

1 18 NCAC 07K .0101 is adopted with changes as published in 38:04 NCR 209-211 as follows:

2
3 **SUBCHAPTER 07K – MISCELLANEOUS RULES**

4
5 **SECTION .0100 – GENERAL**

6
7 **18 NCAC 07K .0101 DEFINITIONS**

8 ~~(a) The definitions in this Rule apply to this Chapter.~~

9 ~~(b) For purposes of Chapter 10B of the General Statutes and the ~~rules~~ Rules in this Chapter:~~

10 ~~(1) — "Accepted" means the Department has reviewed a filing and determined that:~~

11 ~~(A) — the filing satisfies the applicable information requirements in Chapter 10B of the General~~
12 ~~Statutes and this Chapter; and~~

13 ~~(B) — all required fees associated with the filing have been tendered without dishonor.~~

14 ~~"Accepted" shall not mean that the Department has determined that the filer is qualified and will be~~
15 ~~appointed, approved, or licensed.~~

16 ~~(2)(1) "Approved" means that an applicant has been authorized by the Department to provide services as~~
17 ~~a technology provider in compliance with Chapter 10B of the General Statutes and the ~~rules~~ Rules~~
18 ~~in this Chapter. Technology providers licensed by the Department are deemed approved.~~

19 ~~(3)(2) "Armed Forces of the United States" means the persons described in 10 U.S.C. ~~401(4)~~ 101(a)(4)~~
20 ~~and G.S. 143B-1224(2), including their reserve components.~~

21 ~~(4)(3) "Bank or financial institution" means a "depository institution" as defined in ~~G.S. 53-208.42~~ G.S.~~
22 ~~53-208.42(7).~~

23 ~~(5)(4) "Certificate of appointment" means a document issued by the Department notifying a Register of~~
24 ~~Deeds that:~~

25 ~~(A)(a) the named appointee is authorized to take the oath of office; ~~or the office specified in the~~~~
26 ~~~~document~~; and~~

27 ~~(B)(b) the Register of Deeds or designee shall provide the commission certificate to the notary~~
28 ~~public after:~~

29 ~~(i) administering the oath of office to the appointee; and~~

30 ~~(ii) signing of the certificate by both the Register of Deeds or designee, and the notary.~~

31 ~~(6)(5) "Commission certificate" means the document confirming that an individual:~~

32 ~~(A)(a) has complied with all requirements of Chapter 10B of the General Statutes and the ~~rules~~~~
33 ~~Rules in this Chapter; and~~

34 ~~(B)(b) is authorized to act as ~~the type of a~~ notary public. ~~named in the document.~~~~

35 ~~(7)(6) "Commit" means the final step in the notarial act after which:~~

36 ~~(A)(a) the notarial act is complete;~~

37 ~~(B)(b) all entries are permanent; and~~

1 ~~(C)(c)~~ no changes can be made to the entries made permanent pursuant in to Part (b)(7)(B) Sub-
2 Item (b) of this Item. Rule.

3 ~~(8)(7)~~ "Dishonored payment" or "payment that has been dishonored" means money tendered to the
4 Department by any means that is refused, rejected, or failed to be paid to the ~~Department~~
5 Department. by the bank or financial institution upon which it is drawn.

6 ~~(9)(8)~~ "Enter information" means to:

7 ~~(A)(a)~~ handwrite, type, or input data;

8 ~~(B)(b)~~ confirm that pre-populated words or numbers are correct. NOTE: Note: ~~an~~ An example
9 would be clicking a checkbox to select the correct date;

10 ~~(C)(c)~~ select applicable options from among offered options. NOTE: Note: ~~an~~ An example would
11 be selecting "oath or affirmation" from a drop-down list of the types of notarial acts; or

12 ~~(D)(d)~~ include in the electronic journal acknowledged signatures of:

13 (i) principals;

14 (ii) a designee of a principal; or

15 (iii) a credible witness.

16 ~~(10)(9)~~ "Federal business mileage rate" ~~shall mean~~ means the business mileage rate set by the U.S. Internal
17 Revenue Service (IRS).

18 ~~(11)(10)~~ "Federally recognized Indian tribe" means a tribe on the list published in the Federal Register by the
19 U.S. Secretary of the Interior pursuant to 25 U.S.C. 5131.

20 ~~(12)(11)~~ "File" means the date upon which a filing submitted to the Department is deemed complete by the
21 Department. Note: "File" shall not mean that the Department has determined that the filer is qualified
22 and will be appointed, registered, approved, or licensed.

23 ~~(13)(12)~~ "Filer" means a person that submits a filing to the Department.

24 ~~(14)(13)~~ "Filing" means a form or other document required or permitted to be filed with the Department
25 pursuant to Chapter 10B of the General Statutes or the ~~rules~~ Rules in this Chapter.

26 ~~(15)(14)~~ "Form" means a departmental data collection instrument that requires or requests information,
27 without regard to the format.

28 ~~(16)(15)~~ "Form preparer" means ~~a person~~ an individual who enters information on a ~~form~~ form: as defined
29 in Subparagraph (b)(14) of this Rule:

30 ~~(A)(a)~~ at the direction of another; and

31 ~~(B)(b)~~ without exercising independent judgment or discretion as to the content entered.

32 ~~(17)(16)~~ "Information technology" or "IT" means that term as defined in G.S. 143B-1320(a)(11).

33 ~~(18)(17)~~ "Information technology security" or "IT security" means the tools, techniques, and strategies used
34 to protect the confidentiality, integrity, and availability of data, information systems, and digital
35 assets from:

36 ~~(A)(a)~~ internal and external threats; and

37 ~~(B)(b)~~ unauthorized access, use, disclosure, disruption, modification, or destruction.

1 ~~(19)~~(18) "Initial appointment" means the first issuance by the Department of a commission certificate to a
2 notary public.

3 ~~(20)~~(19) "Instructor," "certified notary public instructor," "certified instructor," "notary instructor," and
4 "certified notary instructor" mean a notary public who has complied with:

5 ~~(A)~~(a) the requirements of G.S. 10B-14; and

6 ~~(B)~~(b) the ~~rules~~ Rules in Subchapter 07E of this Chapter.

7 ~~(21)~~(20) "Location" means a description establishing that a principal is present in a jurisdiction where the
8 notarial act may take place. ~~NOTE:~~ Note: a A statement that the principal is then located inside the
9 U.S. embassy in Paris, France, would suffice to establish that the principal is present in a jurisdiction
10 where the notarial act may take place.

11 ~~(22)~~(21) "Long-term" means a period of at least one year.

12 ~~(23)~~(22) "Notarial transaction process" includes:

13 ~~(A)~~(a) steps before the notarial act takes place. ~~NOTE:~~ Note: ~~the~~ The interactions establishing the
14 date and location of a notarial act, obtaining advance consent to travel fees, and the steps
15 required by G.S. 10B-134.9(a) are examples of steps before the notarial act;

16 ~~(B)~~(b) the notarial act; and

17 ~~(C)~~(c) steps following the notarial act. Note: Affixing the notary's seal and signature are examples
18 of steps following the notarial act.

19 ~~(24)~~(23) "Person" means the term as defined in G.S. 12-3(6).

20 ~~(25)~~(24) "State recognized tribe" means a group listed in G.S. 143B-407(a).

21 ~~(26)~~(25) "Successfully complete" and "successful completion" mean that a notarial applicant has complied
22 with Chapter 10B and the ~~rules~~ Rules in this Chapter and has:

23 ~~(A)~~(a) presented satisfactory evidence of ~~identity;~~ identity as defined in G.S. 10B-3(22) or be
24 personally known as defined in G.S. 10B-3(17);

25 ~~(B)~~(b) attended a notarial course taught by a certified notary instructor; and

26 ~~(C)~~(c) achieved a passing grade on the course ~~examination.~~ examination as described in G.S. 10B-
27 8(a).

28 ~~(27)~~(26) "Technological failure" means a deficiency in:

29 ~~(A)~~(a) any component of the electronic notarization system;

30 ~~(B)~~(b) any component of the computer systems of the notary or principals; or

31 ~~(C)~~(c) the connections linking the components described in Parts (b)(27)(A) and (b)(27)(B) Sub-
32 Items (a) and (b) of this Rule Item.

33 For purposes of this Rule, "component of the electronic notarization system" means any
34 combination of hardware, software, a ~~notary's~~ notary public's electronic journal, and
35 communications technology recordings.

36 ~~(28)~~(27) "Technology provider" ~~means an AVEN, platform, depository, or custodial service.~~ means:

37 (a) a platform;

- (b) a depository;
- (c) a custodial service; or
- (d) an AVEN as defined in 18 NCAC 07F .0102(1).

~~(29)~~(28) "Termination of employment" means the cessation of permanent or temporary ~~work,~~ work for another, whether compensated or not, ~~for an employer or contractor~~ for any reason, including voluntary and involuntary cessation of work.

~~(30)~~(29) "Traditional notarization" means a notarial act in which:

~~(A)~~(a) there is personal appearance as defined in G.S. 10B-3(16); and

~~(B)~~(b) ~~either;~~ one of the following occurs:

- (i) a document is executed and notarized with ink signatures signed by hand or facsimile stamp and affixed with the physical notary seal as defined in G.S. 10B-3(23); ~~or~~
- (ii) an oath or affirmation is administered without the execution of a ~~document.~~ document; or
- (iii) creating an inventory as described in G.S. 53C-6-13(a).

~~(31)~~(30) "Traditional notary public" means an individual commissioned to perform traditional notarizations.

~~(32)~~(31) "Type of notarial act" means an acknowledgement, an oath or affirmation, verification or proof, inventory of an abandoned safe deposit box, or notarization of an absentee ballot.

~~(33)~~(32) "Under the exclusive control of the notary" means accessible by and attributable solely to the notary public to the exclusion of all other persons through being:

~~(A)~~(a) in the case of a physical seal:

- (i) in the direct physical custody of the notary; or
- (ii) physically secured; or

~~(B)~~(b) in the case of an electronic ~~seal,~~ seal or electronic signature, secured with one or more methods of authentication in an approved electronic notarization system.

~~(34)~~(33) "United States" or "U.S." means the term as defined in G.S. 12-3(11).

*History Note: Authority G.S. 10B-4; 10B-14; 10B-36; 10B-38; 10B-106; 10B-125; 10B-126; 10B-134.15; 10B-134.19; 10B-134.21;
Eff. July 1, 2024.*

1 18 NCAC 07K .0201 is adopted with changes as published in 38:04 NCR 212 as follows:

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SUBCHAPTER 07K – MISCELLANEOUS RULES

4

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SECTION .0200 – CHARGING FEES FOR NOTARIAL ACTS

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18 NCAC 07K .0201 TRAVEL FEE RATE

8

A notary public who charges travel fees shall refer to the IRS website for the current federal business mileage rate
9 prior to charging the travel fee.

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History Note: Authority G.S. 10B-4; ~~10B-126;~~

12

Eff. January 1, 2024.

1 18 NCAC 07K .0202 is adopted with changes as published in 38:04 NCR 212 as follows:

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3 **18 NCAC 07K .0202 ESTIMATE OF CHARGES**

4 In addition to the publication or provision of a ~~notary's~~ notary public's schedule of fees pursuant to G.S. 10B-32, if a
5 principal requests a fee estimate from a ~~notary public,~~ notary, the notary shall provide an estimate ~~that:~~ that includes:

6 (1) ~~includes~~ the estimated total ~~fee,~~ fee; and

7 (2) the basis for the estimated charges.

8

9 *History Note: Authority G.S. 10B-4; ~~10B-126;~~*

10 *Eff. January 1, 2024.*

1 18 NCAC 07K .0203 is adopted with changes as published in 38:04 NCR 212 as follows:

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3 **18 NCAC 07K .0203 INCLUSION OF FEES IN JOURNAL**

4 A notarial journal maintained pursuant to the ~~rules~~ Rules in Subchapter I of this Chapter shall include, with regard to
5 a specific notarial act for which fees were charged:

6 (1) how much the notary public charged for each notarial act performed; and

7 (2) if travel reimbursement was charged:

8 (a) the actual reimbursement charged; and

9 (b) the fee charged per ~~mile~~; mile. ~~and~~

10 ~~(c) — a copy of the principal's advance written consent to travel fees or reference to the location~~
11 ~~of the notary's copy of the principal's advance written consent to the travel fees.~~

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13 *History Note:* Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15;

14 *Eff. January 1, 2024.*

1 18 NCAC 07K .0204 is adopted with changes as published in 38:04 NCR 212 as follows:

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3 **18 NCAC 07K .0204 CONSENT TO TRAVEL FEES MAY BE ELECTRONIC**

4 A notary public who charges travel fees pursuant to G.S. 10B-31(5) may obtain the advance ~~written~~ consent of the
5 principal in writing and delivered in any manner agreed upon by the notary and the principal. ~~electronically.~~

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7 *History Note: Authority G.S. 10B-4; 10B-31; ~~10B-126; 10B-134.15;~~*

8 *Eff. January 1, 2024.*

1 18 NCAC 07K .0205 is adopted with changes as published in 38:04 NCR 212 as follows:

2

3 **18 NCAC 07K .0205 CONTENTS OF ADVANCE CONSENT TO TRAVEL FEES**

4 A notary public who charges travel fees shall obtain advance written consent of the principal that includes the
5 following information:

- 6 (1) date of the consent;
- 7 (2) name of the principal;
- 8 (3) name of the notary;
- 9 (4) estimated mileage that the notary will charge;
- 10 (5) fee per mile that the notary will charge; and
- 11 (6) planned date of the notary's travel.

12

13 *History Note: Authority G.S. 10B-4; ~~10B-126; 10B-134.15;~~*
14 *Eff. January 1, 2024.*

1 18 NCAC 07K .0206 is adopted with changes as published in 38:04 NCR 212 as follows:

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3 **18 NCAC 07K .0206 NOTARIAL RECORD OF WRITTEN CONSENT TO TRAVEL FEES**

4 A notary public who charges travel fees shall preserve the advance written consent as a notarial record:

5 (1) in the notary's journal; or

6 (2) ~~separately, if the written consent cannot be~~ is not included in the a journal, then a record of the
7 written consent including the contents required by Rule .0205 of this Section shall be maintained by
8 the notary, along with a supplemental journal entry describing the fact of written consent.

9

10 *History Note: Authority G.S. 10B-4; 10B-31; 10B-126; 10B-134.15;*

11 *Eff. January 1, 2024.*