

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: All Rules

DEADLINE FOR RECEIPT: Friday, December 10, 2021

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Please format all rules in accordance with 26 NCAC 02C .0108. Specifically, please space lines at 1.5.

Please also update all effective dates to January 1, 2022.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: November 29, 2021

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0101

DEADLINE FOR RECEIPT: Friday, December 10, 2021

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On line 7, please change "is" to "are"

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: November 29, 2021

1 **21 NCAC 26 .0101 is amended as published in 36:2 NCR 1544 as follows:**

2
3 **21 NCAC 26 .0101 AUTHORITY: NAME AND LOCATION OF BOARD**

4 The "North Carolina Landscape Architecture Act," G.S. Chapter 89A, establishes and authorizes the "North
5 Carolina Board of Landscape Architects," hereafter called the "Board." Unless otherwise directed, all
6 communications shall be addressed to the Board at Post Office Box 41225, Raleigh, North Carolina 27629.
7 Applications and other information is available on the Board's website: www.ncbola.org.

8
9 *History Note: Authority G.S. 89A-3.1;*
10 *Eff. February 1, 1976;*
11 *Readopted Eff. September 30, 1977;*
12 *Amended Eff. March 1, 2015; August 1, 2000; July 2, 1979;*
13 *Readopted Eff. April 1, 2018;*
14 *Amended Eff. December 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0105

DEADLINE FOR RECEIPT: Friday, December 10, 2021

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In (c), should "licensed by examination or comity" be "reciprocity or comity" as set forth in G.S. 89A-6? Alternatively, is this the actual cost of the examination?

Please consider adding G.S. 89A-6 to the History Note.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: November 29, 2021

1 **21 NCAC 26 .0105 is amended as published in 36:2 NCR 1544 as follows:**

2 21 NCAC 26 .0105 FEES

- 3 (a) The fee for any initial license application shall be one hundred dollars (\$100.00).
4 (b) Examination fees payable to the Board shall be paid prior to the examination and in accordance with G.S 89A-
5 6.
6 (c) The initial fee for a license by examination or comity shall be one hundred fifty dollars (\$150.00).
7 (d) The initial fee for a corporate certificate of registration shall be two hundred dollars (\$200.00).
8 (e) The fee for the annual renewal of any certificate of registration of any person, firm, or corporation shall be one
9 hundred dollars (\$100.00).
10 (f) Annual renewal fees received after ~~July 1st~~ June 30th of each year shall be subject to a late fee of fifty dollars
11 (\$50.00). Lapse of license renewal in excess of one year shall require an application for reinstatement and an
12 application fee of one hundred dollars (\$100.00).
13 (g) The fee for re-issue of a lost or damaged certificate shall be twenty-five dollars (\$25.00).
14 (h) If the accompanying payment in the amount of the renewal fee is dishonored by the firm's drawee bank for any
15 reason, the Board shall suspend the firm registration until the renewal fee is paid.

16 *History Note: Authority G.S. 89A-3.1; 89A-5;*
17 *89A-6; Eff. February 1, 1976;*
18 *Readopted Eff. September 30, 1977;*
19 *Amended Eff. December 1, 1994; June 1, 1991; April 1, 1990; July 1, 1989;*
20 *Temporary Amendment Eff. October 1, 1997;*
21 *Temporary Amendment Expired July 12, 1998;*
22 *Amended Eff. March 1, 2015; August 1, 2000;*
23 *Readopted Eff. April 1, 2018;*
24 *Amended Eff. December 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0107

DEADLINE FOR RECEIPT: Friday, December 10, 2021

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In Item (5), what is considered to be “relevant” and “routine”?

In Item (5), please delete or define “detailed” in “detailed professional knowledge”

(10a) seems to be missing a word. Should there be a “which” before “shall denote licensure...”

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: November 29, 2021

21 NCAC 26 .0107 is amended as published in 36:2 NCR 1544 as follows:

21 NCAC 26. 0107 DEFINITIONS

In addition to the definitions in G.S. 89A-1, for purposes of this Section, the following definitions apply:

- (1) "Board Executive" means the administrator of the Board.
- (2) "CLARB" means the Council of Landscape Architectural Registration Boards.
- (3) "Contact hour" means 60 continuous minutes.
- (4) "CEAC" means the Continuing Education Advisory Committee of the Board.
- (5) "Direct Supervision" means the level of supervision by a licensed professional overseeing the work of another in which both work in circumstances where professional contact is relevant and routine, and the supervisor has both control over and detailed professional knowledge of the work prepared under his or her supervision.
- (6) "Education Activity" means an activity that increases the professional knowledge or skills of a licensee and relates to the protection or enhancement of the health, safety and welfare of the public and is approved by the Board.
- (7) "Examination" means the process by which the Board determines the experience, academic or other qualifications and fitness for practice of an applicant, and may include a written examination administered by the Board or a third party.
- (8) "Foreign Corporation" means a foreign corporation as defined in G.S. 55B-16(b).
- (9) "LAAB" means the Landscape Architecture Accreditation Board.
- (10) "LARE" means the Landscape Architecture Registration Exam administered by the CLARB.
- (10a) "License" means registration with the Board and use of "RLA" as a designator for Registered Landscape Architect shall denote licensure by the Board.
- (11) "License Year" means July + 1st through June 30th.
- (12) "Resident licensed professional" means a licensee who spends a majority of the licensee's normal working time in a specifically identified place of business within North Carolina. Such time shall not be less than a majority of the operating hours of the business. A licensed professional shall be the resident licensee at only one place of business at one time unless each business is at least one- third owned by the resident professional and is approved by the Board after a determination that the businesses are integrated in operation, ownership, office location, and that the licensee will be in responsible charge of the professional services.

*History Note: Authority G.S. 89A-3.1(2); 89A-5;
Eff. March 1, 2015;
Amendment Eff. December 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0201

DEADLINE FOR RECEIPT: Friday, December 10, 2021

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Please consider revising the first sentence to say "Every individual licensee, partnership, firm or corporation shall keep the Board advised..."

Given the language regarding the 10 days on line 10, do you also need the new language on line 7?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: November 29, 2021

1 **21 NCAC 26 .0201 is amended as published in 36:2 NCR 1544 as follows:**

2
3 21 NCAC 26 .0201 BOARD LISTING OF INDIVIDUAL AND FIRM NAMES

4 Every individual licensee, partnership, firm or corporation has the continuing responsibility of keeping the Board
5 advised of his, her or its current mailing address and other contact information and the name or names under which
6 he, she or it is practicing landscape architecture. Each licensee or firm shall ~~notify the Board of any and all~~ keep
7 current its online profile and within 10 days of the change update changes of association, address or contact
8 information. Upon the dissolution or change of a professional relationship, the member or members thereof shall
9 notify the Board in writing concerning such dissolution, and of the succeeding status and addresses of the individual
10 or firm. Notice to the Board required by this Rule shall be provided within 10 days of the change.

11
12 *History Note:* *Authority G.S. 89A-3.1(2);*
13 *Eff. February 1, 1976;*
14 *Readopted Eff. September 30, 1977;*
15 *Amended Eff. March 1, 2015;*
16 *Readopted Eff. April 1, 2018*
17 *Amendment Eff. December 1, 2021.*

1 **21 NCAC 26 .0206 is amended as published in 36:2 NCR 1544 as follows:**

2
3 21 NCAC 26 .0206 NAME OF FIRM

4 (a) The name of a landscape architectural firm shall not include the proper name of any officer or employee who
5 is not a licensed landscape architect, architect, geologist, soil scientist, land surveyor or professional engineer.

6 (b) The word "associate" may be used only with reference to a licensee who is a principal or regular employee of
7 the firm. The plural form may be used only when justified by the number of licensees in addition to those licensees
8 whose proper names are included in the firm name as follows:

9 (1) Example: Proper Name and (&) Associates shall refer to a principal landscape architect and at
10 least two licensed landscape architectural employees.

11 (2) Example: Proper Name Associates shall refer to at least one principal landscape architect and at
12 least one licensed landscape architectural employee.

13 (3) Example: Assumed Name Associates shall refer to at least one principal landscape architect and
14 at least one licensed landscape architectural employee, or two or more principal landscape
15 architects.

16 (c) ~~Names Previously in Effect.~~ This Rule shall not be construed to require any firm to seek approval of, or to
17 change, any name duly adopted in conformity with Board Rules in effect at the date of such adoption.

18
19 *History Note: Authority G.S. 55B-5; 89A-3.1;*
20 *Eff. July 1, 1993;*
21 *Amended Eff. February 1, 1994;*
22 *Readopted Eff. April 1, 2018;*
23 *Amendment Eff. December 1, 2021.*

21 NCAC 26 .0209 is amended as published in 36:2 NCR 1544 as follows:

21 NCAC 26 .0209 UNPROFESSIONAL CONDUCT

~~Registrants~~ A licensee shall not:

- (1) allow ~~one's~~ his or her name to be associated with an undertaking in any professional capacity without having served specifically in that capacity;
- (2) accept compensation in whole or in part from fees, commissions, earnings, commercial or speculative profit deriving from sales of materials or services provided to a Landscape Architect's client by others;
- (3) make exaggerated or misleading statements or claims about any personal qualifications, experience or performance;
- (4) fail to disclose to a client or employer the existence of any financial interest which bears upon the ~~Landscape Architectural~~ landscape architectural services or project in any way;
- (5) fail to respond within 30 calendar days to any inquiry from the Board; or
- (6) fail to supervise his or her practice. Each office maintained for the preparation of drawings, specifications, reports or other professional work shall have a registered landscape architect employed in that office who shall have direct knowledge and supervisory control of such work, except field offices maintained only for the purpose of project construction administration shall have at least one employee present with the supervising landscape architect maintaining control and making periodic visits.

*History Note: Authority G.S. 89A-3.1; 89A-7;
Eff. August 1, 1993;
Amended Eff. November 1, 2005; March 1, 1994;
Readopted Eff. April 1, 2018;
Amendment Eff. December 1, 2021.*

21 NCAC 26 .0210 is amended as published in 36:2 NCR 1544 as follows:

21 NCAC 26 .0210 DISHONEST PRACTICE

(a) ~~Registrants~~ A licensee shall not:

- (1) knowingly make any deceptive or false statement about another's professional work or maliciously injure or attempt to injure the prospects, practice, or employment position of those so engaged;
- (2) knowingly make any deceptive or false statements in an application for examination or in any other statements or representations to the Board, to any public agency, to a prospective or actual client, or to another Landscape Architect; or
- (3) fail to notify ~~this Board, if registered as a Landscape Architect in North Carolina, the Board of disciplinary action by a Landscape Architectural Board~~ landscape architect licensing, registration or certification entity in another jurisdiction- jurisdiction within five business days of that jurisdiction's final action in the matter.

(b) Because of the inherent conflict of interest with construction services, a landscape architect shall not provide contracting services, including combined design and construction (design-build) practice, unless he or she does the following:

- (1) ~~Uses~~ uses the term "limited landscape architectural services" in all representations to the public and the client; and
- (2) ~~Affixes~~ affixes a notation on each construction drawing and the cover of technical specifications ~~stating~~ stating: "These construction drawings and technical specifications represent the full extent of the limited landscape architectural services provided for this project."

*History Note: Authority G.S. 89A-3.1; 89A-7;
Eff. August 1, 1993;
Amended Eff. November 1, 2005; March 1, 1994;
Readopted Eff. April 1, 2018;
Amendment Eff. December 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0212

DEADLINE FOR RECEIPT: Friday, December 10, 2021

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Please add a comma after "Building Code"

What are the other criteria? Is this a catchall for other criteria set forth in the Building Code?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: November 29, 2021

1 **21 NCAC 26 .0212 is adopted as published in 36:2 NCR 1544 as follows:**

2
3 21 NCAC 26 .0212 SCOPE OF PRACTICE

4 The scope of practice as defined by G.S. 89A-1(3) and G.S. 89A-2(b) shall be limited only by the licensee possessing
5 the requisite knowledge and experience to provide the service. Consistent with the North Carolina State Building
6 Code a licensee shall not design any retaining wall greater than five vertical feet in height from the finished grade
7 unless the licensee has the requisite knowledge and experience to determine the appropriate construction material and
8 calculate the embedment, vertical load, backfill and other criteria.

9
10 *History Note: Authority G.S. 89A-1(c); 89A-3.1;*

11 *Adopted Eff. December 1, 2021.*

21 NCAC 26 .0303 is amended as published in 36:2 NCR 1544 as follows:

21 NCAC 26 .0303 LICENSE BY COMITY

(a) To assure that the requirements of the other state are at least equivalent to those of this state, an applicant for a license by comity shall show education and experience equal to those required of applicants ~~residing in this State~~ who seek licensure by examination.

(b) An application for a license by comity shall be made on the on-line form ~~provided by the Board~~ available on the Board's website: www.ncbola.org and shall be accompanied by the fee.

(c) To be approved for a license by comity the applicant shall meet the following requirements:

- (1) Provide evidence of having successfully completed the written examination established by the CLARB or hold a certificate issued by the CLARB;
- (2) Provide certification from the proper official of any state having a landscape architectural licensure or registration act that the individual is currently certified, licensed, or registered and in good standing in that state;
- (3) Submit such additional information concerning the applicant's qualifications as may be requested by the Board; and
- (4) Submit examples of work upon request.

(d) In lieu of the requirements of Subparagraph (c)(1) of this Rule, an applicant for licensure by comity who was licensed prior to the adoption of a national written examination shall show proof of having met the requirements of ~~their~~ his or her licensing state at the time of their licensure.

(e)

*History Note: Authority G.S. 89A-3.1(3); 89A-4(c);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. March 1, 2015; January 1, 2008; August 1, 1988; July 1, 1984;
Readopted Eff. April 1, 2018;
Amendment Eff. December 1, 2021.*

1 **21 NCAC 26 .0306 is amended as published in 36:2 NCR 1544 as follows:**

2
3 21 NCAC 26 .0306 REINSTATEMENT AFTER REVOCATION

4 Any person whose ~~certificate of registration~~ license is revoked shall be reinstated at any time by majority vote of
5 the Board if there is a finding that the cause for revocation no longer exists.

6
7 *History Note:* *Authority G.S. 89A-3.1;*
8 *Eff. February 1, 1976;*
9 *Readopted Eff. September 30, 1977;*
10 *Amended Eff. December 1, 2005;*
11 *Readopted Eff. April 1, 2018;*
12 *Amendment Eff. December 1, 2021.*

21 NCAC 26 .0308 is amended as published in 36:2 NCR 1544 as follows:

21 NCAC 26 .0308 DUTIES AND FUNCTIONS OF CONTINUING EDUCATION ADVISORY
COMMITTEE (CEAC)

- (a) CEAC members shall be reimbursed per diem and travel expenses for official meetings at rates equivalent to rates allowed for Board members.
- (b) CEAC members shall serve at the discretion of the Board. The Board Chair shall appoint the CEAC Chair who shall serve at the discretion of the Board Chair.
- (c) Each continuing education activity recommended for approval by the Board shall, in the opinion of a majority of the members of the CEAC, have a direct relationship to the practice of landscape architecture as defined in Chapter 89A of the General Statutes of North Carolina and contain elements that will enhance the health, safety, and welfare of the citizens of North Carolina served by North Carolina licensed landscape architects.
- (d) The CEAC shall meet at least once during each three month quarter of the year and act on each course, seminar, webinar, session, or program submitted for its review ~~on the Board's Continuing Education Activity Approval form located on its website or available from the licensee's secure online profile.~~ through the licensee or provider's secure online profile. The ~~CEAC~~ CEAC shall review submissions in accordance with Paragraph (c) of this Rule. Each program shall be recommended for approval, recommended for disapproval, or deferred for lack of information. Programs recommended for approval shall be accompanied by a brief statement of findings by the committee of how the program meets the criteria established by this Rule.
- (e) An activity may be recommended for pre-approval by the CEAC before it actually occurs by following the same procedure for submission as utilized for post-activity approval.

*History Note: Authority G.S. 89A-3.1(6); 89A-5;
Eff. March 1, 2015;
Amendment Eff. December 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0309

DEADLINE FOR RECEIPT: Friday, December 10, 2021

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Please end (a)(1) through (3) with semi-colons, rather than periods, and add an "or" or "and" at the end of (a)(3).

Please also add the expiration date of the temporary rule to the History Note as follows:

*History Note: Authority G.S. 89A-3.1(6); 89A-5; 93B-15;
Eff. March 1, 2015;
Emergency Amendment Eff. May 6, 2020;
Temporary Amendment Eff. August 28, 2020;
Temporary Amendment Expired Eff. June 12, 2021;
Amendment Eff. January 1, 2022.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: November 29, 2021

21 NCAC 26 .0309 is amended as published in 36:2 NCR 1544 as follows:

21 NCAC 26 .0309 EXEMPTIONS AND EXTENSION OF TIME

- (a) A ~~registrant~~ licensee shall be exempt from the continuing education requirements for any of the following reasons:
- (1) New ~~registrants~~ licensees by way of examination or comity for the current registration year.
 - (2) A licensee serving on temporary active duty in the armed forces of the United States for a period of time exceeding 90 consecutive days in a year or as provided by G.S. 93B-15(b), whichever is greater.
 - (3) A licensee experiencing physical disability or illness if supporting documentation is approved by the Board. Such documentation shall be in the form of a sworn statement by the ~~registrant~~, licensee, a statement from a physician, or medical records which show that the disability or illness, prevented ~~registrant's~~ the licensee's participation in a course that the ~~registrant~~ licensee had enrolled, or prevented ~~registrant's~~ the licensee's participation in the continuing education program for at least 90 consecutive days in a year.
 - (4) A licensee with emeritus status from the Board.
- (b) In order to return to active practice, ~~registrants~~ licensees who have received an exemption shall complete continuing education requirements for each exempted year, not to exceed two years.
- (c) During a national or State declared state of emergency that restricts or prohibits a licensee from obtaining by active participation in Board approved continuing education, the Board may extend the compliance period if requested by the licensee up to 90 days beyond the effective period of the state of emergency. Any license renewed in reliance on this exemption shall be issued conditionally and shall automatically expire on the 90th day if compliance is not documented in the licensee's secure online profile by that date.

History Note: Authority G.S. 89A-3.1(6); 89A-5; 93B-15; Eff. March 1, 2015; Emergency Amendment Eff. May 6, 2020; Temporary Amendment Eff. August 28, 2020; Amendment Eff. December 1, 2021.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0310

DEADLINE FOR RECEIPT: Friday, December 10, 2021

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In (a), how is the Board going to determine the hours required if the number exceeds 30? Will it be based upon what the Board determines is necessary to establish the continuing competency of licensees in accordance with G.S. 89A-5?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: November 29, 2021

1 **21 NCAC 26 .0310 is amended as published in 36:2 NCR 1544 as follows:**

2
3 21 NCAC 26 .0310 REINSTATEMENT CRITERIA

4 (a) A former licensee may only apply for reinstatement pursuant to G.S. 89A-5 if he or she has earned all delinquent
5 contact hours within the 12 months preceding the application. However, if the total number of contact hours
6 required to become current exceeds 24, 30, then upon application, the Board shall determine the number of hours
7 required.

8 (b) An application for reinstatement shall be made on the form provided by the Board on its website, or by U.S.
9 Mail if requested, website: www.ncbola.org ~~by checking the appropriate box for "reinstatement"~~ and shall be
10 accompanied by the fee.

11
12 *History Note: Authority G.S. 89A-3.1(6); 89A-5;*
13 *Eff. March 1, 2015;*
14 *Amendment Eff. December 1, 2021.*

21 NCAC 26 .0311 is amended as published in 36:2 NCR 1544 as follows:

21 NCAC 26 .0311 APPLICATIONS CONTINUING EDUCATION REQUESTS FOR APPROVAL

(a) Renewal applications require the completion of a continuing education form through the licensee's secure online profile ~~specified outlining specifying credit claimed, claimed, which located on the licensee's secure online profile.~~ The licensee shall report and supply sufficient detail ~~on the form~~ to permit audit verification, certify the ~~form continuing education~~ by signature, and submit ~~the form~~ with the license renewal application and the fee.

(b) The following schedule for submittal of hours shall apply:

- (1) Application for approval of continuing education shall be submitted ~~online or by paper application located on the Board's website or available from~~ through the licensee's secure online profile.
- (2) The deadline for submittal of an application shall be seven days prior to the regularly scheduled meeting of the CEAC.
- (3) ~~Activity forms~~ Renewal requests submitted after May 15th cannot be guaranteed approval within the license renewal year.
- (4) ~~Applications~~ Requests for approval of continuing education shall be completed in full and the answers to the essay questions contained in the application shall be in complete sentences, using proper grammar.
- (5) Administrative staff, the CEAC, and the Board may defer any ~~application request~~ request deemed ~~unsatisfactory incomplete~~ and return it to the ~~registrant licensee~~ for further information or if the ~~application request~~ does not meet the requirements set forth in this Section. It is the responsibility of the licensee to submit sufficient information to satisfy the requirements of this Section.
- (6) Failure of a ~~registrant licensee~~ to complete the continuing education requirements, or failure to file a report of completed continuing education are grounds for denial of license ~~renewal and renewal~~, possible suspension of license, or denial of consideration for future license reinstatement.

*History Note: Authority G.S. 89A-3.1(6); 89A-5;
Eff. March 1, 2015.*

1 **21 NCAC 26 .0312 is amended as published in 36:2 NCR 1544 as follows:**

3 21 NCAC 26 .0312 COMPLIANCE

4 (a) Compliance with annual continuing education requirements shall be determined through an audit process
5 conducted by the Board. Determination of individuals to be audited shall be accomplished through a random
6 selection process or as the result of information received or obtained by the Board that gives rise to the need for
7 an

8 audit. Licensees selected for auditing shall provide the Board with ~~the following documentation of the continuing~~
9 ~~education activities claimed for the renewal period:~~

10 ~~(1) — Attendance~~ attendance verification records in the form of transcripts, completion certificates, or
11 other documents supporting evidence of ~~attendance; and attendance.~~

12 ~~(2) — Information regarding course content, instructors, and sponsoring organization, for activities~~
13 ~~presented by other than approved sponsors as defined in Rule .0313 of this Section.~~

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

16
17 *History Note: Authority G.S. 89A-3.1(6); 89A-5;*
18 *Eff. March 1, 2015;*
19 *Amendment Eff. December 1, 2021.*

21 NCAC 26 .0313 is amended as published in 36:2 NCR 1544 as follows:

21 NCAC 26 .0313 INDIVIDUAL LICENSES

(a) ~~License registration~~ A licensee shall be renewed on or before ~~the first day in July~~ June 30th of each year. No less than 30 days prior to the renewal date, the Board shall send a renewal reminder to each individual licensee. The licensee shall complete the current license renewal documentation required by the Board and found in the licensee's secure online profile. The licensee shall submit to the Board the completed license renewal documentation, along with the annual license renewal fee. The Board shall not accept incomplete renewal documentation. If the accompanying charge, draft, or check in the amount of the renewal fee is dishonored by the landscape architect's drawee bank for any reason, the Board shall suspend the license until the renewal fee is paid. When the annual renewal has been completed according to the provisions of G.S. 89A-5 and Rule .0307 of this Section, the Board Executive shall approve renewal of the license for the current license year.

(b) If the Board has not received the annual renewal fee and completed renewal documentation, ~~on or before the first day of July each year the license shall expire and be delinquent. The license may be renewed at any time within one year of being deemed delinquent, upon the return of the completed~~ completion of the renewal documentation, as found in the licensee's secure online profile, the process, payment of the annual renewal fee and the late renewal fee, along with demonstration of compliance with Rule .0307 of this Section. After one year from the date of delinquency the license may no longer be renewed, but the licensee shall seek reinstatement. Reinstatement shall occur according to the provisions of G.S. 89A-5 and Rule .0301 of this Section.

(c) Renewal fees are non-refundable.

(d) Any individual who is currently licensed by and in good standing with the Board who is serving in the armed forces of the United States shall not be subject to late fees, suspension, or revocation for failure to renew licensure on or before ~~the first day of July~~ June 30th each year, provided that the individual has been granted an extension of time to file a tax return as set forth in G.S. 105-249.2. The licensee shall, however, comply with the continuing education requirement of Rule .0310 of this Section.

*History Note: Authority G.S. 89A-5; 89A-6;
Eff. March 1, 2015;
Amendment Eff. December 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0314

DEADLINE FOR RECEIPT: Friday, December 10, 2021

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In (a) and (h), Chapter 57C has been repealed. Please update the citation. Should it be 57D?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: November 29, 2021

21 NCAC 26 .0314 is amended as published in 36:2 NCR 1544 as follows:

21 NCAC 26 .0314 CORPORATE PRACTICE OF LANDSCAPE ARCHITECTURE

(a) Prior to offering and rendering landscape architectural services as set forth in G.S. 89A and Rule .0206 of this Chapter, all corporations shall, submit an application for registration and must be granted registration by the Board. Application for registration to practice landscape architecture within the State of North Carolina shall be made ~~upon forms entitled "Application for Organization Certificate of Registration"~~ on the appropriate application for organization certificate of registration for a corporation or a PLLC provided by the Board on its website and include the required application fee. Certificates for corporate practice may be issued only under the provisions of G.S. Chapter 55B, except as provided in Paragraph (b) of this Rule and G.S. Chapter 57C.

(b) Applications for certificate of registration as exempt from the Professional Corporation Act under the provisions of G.S. 55B-15 shall be made ~~upon forms provided by the Board. Completed applications shall be through the Board's website: www.ncbola.org~~ accompanied by the corporate application fee. To be eligible as an exempt corporation under the provisions of G.S. 55B-15, the following conditions shall exist:

- (1) The corporation or limited liability company must have been incorporated or organized prior to June 5, 1969 and permitted by law to render professional services, or must be a corporate successor to such corporation or limited liability company as defined by G.S. 55B-15; or
- (2) The corporation or limited liability company must have been incorporated or organized prior to October 1, 1979 and must have been a bona fide firm engaged in the practice of landscape architecture and such services as may be ancillary thereto within the State of North Carolina prior to that date.

(c) Firm registration must be renewed on or before June 30th. If the Board has not received the annual renewal fee and completed application on or before June 30th, the firm license shall expire and be delinquent. No less than 30 days prior to the renewal date, the Board shall send a notice of renewal to each registered firm. The firm shall designate a firm manager to complete the renewal documentation required by the Board. The Board shall not accept incomplete renewal documentation. Renewal documentation shall be accompanied by the renewal fee. If the accompanying payment in the amount of the renewal fee is dishonored by the firm's drawee bank for any reason, the Board shall suspend the firm registration until the renewal fee is paid. When the annual renewal has been completed according to the provisions of G.S. 89A-5, the Board Executive shall approve renewal for the firm registration for the current renewal year. The firm ~~license registration~~ shall not be renewed until the individual landscape architect in responsible charge for the firm has completed the individual renewal process.

(d) Within one year of expiration, the firm ~~license registration~~ may be renewed at any time upon the return of the completed renewal documents, the annual renewal fee, and the late renewal fee. After one year from the date of expiration for non-payment of the annual renewal fee, the ~~licensee registered firm~~ shall not be eligible to seek ~~reinstatement, renewal~~, as set forth in G.S. 89A-5, and the Board may reinstate the firms' certificate of registration only as allowed by G.S. 89A-4.

(e) Renewal fees are non-refundable.

(f) ~~Each~~ A registered corporation ~~shall~~ may adopt a seal pursuant to Rule .0207 of this Chapter.

(g) In addition to the requirements and limitations of G.S. Chapter 55 and G.S. Chapter 55B, the firm name used by a landscape architectural corporation shall conform with Rule .0206 of this Chapter and be approved by the Board before being used. This Rule shall not prohibit the continued use of any firm name adopted in conformity with the General Statutes of North Carolina and the Board's rules in effect at the date of such adoption.

(h) Landscape architects may practice in this State through duly authorized limited liability companies only as provided under G.S. 57C-2-01(c). Any limited liability company that offers to practice or practices landscape architecture in this State shall comply with the same requirements applicable to professional corporations under Rules .0201, .0206, .0214, .0218 and .0219 of this Chapter.

*History Note: Authority G.S. 55B-5; 55B-10; 55B-15; 89A 3.1(4);
Eff. March 1, 2015;
Amendment Eff. December 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0315

DEADLINE FOR RECEIPT: Friday, December 10, 2021

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In (c), Chapter 57C has been repealed. Please update the citation. Should it be 57D?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: November 29, 2021

21 NCAC 26 .0315 is amended as published in 36:2 NCR 1544 as follows:

21 NCAC 26 .0315 OUT-OF-STATE ENTITIES

(a) Landscape architectural entities from other states may be granted certificates of registration for practice in this State upon receipt by the Board of a completed application, fees, the submission of a certified copy of its corporate charter, or other corresponding documents, amended as may be necessary to ensure compliance with all requirements of Chapter 55B, the Professional Corporation Act of the State of North Carolina, and the payment of the firm application fee. In addition to the other requirements as set out in G.S. ~~83A-8~~, 89A-2(a1), out-of-state (or "foreign") entities shall, prior to registration, receive from the Secretary of State of North Carolina a certificate of authority to do business within the State. A certificate for filing for a certificate of authority shall be obtained from the Board prior to submitting the application to the Secretary of State.

(b) An out-of-state entity may be permitted to practice landscape architecture within the State of North Carolina provided that it complies with G.S. 55B. If an out-of-state entity offers landscape architectural services, then it shall comply with requirements set forth in G.S. 89A. An out-of-state entity shall have at least one officer or director licensed in the State as a landscape architect. Two-thirds of the issued and outstanding shares of the out-of-state corporations shall be held by a landscape architect, architect, geologist, soil scientist, engineer, or land surveyor licensed to practice the profession in a jurisdiction of the United States. However, the entity shall designate at least one landscape architect who is licensed in the State of North Carolina to be in responsible charge for the entity's practice of landscape architecture within the State of North Carolina. Notwithstanding the requirements of this Rule, an individual landscape architect who is licensed under G.S. Chapter 89A, et seq., may practice as an individual.

(c) An out-of-state limited liability company may practice landscape architecture, if the limited liability company complies with G.S. Chapter 57C and at least one member and one manager or member/manager is licensed as a landscape architect, architect, geologist, soil scientist, engineer, or land surveyor to comply with Paragraph (a) of this Rule.

(d) An out of state limited liability partnership may practice landscape architecture, if the limited liability partnership complies with G.S. 59-84.2, and at least one partner is licensed in this State as an individual pursuant to Rule .0301 of this Section.

(e) If the Board has not received the annual firm renewal fee and completed application on or before June 30th, the firm registration shall expire and be deemed delinquent. The firm registration may be renewed at any time within

one year upon the payment of the annual renewal fee and the late renewal fees. After one year from the date of expiration for non-payment of the annual renewal fee, the license shall be automatically revoked. The Board may reinstate the firm's certificate of registration, as allowed by Rule .0301 of this Section.

*History Note: Authority G.S. 55B-6; 83A-6; 89A-2(a1);
Eff. March 1, 2015;
Amendment Eff. December 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0510

DEADLINE FOR RECEIPT: Friday, December 10, 2021

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In (b), please change "are" to "is" in in "he or she are"

In (e), I assume that whether a field investigation is conducted will be dependent upon the facts alleged? If so, please just confirm.

In (f), would this additional evidence occur as a result of the investigation? I just want to be sure that I'm following the process.

In (h), please move the comma behind "the Board", rather than in front of "the"

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: November 29, 2021

21 NCAC 26 .0510 is amended as published in 36:2 NCR 1544 as follows:

21 NCAC 26 .0510 COMPLAINTS AND DISCIPLINARY REVIEW PROCESS

(a) Any person may file a complaint against a licensed Landscape Architect for an alleged violation of G.S. Chapter 89A or 21 NCAC 26 on a form provided on the Board's website: www.ncbola.org which may also be requested from the Board staff.

(b) The complaint shall set forth the facts upon which the complaint is based and the complainant shall confirm he or she believes the facts stated are true and that he or she are prepared to prove them at a hearing. Supporting documents may be provided.

(c) Allegations or evidence of a violation of the Landscape Architecture Licensing Act or the rules in this Chapter shall be preliminarily reviewed by the Board Chair and legal counsel to the Board. Upon a determination that evidence of a violation exists, the matter shall be subject to Board investigation and may ultimately be subject to disciplinary action by the Board.

(d) An investigation shall be initiated by a written notice and explanation of the allegation being forwarded to the ~~person~~ licensee or entity against whom the charge is made and a response shall be requested of the ~~person~~ licensee or firm so charged within 30 days of receipt of said notice to show compliance with all ~~lawful~~ requirements for retention of the license. Notice of the charge and of the alleged facts or alleged conduct shall be given personally or by certified mail, return receipt requested.

(e) In the discretion of the Board Chair, a field investigation may be performed.

(f) After additional evidence has been obtained, the Board Chair shall either:

- (1) recommend dismissal of the charge; or
- (2) refer the matter to the Disciplinary Review Committee.

(g) If the Board Chair recommends dismissal, the Chair shall give a summary report to the Board and a vote shall be called to dismiss the complaint. If the Board does not vote to dismiss the complaint, the matter shall be forwarded to the Disciplinary Review Committee for further consideration.

(h) The Disciplinary Review Committee shall be made up of a minimum of one member of the Board ~~and the~~ the Board ~~Chair,~~ Chair, and legal counsel to the Board.

(i) Upon review of the evidence, and further investigation if necessary, the Disciplinary Review Committee shall present to the Board a written recommendation that may include the following:

- (1) The charge be dismissed as unfounded or that the Board is without jurisdiction over the matter;
- (2) The charge is admitted as true, whereupon the Board may accept the admission of guilt by the ~~person~~ licensee or entity charged and discipline the ~~person~~ licensee or entity accordingly;
- (3) The Board may accept a proposed settlement negotiated in an effort to resolve the alleged violations; or
- (4) The charge be presented to the full Board for a hearing and determination of sanctions by the Board in accordance with the substantive and procedural requirements of the provisions of G.S. 150B, Article 3A.

(j) A consultant to the Disciplinary Review Committee shall be designated by the legal counsel of the Board if the Chair of the Disciplinary Review Committee determines that it needs assistance. The consultant shall be a currently licensed landscape architect selected from former Board members or other licensed professionals who are knowledgeable with the Board's processes and have expressed an interest in serving as a consultant. The consultant shall review all case materials and assist the Disciplinary Review Committee in making a recommendation as to the merits of the case.

(k) At least 15 days written notice of the date of consideration by the Board of the recommendations of the Disciplinary Review Committee shall be given to the ~~person~~ licensee or entity against whom the charges have been brought and the person submitting the ~~charge.~~ complaint.

(l) When the Board issues a notice of hearing against ~~whom the licensee or entity the charges are brought,~~ the ~~person~~ licensee or entity may request in writing a settlement conference to pursue resolution of the issue(s) through informal procedures. If, after the completion of a settlement conference, the person or entity and the Board's Disciplinary Review Committee do not agree to a resolution of the dispute for the full Board's consideration, the original disciplinary review process shall commence. During the course of the settlement conference, no sworn testimony shall be taken.

1
2 *History Note:* *Authority G.S. 89A-3.1(7),(8),(9);*
3 *89A-7; Eff. December 1, 2005;*
4 *Amended Eff. March 1, 2015;*
5 *Readopted Eff. April 1, 2018;*
6 *Amendment Eff. December 1, 2021.*