

1 21 NCAC 28B .0201 is adopted with changes under temporary procedures as follows:

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3 **21 NCAC 28B .0201 APPLICATIONS FOR LICENSURE**

4 (a) All applicants for licensure or examination shall submit an application to the Board. The application form shall
5 be available on the Board website or may be obtained by contacting the Board office. The application shall require
6 the following:

- 7 (1) The Social Security Number of applicant;
- 8 (2) The applicant's contact information;
- 9 (3) The name of business under which licensee will be operating, if any;
- 10 (4) Information about ~~any criminal convictions;~~ all crimes of which the applicant has been convicted;
- 11 (5) ~~The supporting documentation~~ Documentation regarding ~~any criminal convictions;~~ all crimes of
12 which the applicant has been convicted;
- 13 (6) Information indicating whether the applicant has any disciplinary history with any other
14 occupational licensing, registration or certification board or agency;
- 15 (7) Contact information for three personal references;
- 16 (8) Contact information for two professional references;
- 17 (9) The corporate surety bond or an irrevocable letter of credit as prescribed by G.S. 89D-16 (a)(4);
- 18 (10) The application fee as set forth in Rule .0601 of this Subchapter.

19 (b) Once an applicant has submitted a complete application and has been determined to have met the minimum
20 qualifications set forth in G.S. 89D-16(a), the Board will notify the applicant that the applicant is permitted to take
21 an examination. Prior to taking the examination, the applicant shall submit an examination fee as set out in this
22 Subchapter.

23 (c) All applications shall be notarized. Incomplete applications shall not be processed. Application fees are non-
24 refundable.

25
26 *History Note: Authority G.S. 89D-15(2); 89D-15(4); 89D-16; 89D-20;*
27 *Temporary Adoption Eff. January 1, 2016.*

1 21 NCAC 28B .0202 is adopted with changes under temporary procedures as follows:

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3 **21 NCAC 28B .0202 RECIPROCITY**

4 (a) All applicants for licensure by reciprocity shall submit an application to the Board. The application form shall be
5 available on the Board website or may be obtained by contacting the Board office located as described in Rule .0101
6 of this Subchapter.

7 (b) All applications shall include the following:

8 (1) The license by reciprocity application fee as set forth in Rule .0601 of this Subchapter;

9 (2) Documentation establishing that the applicant holds an active license, certification, or registration
10 as a landscape contractor in another state or country;

11 (3) Information indicating whether the applicant has any disciplinary history with any other
12 occupational licensing, registration or certification board or agency;

13 (4) The corporate surety bond ~~as set forth in Rule .0601 of this Subchapter;~~ or an irrevocable letter of
14 credit as prescribed by G.S. 89D-16 (a)(4);

15 (5) Contact information for three personal references;

16 (6) Contact information for two professional references; and

17 (7) ~~Supporting documentation~~ Documentation regarding any criminal convictions, all crimes of which
18 the applicant has been convicted.

19 If there is any evidence to show that the applicant has been disciplined in any jurisdiction where the applicant is
20 currently or has been licensed, certified, or registered or that the applicant has committed any acts that would
21 constitute a violation under G.S. 89D-22, the applicant shall not be licensed by reciprocity.

22 (c) Once an applicant has submitted a complete application and the Board has determined that the requirements for
23 licensure, certification, or registration in the applicant's home jurisdiction are substantially equivalent to the
24 requirements in G.S. 89D-16, the Board shall issue a license to the applicant. ~~applicant shall be licensed.~~

25 (d) All applications shall be notarized. Incomplete applications shall not be processed. Application fees are non-
26 refundable.

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28 *History Note: Authority G.S. 89D-15(2); 89D-15(3); 89D-15(4); 89D-16; 89D-19; 89D-22;*
29 *Temporary Adoption Eff. January 1, 2016.*

1 21 NCAC 28B .0203 is adopted with changes under temporary procedures as follows:

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3 **21 NCAC 28B .0203 MILITARY-TRAINED APPLICANT; MILITARY SPOUSE**

4 (a) Licensure for a military-trained applicant. Upon receipt of a request for licensure pursuant to G.S. 93B-15.1
5 from a military-trained applicant, the Board shall issue a license to the applicant who satisfies the following
6 conditions:

- 7 (1) submission of a complete application for licensure;
8 (2) submission of an application fee in accordance with Rule .0601 of this Subchapter; and
9 (3) providing documentation to satisfy conditions set out in ~~G.S. 93B-15.1(a)(1) and (2);~~ G.S. 93B-
10 15.1(b)(1), (2) and (3). ~~and~~
11 ~~(4) providing documentation that the applicant has not committed any act in any jurisdiction that~~
12 ~~would constitute grounds for refusal, suspension, or revocation of a license in North Carolina at~~
13 ~~the time the act was committed.~~

14 (b) Licensure for a military spouse. Upon receipt of a request for licensure pursuant to G.S. 93B-15.1 from a
15 military spouse, the Board shall issue a license to the applicant who satisfies the following conditions:

- 16 (1) submission of a complete Application for Licensure;
17 (2) submission of a license fee in accordance with G.S. 89D-21(a);
18 (3) submission of written documentation demonstrating that the applicant is married to an active
19 member of the U.S. military; and
20 (4) providing documentation to satisfy conditions set out in ~~G.S. 93B-15.1(b)(1) and (2);~~ G.S. 93B-
21 15.1(b)(1), (2), (3) and (4).
22 ~~(5) providing documentation that the applicant has not committed any act in any jurisdiction that~~
23 ~~would constitute grounds for refusal, suspension, or revocation of a license in North Carolina at~~
24 ~~the time the act was committed; and~~
25 ~~(6) is in good standing and has not been disciplined by the agency that had jurisdiction to issue the~~
26 ~~license, certification, or permit.~~

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28 *History Note: Authority G.S. 89D-15(2); 89D-15(4); 89D-21; 93B-15.1;*
29 *Temporary Adoption Eff. January 1, 2016.*

1 21 NCAC 28B .0204 is adopted with changes under temporary procedures as follows:

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3 **21 NCAC 28B .0204 **MAINTAIN CURRENT INFORMATION****

4 (a) Every licensee shall keep the Board advised of the licensee's current mailing address, phone number, email
5 address, and the name or names under which the licensee is practicing. If any change occurs, the licensee shall
6 notify the Board in writing of the change within 60 days.

7 (b) Upon the dissolution of a professional relationship, the member or members thereof shall notify the Board in
8 writing concerning such ~~dissolution~~, dissolution and of the succeeding status and addresses of the individuals or
9 firm.

10 (c) Upon the lapse of a surety bond or revocation of a letter of credit prescribed in G.S. 89D-16(a)(4), a licensee
11 shall notify the Board in writing. If a licensee fails to renew the surety bond or obtain a new letter of credit within
12 thirty days after the lapse or revocation, the license shall be revoked.

13 (d) Failure to notify the Board of the changes described in Paragraphs (a), (b), or (c) of this Rule shall constitute a
14 violation of G.S. 89D-22.

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16 *History Note:* *Authority G.S. 89D-15(2), 89D-15(11); 89D-16(a)(4); 89D-17(h); 89D-22(8);*

17 *Temporary Adoption Eff. January 1, 2016.*

1 21 NCAC 28B .0301 is adopted with changes under temporary procedures as follows:

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3 **21 NCAC 28B .0301 LICENSE RENEWAL; WAIVER**

4 (a) All licensees seeking renewal shall submit annually to the Board a renewal application. The deadline for
5 submission is August 1 in the renewal year. Applications shall be postmarked or received by the Board no later than
6 August 1. If August 1 falls on a Saturday or Sunday, the application shall be postmarked or received no later than
7 the following Monday. The application form is available on the Board website or may be obtained by contacting the
8 Board office.

9 (b) All renewal applications shall include the following:

10 (1) The application fee set forth in Rule .0601 of this Subchapter;

11 (2) Documentation showing that the licensee has met the Board's continuing education requirements
12 as set forth in section .0400; and

13 (3) ~~Supporting documentation~~ Documentation regarding ~~any criminal convictions occurring all crimes~~
14 of which the applicant has been convicted since the previous licensure or renewal.

15 (c) Incomplete applications shall not be processed. Application fees are non-refundable.

16 (d) An individual who is serving in the Armed Forces of the United States shall receive an extension of time to pay
17 the license renewal fee upon submission of the following to the Board:

18 (1) Written request for waiver; and

19 (2) Documentation that the licensee is serving in the Armed Forces of the United States and is eligible
20 for an extension of time to file a tax return pursuant to G.S. 105-249.2.

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22 *History Note: Authority G.S. 89D-15(2); 89D-15(4); 89D-20; 93B-15; 105-249.2;*
23 *Temporary Adoption Eff. January 1, 2016.*

1 21 NCAC 28B .0302 is adopted with changes under temporary procedures as follows:

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3 **21 NCAC 28B .0302 REINSTATEMENT**

4 (a) Any licensee whose license has ~~expired~~ been revoked due to non-renewal pursuant to 89D-20(a) for no more
5 than one year may request reinstatement by the Board. The licensee shall submit the following to the Board:

- 6 (1) Application for Reinstatement;
- 7 (2) Reinstatement fee as set forth in Rule .0601 of this Subchapter;
- 8 (3) Corporate surety bond or an irrevocable letter of credit pursuant to as prescribed by G.S. 89D-
9 16(a)(4);
- 10 (4) Documentation showing that the licensee has met the Board's continuing education requirements;
- 11 (5) ~~Supporting documentation~~ Documentation regarding ~~any criminal convictions occurring~~ all crimes
12 of which the applicant has been convicted since the previous application or renewal was filed with
13 the Board; and
- 14 (6) Attestation that the licensee has not engaged in the practice of landscape construction or
15 contracting after the notice of revocation was issued.

16 (b) Any licensee whose license is suspended for failure to obtain continuing education as required by G.S. 89D-
17 20(b) and this Subchapter may request reinstatement pursuant to G.S. 89D-20(b).

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19 *History Note:* Authority G.S. 89D-15(2); 89D-15(4); 89D-20;
20 *Temporary Adoption Eff. January 1, 2016.*

1 21 NCAC 28B .0402 is adopted with changes under temporary procedures as follows:

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3 **21 NCAC 28B .0402 CONTINUING EDUCATION UNITS**

4 (a) A licensee shall ~~be required to~~ complete seven continuing education units (CEUs) during the year preceding
5 renewal. Beginning with renewals filed after August 1, 2016, at least three of the seven CEUs must be technical
6 credits and at least two of the seven CEUs must be business credits. If the information provided to the Board is
7 unclear, the Board may request additional information from a licensee in order to assure compliance with continuing
8 education requirements.

9 (b) For the purposes of this Rule, "technical credits" are defined as credits relating directly to the subject matter of
10 landscape contracting as described in G.S. ~~89D-11(3)~~ 89D-11(3), and "business credits" are defined as credits
11 relating to general business practices, including business planning, contracts, liability exposure, human resources,
12 basic accounting, financial statements, and safety.

13 (c) CEUs shall be determined as follows:

14

Type of Qualifying Activity	Minimum time required for 1 CEU
Live course	50 minutes
Online course	50 minutes
Volunteer work	3 hours
Trade Shows, Field Days, and Tours	4 hours
Board Member Service	1 hour
Teaching or instructing	1 hour
In-house or Green Industry training	1 hour

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16 (d) No more than five CEU credits will be given for qualifying volunteer work or board member service in one
17 year. No more than two CEU credits will be given for qualifying teaching or instructing in one year.

18 (e) Credit shall not be given in increments of less than .5 CEUs. Breaks in courses shall not be counted towards
19 CEU credit.

20 (f) Requests for pre-approval shall be submitted at least 45 days prior to the first day of the course or event.

21

22 *History Note: Authority G.S. 89D-15(2); 89D-15(4); 89D-15(12); 89D-20(b);*

23 *Temporary Adoption Eff. January 1, 2016.*

24

1 21 NCAC 28B .0403 is adopted with changes under temporary procedures as follows:

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3 **21 NCAC 28B .0403 CONTINUING EDUCATION RECORDS; AUDIT**

4 (a) A licensee shall maintain records of attendance at continuing education programs for which CEUs have been
5 approved for two years following the renewal approval date to which the CEUs were applied.

6 (b) Compliance with annual CEU requirements shall be determined through an audit process conducted by the
7 Board. Licensees selected for auditing shall provide the Board with the following documentation of the CEU
8 activities claimed for the renewal period:

9 (1) Attendance verification records; and

10 (2) Information regarding course content, instructors, and sponsoring organization.

11 (c) Licensees selected for audit shall ~~all submit~~ submit all requested information to the Board within 21 calendar
12 days after the date the licensee was notified by the Board of the audit.

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14 *History Note: Authority G.S. 89D-15(2); 89D-15(4); 89D-15(12); 89D-20(b);*

15 *Temporary Adoption Eff. January 1, 2016.*

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1 21 NCAC 28B .0404 is adopted with changes under temporary procedures as follows:

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3 **21 NCAC 28B .0404 EXTENSION OF TIME**

4 (a) The Board shall grant a licensee an extension of time to complete CEU requirements during a period of service
5 in the Armed Forces of the United States upon submission of the following to the Board:

- 6 (1) Written request for an extension; and
7 (2) Documentation that the licensee is serving in the Armed Forces of the United States and is eligible
8 for an extension of time to file a tax return pursuant to G.S. 105-249.2.

9 ~~Upon providing the documentation, the licensee shall be granted an extension of time to obtain the~~
10 ~~CEUs required during that renewal period.~~

11 (b) The Board shall grant a licensee an extension of time or waiver to obtain CEU requirements if he or she has a
12 disability or illness that prevents him or her from complying with CEU requirements. In order to receive the waiver,
13 a licensee shall provide the Board with the following:

- 14 (1) Written request for waiver; and
15 (2) Documentation that describes the disability or illness and explains how the disability or illness
16 prevents the licensee from complying with the Board's CEU requirements. If the Board ~~deems the~~
17 ~~waiver appropriate, determines that, because of the disability or illness, the licensee could not~~
18 reasonably be expected to comply with the Board's CEU requirements, the licensee shall be
19 granted an extension of time in which to obtain the required CEUs.

20 ~~(c) All other requests for extensions of time to obtain CEU credits shall be determined on a case by case basis.~~
21 Where on a case-by-case basis the Board determines that the licensee could not reasonably be expected to comply
22 with the Board's CEU requirements, the licensee shall be granted an extension of time in which to obtain the
23 required CEUs. To be considered for an extension of time, a licensee shall submit the following:

- 24 (1) Written request for extension; and
25 (2) Documentation that supports the reason for the extension.

26 (d) The Board shall grant a waiver of CEU requirements upon submission of documentation that a licensee is in
27 active duty while serving in the Armed Forces and is or has been deployed for at least eight months during the
28 twelve-month period during which CEUs were required.

29 (e) An extension granted under Paragraphs (b) or (c) of this Rule shall not exceed one year.

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31 *History Note: Authority G.S. 89D-15(2); 89D-15(4); 89D-15(12); 89D-20(b); 93B-15; 105-249.2;*
32 *Temporary Adoption Eff. January 1, 2016.*
33

1 21 NCAC 28B .0405 is adopted with changes under temporary procedures as follows:

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3 **21 NCAC 28B .0405 REQUESTS FOR APPROVAL**

4 (a) All requests for CEU approval shall include the following:

- 5 (1) An application for Continuing Education Credit;
- 6 (2) The number of Continuing Education Units (CEUs) requested; and
- 7 (3) The Location, ~~date(s)~~ date(s), and time (s) of course, activity, or Landscape Contractor's Licensing
8 Board ~~board~~ meetings attended or to be attended.

9 (b) For live and online courses and teaching or instructing activity, in addition to the requirements of Paragraph (a)
10 of this Rule, all requests shall include the following:

- 11 (1) The course title(s) and a description of course content;
- 12 (2) The name and educational or professional credentials of the instructor;
- 13 (3) The duration of the course or activity; and
- 14 (4) An attestation that the course provider will maintain attendance records for one year after the date
15 of the course.

16 (c) For volunteer work, requests for approval shall, in addition to the requirements of Paragraph (a) of this Rule,
17 include the following:

- 18 (1) A description of activity performed or to be performed; and
- 19 (2) The time spent or to be spent performing volunteer activity.

20 (d) For trade shows, field days, and tours, requests for approval shall, in addition to the requirements of Paragraph
21 (a) of this Rule, include ~~materials/handouts~~ materials or handouts promoting or obtained during the event.

22 (e) For in-house or Green Industry training, requests for approval shall include the following, in addition to the
23 requirements of Paragraph (a) of this Rule:

- 24 (1) A description of training provided; and
- 25 (2) The name(s) of training instructors.

26 (f) For the purposes of this Rule, "Green Industry" is defined as greenhouse, nursery, floriculture, sod, Christmas
27 tree producers, and related industry trades.

28
29 *History Note: Authority G.S. 89D-15(2); 89D-15(4); 89D-20(b);*
30 *Temporary Adoption Eff. January 1, 2016.*

1 21 NCAC 28B .0501 is adopted with changes under temporary procedures as follows:

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3 **21 NCAC 28B .0501 GENERAL**

4 (a) Prior to commencing work, services performed by a licensed landscape contractor ("licensed contractor") that
5 exceed five thousand dollars (\$5,000.00) in value shall be described in writing and provided to the client or
6 customer. This agreement may be authored by either party. This document shall contain:

- 7 (1) ~~Business~~ The business name, license number, business address, and telephone number of the
8 licensed contractor;
- 9 (2) ~~Name~~ The name and address of client or customer;
- 10 (3) ~~Address~~ The address or location of work to be performed, if different from the client or customer's
11 address;
- 12 (4) ~~Date~~ The date of the proposal;
- 13 (5) ~~Description~~ The description of the work to be performed;
- 14 (6) ~~Total~~ The total value in lump sum or time and material price;
- 15 (7) ~~Estimated~~ The estimated time of completion;
- 16 (8) ~~Terms~~ The terms of payment;
- 17 (9) ~~Terms~~ The terms of warranty (if any);
- 18 (10) ~~Terms~~ The terms of maintenance, including the party responsible for maintenance;
- 19 (11) ~~Signature~~ The signatures of all parties by authorized individuals;
- 20 (12) ~~Statement~~ A statement that the licensed contractor is licensed by the ~~Board~~, Board and the current
21 address and phone number of the Board; and
- 22 (13) ~~Date~~ The date of signing.

23 (b) All work performed by a licensed contractor shall meet all ~~pertinent~~ applicable building codes, local ordinances,
24 and project specifications. All work performed by a licensed contractor shall meet manufacturer's specifications.

25 (c) If project plans or specifications prepared by someone other than the licensed contractor do not meet pertinent
26 codes and ordinances, the licensed contractor shall bring this to the attention of the client or customer.

27 (d) If the licensed contractor observes a condition while the work is being performed that requires attention beyond
28 the original scope of work, ~~the condition shall be reported~~ the contractor shall report the condition to an immediate
29 supervisor, the owner, or the person responsible for authorizing the work.

30 (e) The licensed contractor shall call for utility location services ~~per N.C. 811 law.~~ pursuant to the N.C. 811 law,
31 G.S. 87-115 et. seq.

32 (f) The licensed contractor shall maintain ~~a safe work site.~~ a worksite that meets OSHA standards for a safe
33 workplace.

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35 *History Note: Authority G.S. 89D-15(2); 89D-15(16);*
36 *Temporary Adoption Eff. January 1, 2016.*

1 21 NCAC 28B .0502 is adopted with changes under temporary procedures as follows:

2
3 **21 NCAC 28B .0502 PLANTING**

4 When planting, the licensed contractor shall:

- 5 (1) Avoid potential planting conflicts with utilities and sight lines.
- 6 (2) Protect plant material from physical damage and desiccation during transport.
- 7 (3) Maintain plants during landscape construction.
- 8 (4) Consider the cultural requirements of individual plants.
- 9 (5) Excavate the plant hole ~~sufficient~~ sufficiently to ensure ~~ease of~~ plant establishment and to promote
10 long-term ~~health~~ health, typically ~~measured at~~ two times the width of the plant ball or container
11 size.
- 12 (6) ~~Sidewalls of planting pit shall be scarified.~~ Scarify the sidewalls of the planting pit.
- 13 (7) Set plants in an upright, plumb position, unless design intent dictates otherwise.
- 14 (8) Set plants on a firm, solid base.
- 15 (9) Remove all strings, twine, and strapping from around the trunk of trees.
- 16 (10) Remove the top third to top half of burlap or other wrapping material ~~on~~ from the rootball of
17 balled and burlapped trees.
- 18 (11) Remove top third to top half of wire baskets on balled and burlapped trees or bend basket wire
19 back to be flush with the side of the ball.
- 20 (12) Set the plant so that the top of root ball is at or slightly above surrounding soil and does not exceed
21 four inches above the surrounding soil.
- 22 (13) Prior to planting, insure that the trunk flare of a tree is not covered with soil, is at or above the
23 surrounding finished grade, and that no soil has been placed on top of the root ball.
- 24 (14) Prior to planting containerized plants, manage the rootball to mitigate problems such as circling
25 roots. Acceptable mitigation methods shall include slicing the rootball, shaving the rootball, or
26 redirecting roots.
- 27 (15) Utilize backfill soil that is similar to the soil at the planting site or is amended to meet a specific
28 landscaping objective.
- 29 (16) Not firm backfill to a density that inhibits root growth.
- 30 (17) Install backfill soil in such a manner that it is settled in layered sections to limit future settling.
- 31 (18) Not utilize screened soil as the sole material for backfill.
- 32 (19) When mulching plants, maintain a mulch depth that is beneficial to the health of the plants.
- 33 (20) When mulch is applied, apply mulch so that it does not touch a tree trunk or root flare.
- 34 (21) Water plants thoroughly and immediately after planting.
- 35 (22) Notify client of his or her responsibility to water plants following installation.
- 36 (23) Stake trees only when required due to high winds, extreme slopes, or soft soils;
37 (a) If trees are staked, the guys shall not be installed so as to provide pressure on the trunk.

- 1 (b) Guys in contact with the tree shall be of a material that will not damage the tree.
- 2 (24) Provide plants that are true to name and species.
- 3 (25) Provide plants that are healthy and in good condition.
- 4 (26) Prune any broken limbs.
- 5 (27) Prune co-dominant leaders in shade trees that typically have dominant leaders.
- 6 (28) If a condition is observed while the work is being performed that is detrimental to the long-term
- 7 health of the plant, the condition shall be reported to the customer or client, an immediate
- 8 supervisor, the owner, or person responsible for authorizing the work.

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10 *History Note: Authority G.S. 89D-15(2); 89D-15(16);*

11 *Temporary Adoption Eff. January 1, 2016.*

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1 21 NCAC 28B .0503 is adopted with changes under temporary procedures as follows:

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3 **21 NCAC 28B .0503 TURF**

4 When establishing turf, the licensed contractor shall:

- 5 (1) Notify the owner or the construction manager whether there is adequate time to establish the
6 specified turf from seed within the construction schedule and prior to finish of the job;
- 7 (2) Prior to lawn installation, loosen soil to a minimum depth of three inches;
- 8 (3) Confirm that all lawn seed meets the standards of the NC Seed Law of 1963, as set forth in G.S.
9 106, Art. 31;
- 10 (4) Evenly distribute seed;
- 11 (5) Apply seed at manufacturer's recommended rates;
- 12 (6) Roll or rake after seeding to insure good soil contact;
- 13 (7) Install sod within 36 hours of harvesting unless weather conditions ~~and~~ or turf types dictate a
14 shorter timeframe;
- 15 (8) Lay sod strips in a staggered pattern, horizontal to ~~slopes~~, slopes and with tight seams;
- 16 (9) Roll sod after installation to provide good soil contact;
- 17 (10) Distribute sprigs evenly;
- 18 (11) Insure that sprigs and sod plugs are in good contact with the soil;
- 19 (12) Water lawn areas thoroughly and immediately after installation; and
- 20 (13) Notify client of his or her responsibility to water turf following installation.

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22 *History Note: Authority G.S. 89D-15(2); 89D-15(16);*

23 *Temporary Adoption Eff. January 1, 2016.*

1 21 NCAC 28B .0504 is adopted with changes under temporary procedures as follows:

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3 **21 NCAC 28B .0504 FINISH GRADE**

4 When grading, the licensed contractor shall:

5 (1) Grade the surface such that the finish grade ~~shall be~~ is smooth and free of depressions and debris;

6 (2) Insure positive water flow through the site, away from structures, and in such a manner that there
7 is no puddling or ponding; and

8 (3) Comply with all applicable local and national building codes and ordinances regarding slopes and
9 drainage.

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11 *History Note: Authority G.S. 89D-15(2); 89D-15(16);*

12 *Temporary Adoption Eff. January 1, 2016.*

1 21 NCAC 28B .0505 is adopted with changes under temporary procedures as follows:

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3 **21 NCAC 28B .0505 DESIGN AND CONSULTATION**

4 (a) ~~With regard to design and consultation, the~~ The licensed contractor shall be permitted to perform work as
5 defined in G.S. 89D-11(3) and G.S. 89D-12 on the following project sites:

- 6 (1) A single family residential project of any size;
- 7 (2) A non-single family project under one acre in total area;
- 8 (3) A residential, institutional, or commercial project over one acre in total area that involves only
9 planting and mulching; and
- 10 (4) Any other project not prohibited by, or specifically exempted from, the provisions of G.S. 83A,
11 G.S. 89A, or G.S. 89C.

12 (b) Additionally, the licensed contractor shall:

- 13 (1) Obtain direct knowledge of site conditions by visiting the site;
- 14 (2) Insure that designs meet all applicable state and local codes and standards; and
- 15 (3) Consider the cultural requirements of individual plants.

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17 *History Note: Authority G.S. 89D-11(3); 89D-15(2); 89D-15(16);*

18 *Temporary Adoption Eff. January 1, 2016.*

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1 21 NCAC 28B .0506 is adopted with changes under temporary procedures as follows:

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3 **21 NCAC 28B .0506 DRAINAGE SYSTEMS AND CISTERNS**

4 Licensed contractors shall:

5 (1) Install drainage systems and cisterns ~~per~~ in accordance with state and local codes and ordinances;

6 (2) Install drainage conveyances in such a way that there is a positive flow;

7 (3) Install drainage systems with measures that allow cleaning of the system;

8 (4) Install drainage systems with adequate structural integrity so as to prevent crushing of the drainage
9 system;

10 (5) Install French drain systems to drain to daylight or into existing storm drainage; and

11 (6) Insure that cisterns and closed drywells include ~~provisions for excess water overflow.~~ an overflow
12 outlet.

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14 *History Note: Authority G.S. 89D-15(2); 89D-15(16);*

15 *Temporary Adoption Eff. January 1, 2016.*

16

1 21 NCAC 28B .0507 is adopted with changes under temporary procedures as follows:

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3 **21 NCAC 28B .0507 LOW-VOLTAGE LIGHTING; POOLS**

4 (a) When installing low-voltage landscape lighting systems, the licensed contractor shall:

5 (1) Insure that all wire connections are waterproof;

6 (2) Only use weather-proof fixtures;

7 (3) Supply ~~proper~~ appropriate lamps with all fixtures;

8 (4) Insure that the total lamp wattage of each circuit does not exceed the National Electrical Code
9 (NEC) standard for the size of wire being used;

10 (5) Not load a wire to more than 80 percent of the wire's capacity;

11 (6) Connect all exterior low-voltage wiring to a ground fault circuit interrupter (GFCI) circuit;

12 (7) Mount transformers a minimum of 18 inches above grade;

13 (8) Perform a post-installation inspection to verify that the lighting system is fully operational as
14 intended; and

15 (9) Provide literature to the client ~~for~~ about the lighting components that lists ~~proper~~ appropriate
16 lamps for fixtures to the client. ~~fixtures.~~

17 (b) All garden pools shall be installed per all regional and local codes.

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19 *History Note: Authority G.S. 89D-15(2); 89D-15(16);*

20 *Temporary Adoption Eff. January 1, 2016.*

21

1 21 NCAC 28B .0508 is adopted with changes under temporary procedures as follows:

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3 **21 NCAC 28B .0508 WALLS**

4 (a) When installing retaining walls, the licensed contractor shall:

- 5 (1) Adhere to all pertinent codes.
- 6 (2) Adhere to manufacturer's or design professionals specifications.
- 7 (3) Bury the first course of a retaining wall.
- 8 ~~(4) Insure that a retaining wall over 5 feet in height is designed by a professional engineer licensed~~
9 ~~under G.S. 89C.~~
- 10 ~~(5) Insure that a retaining wall closer than 5 feet from a structure, regardless of height, is designed by~~
11 ~~a professional engineer licensed under G.S. 89C.~~
- 12 ~~(6)~~(4) Not construct dry-laid stone walls of a height more than 3 feet above grade.
- 13 ~~(7)~~(5) Include adequate sub drainage systems behind the wall. a subdrain system that is constructed and
14 sized to release the subsurface water behind the wall and not allow hydrostatic pressure to build
15 behind the wall.
- 16 ~~(8)~~(6) Construct on a level, ~~well compacted~~ well-compacted base of granular material at least 6 inches
17 deep.
- 18 ~~(9)~~(7) Place backfill behind retaining walls in lifts no greater than 6 inches before compacted (each lift
19 shall be ~~well compacted.~~ well-compacted.
- 20 ~~(10) Insure that when constructing terracing walls not designed by an NC licensed design professional,~~
21 ~~the horizontal separation between walls shall be at least 50 feet or to current code.~~
- 22 ~~(11)~~(8) Prevent excessive runoff from passing over a retaining wall.
- 23 ~~(12) Limit construction of vertically set timber walls to 4 feet in height.~~
- 24 ~~(13)~~(9) Construct vertically-set timber walls with above-ground heights equal to or less than the depth of
25 timbers below grade.
- 26 ~~(14)~~(10) Install deadmen every fourth course on 8 feet centers when constructing horizontally-set timber
27 retaining walls with staggered joints.
- 28 ~~(15)~~(11) Stagger the joints when constructing dry-laid stone walls. If successive vertical joints occur, the
29 licensed contractor shall avoid running vertical joints more than two courses.

30 (b) When installing freestanding walls, the licensed contractor shall:

- 31 (1) Install footings for masonry and cast-in-place concrete freestanding walls of reinforced concrete.
32 The top of the footing shall be at least 1 foot below grade.
- 33 (2) Reinforce freestanding walls as needed to prevent displacement from wind loads.
- 34 (3) Insure that moisture is prevented from entering a cavity wall during construction.
- 35 (4) Insure that segmental wall construction meets segmental wall manufacturer's specifications.
- 36

37 *History Note: Authority G.S. 89D-15(2); 89D-15(16);*

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2

Temporary Adoption Eff. January 1, 2016.

1 21 NCAC 28B .0509 is adopted with changes under temporary procedures as follows:

2

3 **21 NCAC 28B .0509 PAVING**

4 When paving, the licensed contractor shall:

5 (1) Follow manufacturer's recommendations and specifications;

6 (2) Choose paving materials that are appropriate for the ~~project~~; project, based on the contractor's
7 professional judgment.

8 (3) Install paving on a ~~suitable, well-compacted base~~; well-compacted base that will prevent
9 settlement.

10 (4) Install paved surfaces ~~with slopes sufficient~~ to allow for surface drainage and to prevent ponding;

11 (5) Install reinforcement in concrete slabs so that the reinforcement is suspended within the concrete
12 and not resting on the base course;

13 (6) Not pour concrete if air temperatures, away from artificial heat or in the shade, ~~drop below~~ is less
14 than 35 degrees Fahrenheit;

15 (7) Not pour concrete if the air temperature in the shade is 90 degrees Fahrenheit and rising or if the
16 concrete temperature is greater than 95 degrees Fahrenheit;

17 (8) Use a ~~suitable~~ vibratory compacting device to set unit pavers and after joints are swept; and

18 (9) Utilize an edge restraint on unit paver installations.

19

20 *History Note: Authority G.S. 89D-15(2); 89D-15(16);*

21 *Temporary Adoption Eff. January 1, 2016.*

22

1 21 NCAC 28B .0510 is adopted with changes under temporary procedures as follows:

2

3 **21 NCAC 28B .0510 PRUNING**

4 When pruning, unless to achieve artistic intent, such as pleaching, pollarding, sculpting, topiary, or espalier, a
5 licensed contractor shall:

6 (1) Use sharp tools;

7 (2) When making a pruning cut that removes a branch at its point of origin, make the cut close to the
8 trunk or parent branch without cutting into the branch bark ridge or branch collar or leaving a stub;

9 (3) Not flush cut;

10 (4) Not top trees;

11 (5) Remove branches in such a manner as to avoid damage to other parts of the plant or to other plants
12 or property; and

13 (6) Precut branches that are too large to support with one hand to avoid splitting the wood or tearing
14 the bark.

15

16 *History Note: Authority G.S. 89D-15(2); 89D-15(16);*

17 *Temporary Adoption Eff. January 1, 2016.*

1 21 NCAC 28B .0511 is adopted with changes under temporary procedures as follows:

2

3 **21 NCAC 28B .0511 WILDFLOWER, NATIVE GRASS, AND NO-MOW SEED ESTABLISHMENT**

4 When establishing wildflower, native ~~grass~~ grass, or no-mow seeding, a licensed contractor shall:

5 (1) ~~During the preconstruction phase of the job~~ Prior to construction, inform the owner or construction
6 manager of the ~~lead~~ time required to establish native bunch grasses and forbs from seed and ~~if~~
7 whether this ~~lead~~ time is compatible with the construction ~~schedule, providing clear expectations~~
8 schedule.

9 (2) Confirm the suitability of the specified seed for the project.

10 (3) Select seed that is regionally appropriate and of the geographic ecotype for the location of the
11 project.

12 (4) Use pure live seed (PLS) rates for seeding. If bulk seed is utilized, adjust the rates accordingly.

13 (5) Use a temporary cover, nurse ~~crop~~ crop, or mulch when seeding that is non-allelopathic and
14 ~~seasonably~~ seasonally appropriate.

15 (6) Use highest seed rates on slopes greater than 30 degrees or when a dormant seeding schedule is
16 utilized.

17 (7) Employ a seeding method that buries seed less than one-quarter inch in ~~depth;~~ depth, and cultipack
18 or roll after seed distribution.

19

20 *History Note: Authority G.S. 89D-15(2); 89D-15(16);*

21 *Temporary Adoption Eff. January 1, 2016.*

1 21 NCAC 28B .0701 is adopted with changes under temporary procedures as follows:

2

3 **21 NCAC 28B .0701 COMPLAINTS; INVESTIGATIONS**

4 (a) All complaints filed with the Board shall be filed either on a form provided by the Board or via the Board's
5 online complaint process at www.nclclb.com. All complaints must contain the complainant's contact information.

6 The Board ~~shall~~ will not investigate anonymous complaints. Incomplete complaints will not be investigated.

7 (b) Initial review of a complaint will be conducted by Board staff. If further review and investigation is warranted,
8 the Board will assign an investigator who will conduct an investigation.

9 (c) Upon completion of the investigation, the investigator's report will be forwarded to a designated Board member
10 and Board ~~staff~~ staff, who will make a ~~recommendation~~ recommendation, based upon whether the investigation
11 produces evidence of a violation of G.S. 89D or the rules of this Subchapter, to the full Board as to whether the case
12 should be dismissed or whether further action by the Board is warranted.

13

14 *History Note: Authority G.S. 89D-15(2); 89D-15(6); 89D-15(7);*

15 *Temporary Adoption Eff. January 1, 2016.*

16

1 21 NCAC 28B .0802 is adopted with changes under temporary procedures as follows:

2

3 **21 NCAC 28B .0802 HEARINGS**

4 (a) Contested case hearings shall be conducted by a majority of the Board unless the Board requests the designation
5 of an administrative law judge pursuant to G.S. 150B-40(e). The Board chairman shall serve as the presiding officer
6 unless he or she is absent or disqualified, in which case the vice-chairman shall preside. Hearings shall be conducted
7 pursuant to G.S. 150B-40.

8 (b) An affidavit seeking disqualification of any Board member, if filed in good faith and in a timely manner, shall
9 be ruled on by the remaining members of the Board. An affidavit is considered timely ~~filed~~ if it is filed:

10 (1) Prior to the hearing; or

11 (2) As soon after the commencement of the hearing as the affiant becomes aware of facts that give
12 rise to his or her belief that a Board member should be disqualified.

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14 *History Note: Authority G.S. 89D-15(2); 89D-15(8); 150B-38; 150B-40;*

15 *Temporary Adoption Eff. January 1, 2016.*

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17

1 21 NCAC 28B .0803, noticed as 28B .0804, is adopted as 28B .0803 with changes under temporary procedures as
2 follows:

3 **21 NCAC 28B .0804 .0803 SUBPOENAS**

4 (a) Pursuant to G.S. 150B-39, the Board may issue subpoenas for the appearance of witnesses or the production of
5 documents or information, either at the hearing or for the purposes of ~~investigation or~~ discovery.

6 (b) After a notice of hearing in a contested case has been issued and served upon a licensee or, in a case concerning
7 an application for licensure, the applicant, the respondent may request subpoenas for the attendance of witnesses and
8 the production of evidence.

9 (c) Requests by a licensee or applicant for subpoenas shall be made in writing to the Board and shall include the
10 following:

11 (1) the ~~full~~ name and home or business address of all persons to be subpoenaed; and

12 (2) the identification of any documents or information being sought.

13 Upon submission of a written request containing the information in Subparagraphs (1) and (2) of this Paragraph, the
14 Board shall issue the subpoenas to the requesting party within three business days of the Board's receipt of the
15 request.

16 (d) Subpoenas shall be served by the party requesting the subpoena as provided by the Rules of Civil Procedure,
17 G.S. 1A, Rule 45. The cost of service, fees, and expenses of any witnesses or documents subpoenaed is prescribed
18 by G.S. 150B-39.

19
20 *History Note: Authority G.S. 89D-15(2); 89D-15(8); 150B-39; 150B-40(c);*
21 *Temporary Adoption Eff. January 1, 2016.*
22

1 21 NCAC 28B .0804 noticed as 28B .0806 is adopted as 28B .0804 with changes under temporary procedures as
2 follows:

3 **21 NCAC 28B .0806 .0804 SUMMARY SUSPENSION**

4 (a) ~~If the Board finds that the public health, safety, or welfare requires emergency action, pursuant to G.S. 150B-~~
5 ~~3(e), it may summarily suspend a license without a hearing or opportunity for the licensee to be heard. The Board~~
6 may summarily suspend a license pursuant to G.S. 150B-3(c).

7 (b) Upon the issuance of an order summarily suspending a license, the Board shall schedule a hearing to occur at
8 the earliest practicable date. The order of summary suspension shall remain in effect until the proceedings are
9 determined.

10 ~~(c) An order of summary suspension is not a final agency decision.~~

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12 *Authority G.S. 89D-15(2); 89D-15(4); 150B-3(c);*

13 *Temporary Adoption Eff. January 1, 2016.*

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