiring the owner to remedy the defective conditions by repairing, closing, vacating, or demolishing the building or taking other necessary steps, within such period, not less than 60 days, as the inspector may prescribe; provided, that where the inspector finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.

**§ 153A-370. Appeal; finality of order not appealed.**

An owner who has received an order under G.S. 153A-369 may appeal from the order to the board of commissioners by giving written notice of appeal to the inspector and to the clerk within 10 days following the day the order is issued. In the absence of an appeal, the order of the inspector is final. The board of commissioners shall hear any appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

**§ 153A-371. Failure to comply with order.**

If the owner of a building fails to comply with an order issued pursuant to G.S. 153A-369 from which no appeal has been taken, or fails to comply with an order of the board of commissioners following an appeal, he is guilty of a Class 1 misdemeanor.

**§ 153A-372. Equitable enforcement.**

Whenever a violation is denominated a misdemeanor under the provisions of this Part, the county, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceeding to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building involved.

**§ 153A-373. Records and reports.**

The inspection department shall keep complete, and accurate records in convenient form of each application received, each permit issued, each inspection and reinspection made, and each defect found, each certificate of compliance granted, and all other work and activities of the department. These records shall be kept in the manner and for the periods prescribed by the North Carolina Department of Cultural Resources. The department shall submit periodic reports to the board of commissioners and to the Commissioner of Insurance as the board or the Commissioner may require.

**§ 153A-374. Appeals.**

Unless otherwise provided by law, any appeal from an order, decision, or determination of a member of a local inspection department pertaining to the State Building Code or any other State building law shall be taken to the Commissioner of Insurance or his designee or other official specified in G.S. 143-139, by filing a written notice with him and with the inspection department within 10 days after the day of the order, decision, or determination. Further appeals may be taken to the State Building Code Council or to the courts as provided by law.

**§ 153A-375. Establishment of fire limits.**

A county may by ordinance establish and define fire limits in any area within the county and not within a city. The limits may include only business and industrial areas. Within any fire limits, no frame or wooden building or addition thereto may be erected, altered, repaired, or moved (either into the fire limits or from one place to another within the limits) except upon the permit of the inspection department and approval of the Commissioner of Insurance. The board of commissioners may make additional regulations necessary for the prevention, extinguishment, or mitigation of fires within the fire limits.



## Cities

### **§ 160A-167. Defense of employees and officers; payment of judgments.**

(a) Upon request made by or in behalf of any member or former member of the governing body of any authority, or any city, county, or authority employee or officer, or former employee or officer, any soil and water conservation supervisor or any local soil and water conservation employee, whether the employee is a district or county employee, or any member of a volunteer fire department or rescue squad which receives public funds, any city, authority, county, soil and water conservation district, or county alcoholic beverage control board may provide for the defense of any civil or criminal action or proceeding brought against him either in his official or in his individual capacity, or both, on account of any act done or omission made, or any act allegedly done or omission allegedly made, in the scope and course of his employment or duty as an employee or officer of the city, authority, county or county alcoholic beverage control board. The defense may be provided by the city, authority, county or county alcoholic beverage control board by its own counsel, or by employing other counsel, or by purchasing insurance which requires that the insurer provide the defense. Providing for a defense pursuant to this section is hereby declared to be for a public purpose, and the expenditure of funds therefor is hereby declared to be a necessary expense. Nothing in this section shall be deemed to require any city, authority, county or county alcoholic beverage control board to provide for the defense of any action or proceeding of any nature.

(b) Any city council or board of county commissioners may appropriate funds for the purpose of paying all or part of a claim made or any civil judgment entered against any of its members or former members of the governing body of any authority, or any city, county, or authority employees or officers, or former employees or officers, or any soil and water conservation supervisor or any local soil and water conservation employee, whether the employee is a district or county employee, when such claim is made or such judgment is rendered as damages on account of any act done or omission made, or any act allegedly done or omission allegedly made, in the scope and course of his employment or duty as a member or former member of the governing body of any authority, or any city, county, district, or authority employee or officer of the city, authority, district, or county; provided, however, that nothing in this section shall authorize any city, authority, district, or county to appropriate funds for the purpose of paying any claim made or civil judgment entered against any of its members or former members of the governing body of any authority, or any city, county, district, or authority employees or officers or former employees or officers if the city council or board of county commissioners finds that such members or former members of the governing body of any authority, or any city, county, or authority employee or officer acted or failed to act because of actual fraud, corruption or actual malice on his part. Any city, authority, or county may purchase insurance coverage for payment of claims or judgments pursuant to this section. Nothing in this section shall be deemed to require any city, authority, or county to pay any claim or judgment referred to herein, and the purchase of insurance coverage for payment of any such claim or judgment shall not be deemed an assumption of any liability not covered by such insurance contract, and shall not be deemed an assumption of liability for payment of any claim or judgment in excess of the limits of coverage in such insurance contract.

(c) Subsection (b) shall not authorize any city, authority, or county to pay all or part of a claim made or civil judgment entered unless (1) notice of the claim or litigation is given to the city council, authority governing board, or board of county commissioners as the case may be prior to the time that the claim is settled or civil judgment is entered, and (2) the city council, authority governing board, or board of county commissioners as the case may be shall have adopted, and made available for public inspection,

uniform standards under which claims made or civil judgments entered against members or former members of the governing body of any authority, or any city, county, or authority employees or officers, or former employees or officers, shall be paid.

(d) For the purposes of this section, "authority" means an authority organized under Article 1 of Chapter 162A of the General Statutes, the North Carolina Water and Sewer Authorities Act. "District" means a soil and water conservation district organized under Chapter 139 of the General Statutes.

#### **§ 160A-194. Regulating and licensing businesses, trades, etc.**

A city may by ordinance, subject to the general law of the State, regulate and license occupations, businesses, trades, professions, and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience. In licensing trades, occupations, and professions, the city may, consistent with the general law of the State, require applicants for licenses to be examined and charge a reasonable fee therefor. Nothing in this section shall impair the city's power to levy privilege license taxes on occupations, businesses, trades, professions, and other activities pursuant to G.S. 160A-211.

Nothing in this section shall authorize a city to examine or license a person holding a license issued by an occupational licensing board of this State as to the profession or trade that he has been licensed to practice or pursue by the State.

#### **§ 160A-411. Inspection department.**

Every city in the State is hereby authorized to create an inspection department, and may appoint one or more inspectors who may be given the titles of building inspector, electrical inspector, plumbing inspector, housing inspector, zoning inspector, heating and air-conditioning inspector, fire prevention inspector, or deputy or assistant inspector, or such other titles as may be generally descriptive of the duties assigned. The department may be headed by a superintendent or director of inspections. Every city shall perform the duties and responsibilities set forth in G.S. 160A-412 either by: (i) creating its own inspection department; (ii) creating a joint inspection department in cooperation with one or more other units of local government, pursuant to G.S. 160A-413 or Part 1 of Article 20 of this Chapter; (iii) contracting with another unit of local government for the provision of inspection services pursuant to Part 1 of Article 20 of this Chapter; or (iv) arranging for the county in which it is located to perform inspection services within the city's jurisdiction as authorized by G.S. 160A-413 and G.S. 160A-360. Such action shall be taken no later than the applicable date in the schedule below, according to the city's population as published in the 1970 United States Census:

Cities over 75,000 population – July 1, 1979

Cities between 50,001 and 75,000 – July 1, 1981

Cities between 25,001 and 50,000 – July 1, 1983

Cities 25,000 and under – July 1, 1985.

In the event that any city shall fail to provide inspection services by the date specified above or shall cease to provide such services at any time thereafter, the Commissioner of Insurance shall arrange for the provision of such services, either through personnel employed by his department or through an arrangement with other units of government. In either event, the Commissioner shall have and may exercise within the city's jurisdiction all powers made available to the city council with respect to building inspection under Part 5 of Article 19, and Part 1 of Article 20 of this Chapter. Whenever the Commissioner has intervened in this manner, the city may assume provision of inspection services only after giving the Commissioner two years' written notice of its intention to do so; provided, however, that the Commissioner may waive this requirement or permit assumption at an earlier date if he finds that such

earlier assumption will not unduly interfere with arrangements he has made for the provision of those services.

**§ 160A-411.1. Qualifications of inspectors.**

On and after the applicable date set forth in the schedule in G.S. 160A-411, no city shall employ an inspector to enforce the State Building Code as a member of a city or joint inspection department who does not have one of the following types of certificates issued by the North Carolina Code Officials Qualification Board attesting to his qualifications to hold such position: (i) a probationary certificate, valid for one year only; (ii) a standard certificate; or (iii) a limited certificate which shall be valid only as an authorization for him to continue in the position held on the date specified in G.S. 143-151.13(c) and which shall become invalid if he does not successfully complete in-service training specified by the Qualification Board within the period specified in G.S. 143-151.13(c). An inspector holding one of the above certificates can be promoted to a position requiring a higher level certificate only upon issuance by the Board of a standard certificate or probationary certificate appropriate for such new position.

**§ 160A-412. Duties and responsibilities.**

The duties and responsibilities of an inspection department and of the inspectors therein shall be to enforce within their territorial jurisdiction State and local laws relating to

- (1) The construction of buildings and other structures;
- (2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems;
- (3) The maintenance of buildings and other structures in a safe, sanitary, and healthful condition;
- (4) Other matters that may be specified by the city council.

These duties shall include the receipt of applications for permits and the issuance or denial of permits, the making of any necessary inspections, the issuance or denial of certificates of compliance, the issuance of orders to correct violations, the bringing of judicial actions against actual or threatened violations, the keeping of adequate records, and any other actions that may be required in order adequately to enforce those laws. The city council shall have the authority to enact reasonable and appropriate provisions governing the enforcement of those laws.

**§ 160A-413. Joint inspection department; other arrangements.**

A city council may enter into and carry out contracts with another city, county, or combination thereof under which the parties agree to create and support a joint inspection department for the enforcement of State and local laws specified in the agreement. The governing boards of the contracting parties are authorized to make any necessary appropriations for this purpose.

In lieu of a joint inspection department, a city council may designate an inspector from any other city or county to serve as a member of its inspection department with the approval of the governing body of the other city or county. A city may also contract with an individual who is not a city or county employee but who holds one of the applicable certificates as provided in G.S. 160A-411.1 or G.S. 153A-351.1 or with the employer of an individual who holds one of the applicable certificates as provided in G.S. 160A-411.1 or G.S. 153A-351.1. The inspector, if designated from another city or county under this section, shall, while exercising the duties of the position, be considered a municipal employee. The city shall have the same potential liability, if any, for inspections conducted by an individual who is not an employee of the city as it does for an individual who is an employee of the city. The company or

individual with whom the city contracts shall have errors and omissions and other insurance coverage acceptable to the city.

The city council of any city may request the board of county commissioners of the county in which the city is located to direct one or more county building inspectors to exercise their powers within part or all of the city's jurisdiction, and they shall thereupon be empowered to do so until the city council officially withdraws its request in the manner provided in G.S. 160A-360(g).

#### **§ 160A-414. Financial support.**

The city council may appropriate for the support of the inspection department any funds that it deems necessary. It may provide for paying inspectors fixed salaries or it may reimburse them for their services by paying over part or all of any fees collected. It shall have power to fix reasonable fees for issuance of permits, inspections, and other services of the inspection department.

#### **§ 160A-415. Conflicts of interest.**

No member of an inspection department shall be financially interested or employed by a business that is financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of any building within the city's jurisdiction or any part or system thereof, or in the making of plans or specifications therefor, unless he is the owner of the building. No member of an inspection department or other individual or an employee of a company contracting with a city to conduct inspections shall engage in any work that is inconsistent with his or her duties or with the interest of the city, as determined by the city. The city must find a conflict of interest if any of the following is the case:

- (1) If the individual, company, or employee of a company contracting to perform inspections for the city has worked for the owner, developer, contractor, or project manager of the project to be inspected within the last two years.
- (2) If the individual, company, or employee of a company contracting to perform inspections for the city is closely related to the owner, developer, contractor, or project manager of the project to be inspected.
- (3) If the individual, company, or employee of a company contracting to perform inspections for the city has a financial or business interest in the project to be inspected.

The provisions of this section do not apply to a firefighter whose primary duties are fire suppression and rescue, but who engages in some fire inspection activities as a secondary responsibility of the firefighter's employment as a firefighter, except no firefighter may inspect any work actually done, or materials or appliances supplied, by the firefighter or the firefighter's business within the preceding six years.

#### **§ 160A-416. Failure to perform duties.**

If any member of an inspection department shall willfully fail to perform the duties required of him by law, or willfully shall improperly issue a permit, or shall give a certificate of compliance without first making the inspections required by law, or willfully shall improperly give a certificate of compliance, he shall be guilty of a Class 1 misdemeanor.

#### **§ 160A-417. Permits.**

- (a) No person shall commence or proceed with:
  - (1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building or structure,
  - (2) The installation, extension, or general repair of any plumbing system,

- (3) The installation, extension, alteration, or general repair of any heating or cooling equipment system, or
- (4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment,

without first securing from the inspection department with jurisdiction over the site of the work any and all permits required by the State Building Code and any other State or local laws applicable to the work. A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws. Nothing in this section shall require a city to review and approve residential building plans submitted to the city pursuant to Section R-110 of Volume VII of the North Carolina State Building Code; provided that the city may review and approve such residential building plans as it deems necessary. No permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof, and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit shall be issued unless the plans and specifications bear the North Carolina seal of a registered architect or of a registered engineer. When any provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor. No permit issued under Articles 9 or 9C of Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing five thousand dollars (\$5,000) or less in any single family residence or farm building unless the work involves: the addition, repair or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section shall constitute a Class 1 misdemeanor.

(b) No permit shall be issued pursuant to subsection (a) for any land-disturbing activity, as defined in G.S. 113A-52(6), for any activity covered by G.S. 113A-57, unless an erosion and sedimentation control plan has been approved by the Sedimentation Pollution Control Commission pursuant to G.S. 113A-54(d)(4) or by a local government pursuant to G.S. 113A-61 for the site of the activity or a tract of land including the site of the activity.

#### **§ 160A-418. Time limitations on validity of permits.**

A permit issued pursuant to G.S. 160A-417 shall expire by limitation six months, or any lesser time fixed by ordinance of the city council, after the date of issuance if the work authorized by the permit has not been commenced. If after commencement the work is discontinued for a period of 12 months, the permit therefor shall immediately expire. No work authorized by any permit that has expired shall thereafter be performed until a new permit has been secured.

#### **§ 160A-419. Changes in work.**

After a permit has been issued, no changes or deviations from the terms of the application, plans and specifications, or the permit, except where changes or deviations are clearly permissible under the State Building Code, shall be made until specific written approval of proposed changes or deviations has been obtained from the inspection department.

#### **§ 160A-420. Inspections of work in progress.**

As the work pursuant to a permit progresses, local inspectors shall make as many inspections thereof as may be necessary to satisfy them that the work is being done according to the provisions of any applicable State and local laws and of the terms of the permit. In exercising this power, members of the inspection department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials.

**§ 160A-421. Stop orders.**

(a) Whenever any building or structure or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, or in substantial violation of any State or local building law, or in a manner that endangers life or property, the appropriate inspector may order the specific part of the work that is in violation or presents such a hazard to be immediately stopped. The stop order shall be in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons therefor, and the conditions under which the work may be resumed.

(b) The owner or builder may appeal from a stop order involving alleged violation of the State Building Code or any approved local modification thereof to the North Carolina Commissioner of Insurance or his designee within a period of five days after the order is issued. Notice of appeal shall be given in writing to the Commissioner of Insurance or his designee, with a copy to the local inspector. The Commissioner of Insurance or his designee shall promptly conduct an investigation and the appellant and the inspector shall be permitted to submit relevant evidence. The Commissioner of Insurance or his designee shall as expeditiously as possible provide a written statement of the decision setting forth the facts found, the decision reached, and the reasons for the decision. Pending the ruling by the Commissioner of Insurance or his designee on an appeal no further work shall take place in violation of a stop order. In the event of dissatisfaction with the decision, the person affected shall have the options of:

- (1) Appealing to the Building Code Council, or
- (2) Appealing to the Superior Court as provided in G.S. 143-141.

(c) The owner or builder may appeal from a stop order involving alleged violation of a local zoning ordinance by giving notice of appeal in writing to the board of adjustment. The appeal shall be heard and decided within the period established by the ordinance, or if none is specified, within a reasonable time. No further work shall take place in violation of a stop order pending a ruling.

(d) Violation of a stop order shall constitute a Class 1 misdemeanor.

**§ 160A-422. Revocation of permits.**

The appropriate inspector may revoke and require the return of any permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable State or local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable State or local law may also be revoked.

**§ 160A-423. Certificates of compliance.**

At the conclusion of all work done under a permit, the appropriate inspector shall make a final inspection, and if he finds that the completed work complies with all applicable State and local laws and with the terms of the permit, he shall issue a certificate of compliance. No new building or part thereof may be occupied, and no addition or enlargement of an existing building may be occupied, and no existing building that has been altered or moved may be occupied, until the inspection department has issued a

certificate of compliance. A temporary certificate of compliance may be issued permitting occupancy for a stated period of specified portions of the building that the inspector finds may safely be occupied prior to final completion of the entire building. Violation of this section shall constitute a Class 1 misdemeanor.

**§ 160A-424. Periodic inspections.**

The inspection department shall make periodic inspections, subject to the council's directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in structures within its territorial jurisdiction. In addition, it shall make inspections when it has reason to believe that such conditions may exist in a particular structure. In exercising this power, members of the department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials.

**§ 160A-425. Defects in buildings to be corrected.**

When a local inspector finds any defects in a building, or finds that the building has not been constructed in accordance with the applicable State and local laws, or that a building because of its condition is dangerous or contains fire hazardous conditions, it shall be his duty to notify the owner or occupant of the building of its defects, hazardous conditions, or failure to comply with law. The owner or occupant shall each immediately remedy the defects, hazardous conditions, or violations of law in the property he owns.

**§ 160A-425.1. Unsafe buildings condemned in certain localities.**

(a) Residential Building and Nonresidential Building or Structure. – Every building that shall appear to the inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes, shall be held to be unsafe, and the inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of the building.

(b) Residential Building and Nonresidential Building or Structure. – In addition to the authority granted in subsection (a) of this section, an inspector may declare a residential building or nonresidential building or structure within a community development target area to be unsafe if it meets both of the following conditions:

- (1) It appears to the inspector to be vacant or abandoned.
- (2) It appears to the inspector to be in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, fire or safety hazard, to be a danger to children, or to tend to attract persons intent on criminal activities or other activities that would constitute a public nuisance.

(c) If an inspector declares a residential building or nonresidential building or structure to be unsafe under subsection (b) of this section, the inspector must affix a notice of the unsafe character of the structure to a conspicuous place on the exterior wall of the building. For the purposes of this section, the term "community development target area" means an area that has characteristics of a development zone under G.S. 105-129.3A, a "nonresidential redevelopment area" under G.S. 160A-503(10), or an area with similar characteristics designated by the city council as being in special need of revitalization for the benefit and welfare of its citizens.

(d) This Section applies to the Cities of Clinton, Durham, Fayetteville, Goldsboro, High Point, and Lumberton, and the Towns of Garner, Franklin, Hope Mills and Spring Lake only.

**§ 160A-426. Unsafe buildings condemned in certain localities.**

(a) Residential Building and Nonresidential Building or Structure. – Every building that shall appear to the inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes, shall be held to be unsafe, and the inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of the building.

(b) Nonresidential Building or Structure. – In addition to the authority granted in subsection (a) of this section, an inspector may declare a nonresidential building or structure within a community development target area to be unsafe if it meets both of the following conditions:

- (1) It appears to the inspector to be vacant or abandoned.
- (2) It appears to the inspector to be in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, fire or safety hazard, to be a danger to children, or to tend to attract persons intent on criminal activities or other activities that would constitute a public nuisance.

(c) If an inspector declares a nonresidential building or structure to be unsafe under subsection (b) of this section, the inspector must affix a notice of the unsafe character of the structure to a conspicuous place on the exterior wall of the building. For the purposes of this section, the term "community development target area" means an area that has characteristics of a development zone under G.S. 105-129.3A, a "nonresidential redevelopment area" under G.S. 160A-503(10), or an area with similar characteristics designated by the city council as being in special need of revitalization for the benefit and welfare of its citizens.

**§ 160A-427. Removing notice from condemned building.**

If any person shall remove any notice that has been affixed to any building or structure by a local inspector of any municipality and that states the dangerous character of the building or structure, he shall be guilty of a Class 1 misdemeanor.

**§ 160A-428. Action in event of failure to take corrective action.**

If the owner of a building or structure that has been condemned as unsafe pursuant to G.S. 160A-425.1 or G.S. 160A-426 shall fail to take prompt corrective action, the local inspector shall give him written notice, by certified or registered mail to his last known address or by personal service,

- (1) That the building or structure is in a condition that appears to meet one or more of the following conditions:
  - a. Constitutes a fire or safety hazard.
  - b. Is dangerous to life, health, or other property.
  - c. Is likely to cause or contribute to blight, disease, vagrancy, or danger to children.
  - d. Has a tendency to attract persons intent on criminal activities or other activities which would constitute a public nuisance.
- (2) That a hearing will be held before the inspector at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and



- (3) That following the hearing, the inspector may issue such order to repair, close, vacate, or demolish the building or structure as appears appropriate.

If the name or whereabouts of the owner cannot after due diligence be discovered, the notice shall be considered properly and adequately served if a copy thereof is posted on the outside of the building or structure in question at least 10 days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the city at least once not later than one week prior to the hearing.

**§ 160A-429. Order to take corrective action.**

If, upon a hearing held pursuant to the notice prescribed in G.S. 160A-428, the inspector shall find that the building or structure is in a condition that constitutes a fire or safety hazard or renders it dangerous to life, health, or other property, he shall make an order in writing, directed to the owner of such building or structure, requiring the owner to remedy the defective conditions by repairing, closing, vacating, or demolishing the building or structure or taking other necessary steps, within such period, not less than 60 days, as the inspector may prescribe; provided, that where the inspector finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.

**§ 160A-430. Appeal; finality of order if not appealed.**

Any owner who has received an order under G.S. 160A-429 may appeal from the order to the city council by giving notice of appeal in writing to the inspector and to the city clerk within 10 days following issuance of the order. In the absence of an appeal, the order of the inspector shall be final. The city council shall hear and render a decision in an appeal within a reasonable time. The city council may affirm, modify and affirm, or revoke the order.

**§ 160A-431. Failure to comply with order.**

If the owner of a building or structure fails to comply with an order issued pursuant to G.S. 160A-429 from which no appeal has been taken, or fails to comply with an order of the city council following an appeal, he shall be guilty of a Class 1 misdemeanor.

**§ 160A-432. Enforcement.**

(a) [Action Authorized.] – Whenever any violation is denominated a misdemeanor under the provisions of this Part, the city, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure involved.

(a1) [Removal of Building: Certain Localities.] – In the case of a residential building or nonresidential building or structure declared unsafe under G.S. 160A-425.1, a city may, in lieu of taking action under subsection (a), cause the building or structure to be removed or demolished. The amounts incurred by the city in connection with the removal or demolition shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same manner as liens for special assessments provided in Article 10 of this Chapter. If the building or structure is removed or demolished by the city, the city shall sell the usable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building. The city shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining from the sale shall be deposited with the clerk of superior court of the county where the property is located and shall be disbursed by the court to the person found to be entitled thereto by final order or decree of the court.

This subsection applies to the Cities of Clinton, Durham, Fayetteville, Goldsboro, High Point, and Lumberton, and the Towns of Garner, Franklin, Hope Mills and Spring Lake.

(b) [Removal of Building: Other Localities.] – In the case of a nonresidential building or structure declared unsafe under G.S. 160A-426, a city may, in lieu of taking action under subsection (a), cause the building or structure to be removed or demolished. The amounts incurred by the city in connection with the removal or demolition shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same manner as liens for special assessments provided in Article 10 of this Chapter. If the building or structure is removed or demolished by the city, the city shall sell the usable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building. The city shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining from the sale shall be deposited with the clerk of superior court of the county where the property is located and shall be disbursed by the court to the person found to be entitled thereto by final order or decree of the court.

(b1) Additional Lien. – The amounts incurred by the city in connection with the removal or demolition shall also be a lien against any other real property owned by the owner of the building or structure and located within the city limits or within one mile of the city limits, except for the owner's primary residence. The provisions of subsection (b) of this section apply to this additional lien, except that this additional lien is inferior to all prior liens and shall be collected as a money judgment.

(c) [Nonexclusive Remedy.] – Nothing in this section shall be construed to impair or limit the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise.

#### **§ 160A-433. Records and reports.**

The inspection department shall keep complete and accurate records in convenient form of all applications received, permits issued, inspections and reinspections made, defects found, certificates of compliance granted, and all other work and activities of the department. These records shall be kept in the manner and for the periods prescribed by the North Carolina Department of Cultural Resources. Periodic reports shall be submitted to the city council and to the Commissioner of Insurance as they shall by ordinance, rule, or regulation require.

#### **§ 160A-434. Appeals in general.**

Unless otherwise provided by law, appeals from any order, decision, or determination by a member of a local inspection department pertaining to the State Building Code or other State building laws shall be taken to the Commissioner of Insurance or his designee or other official specified in G.S. 143-139, by filing a written notice with him and with the inspection department within a period of 10 days after the order, decision, or determination. Further appeals may be taken to the State Building Code Council or to the courts as provided by law.

#### **§ 160A-435. Establishment of fire limits.**

The city council of every incorporated city shall pass one or more ordinances establishing and defining fire limits, which shall include the principal business portions of the city and which shall be known as primary fire limits. In addition, the council may, in its discretion, establish and define one or more separate areas within the city as secondary fire limits.

#### **§ 160A-436. Restrictions within primary fire limits.**

Within the primary fire limits of any city, as established and defined by ordinance, no frame or wooden building or structure or addition thereto shall hereafter be erected, altered, repaired, or moved (either into the limits or from one place to another within the limits), except upon the permit of the local inspection department approved by the city council and by the Commissioner of Insurance or his designee. The city council may make additional regulations for the prevention, extinguishment, or mitigation of fires within the primary fire limits.

**§ 160A-437. Restriction within secondary fire limits.**

Within any secondary fire limits of any city or town, as established and defined by ordinance, no frame or wooden building or structure or addition thereto shall be erected, altered, repaired, or moved except in accordance with any rules and regulations established by ordinance of the areas.

**§ 160A-438. Failure to establish primary fire limits.**

If the council of any city shall fail or refuse to establish and define the primary fire limits of the city as required by law, after having such failure or refusal called to their attention in writing by the State Commissioner of Insurance, the Commissioner shall have the power to establish the limits upon making a determination that they are necessary and in the public interest.