

# **State of Nebraska Engineers and Architects Regulation Act Handbook**

- **Statutes**
- **Rules and Regulations**
- **Index**

**Effective November 12, 2013**





# Introduction

This handbook contains the Nebraska Engineers and Architects Regulation Act and the Rules and Regulations of the Nebraska Board of Engineers and Architects. Together, these statutes and rules govern the practice of engineering and architecture in the state of Nebraska in order to safeguard life, health, property, and promote the public welfare.

This handbook comprises three sections. The first two sections are preceded by a table of contents for that section.

**The first section presents the Statutes** as cited in the Engineers and Architects Regulation Act, enacted by the Nebraska Legislature in 1997, which replaced the statutory provisions first enacted in 1937—the year the Nebraska Board of Engineers and Architects was established.

The most recent changes to the Act were enacted through Legislative Bill 7 of the One Hundred Third Legislature, First Session, and became effective September 5, 2013. Statutes revised by LB7 include §§ 81-3436, 81-3437, 81-3450, and 81-3454.

**The second section presents the Rules and Regulations**, or Title 110 of the Nebraska Administrative Code, chapters 1 through 11. These Rules and Regulations are written by the Board to enable administration of the Statutes, and cannot exceed the powers assigned to the Board by the Legislature. The Rules and Regulations were last updated on November 12, 2013.

**The third section is an alphabetical index** using key words to enable quick reference to important concepts and terms.

This handbook incorporates all current statutes and rules & regulations as of November 12, 2013. For further information concerning the law or rules and regulations governing the practice of engineering and architecture in Nebraska, please contact:

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# STATUTES

## TABLE OF CONTENTS

<u>STATUTE</u>	<u>SUBJECT</u>	<u>PAGE</u>
§ 81-3401	Act, how cited.....	4
§ 81-3402	Architecture and engineering; regulation; prohibited acts.....	4
§ 81-3403	Definitions, where found.....	4
§ 81-3404	Architect, defined.....	4
§ 81-3405	Board, defined.....	4
§ 81-3405.01	Building official, defined.....	4
§ 81-3406	Consulting engineer, defined.....	4
§ 81-3407	Continuing education, defined.....	5
§ 81-3408	Coordinating professional, defined.....	5
§ 81-3409	Design, defined.....	5
§ 81-3410	Design profession, design professionals, or licensed professional, defined.....	5
§ 81-3411	Direct supervision, defined.....	5
§ 81-3412	Emeritus, defined.....	5
§ 81-3413	Engineer, defined.....	5
§ 81-3414	Engineer-intern, defined.....	5
§ 81-3415	Estimator, technician, or other similar titles, defined.....	6
§ 81-3416	Good moral character, defined.....	6
§ 81-3417	Occasional, part-time, or consulting services, defined.....	6
§ 81-3418	Organization, defined.....	6
§ 81-3419	Planning, defined.....	6
§ 81-3420	Practice of architecture, defined.....	6
§ 81-3421	Practice of engineering, defined.....	6
§ 81-3422	Professional engineer, defined.....	7
§ 81-3422.01	Project, defined.....	7
§ 81-3423	Public service provider, defined.....	7
§ 81-3424	Registration or licensure, defined.....	7
§ 81-3425	Responsible charge, defined.....	8
§ 81-3426	Rules and regulations, defined.....	8
§ 81-3427	Technical submissions, defined.....	8

§ 81-3428 Board of Engineers and Architects; created; members; terms. ....8

§ 81-3429 Board; members; requirements; per diem; expenses. ....8

§ 81-3430 Certificate of appointment; oath; Attorney General; legal advisor; seal;  
rules and regulations under prior law. ....9

§ 81-3431 Board; meetings; officers; quorum. ....9

§ 81-3432 Engineers and Architects Regulation Fund; created; use; investment. ....9

§ 81-3432.01 Repayment of qualified educational debt; authorized; eligibility. ....10

§ 81-3433 Roster .....10

§ 81-3434 Code of practice; contents.....10

§ 81-3435 Application for licensure or enrollment; form; fees. ....10

§ 81-3436 Organizational practice; certificate; authorization; immunity; Secretary of  
State; registration of trade name or service mark; limitation. ....11

§ 81-3437 Certificate of licensure; issuance; seal; use; enrollment card; issuance. ....12

§ 81-3438 Certificates; expiration; renewal; fees; continuing education.....13

§ 81-3439 Replacement certificates; fee. ....13

§ 81-3440 Enforcement.....13

§ 81-3441 Use of title; unlawful practice. ....14

§ 81-3442 Prohibited acts; penalties. ....14

§ 81-3443 Enforcement procedures. ....14

§ 81-3444 Disciplinary actions authorized; civil penalties. ....15

§ 81-3445 State and political subdivisions; construction projects. ....15

§ 81-3446 Construction projects on private lands; owner; duties.....16

§ 81-3447 Repealed.....16

§ 81-3448 Architect; license; application; fee; requirements; examination; issuance. ....16

§ 81-3449 Practice of architecture; exempted activities.....17

§ 81-3450 Signing and sealing of technical submissions by architect.....18

§ 81-3451 Professional engineer or engineer-intern; license; application;  
examination; requirements. ....19

§ 81-3452 Engineering examinations; board; procedure. ....20

§ 81-3453 Practice of engineering; exempted activities. ....20

§ 81-3454 Sealing and signing of technical submissions by professional engineer. ....22

§ 81-3455 Act, how construed.....22

## STATUTES

### § 81-3401. Act, how cited.

Sections 81-3401 to 81-3455 shall be known and may be cited as the Engineers and Architects Regulation Act.

*Source: Laws 1997, LB 622, § 1; Laws 2009, LB446, § 1; Laws 2011, LB45, § 2.*

### § 81-3402. Architecture and engineering; regulation; prohibited acts.

In order to safeguard life, health, and property and to promote the public welfare, the professions of architecture and engineering are declared to be subject to regulation in the public interest. It is unlawful for any person to (1) practice or offer to practice architecture or engineering in this state, (2) use in connection with his or her name, except as provided in sections 81-3413 to 81-3415, or otherwise assume the title architect or professional engineer, or (3) advertise any title or description tending to convey the impression that he or she is a licensed architect or engineer unless the person is duly licensed or exempt from licensure under the Engineers and Architects Regulation Act. The practice of architecture and engineering and use of the titles architect or professional engineer is a privilege granted by the state through the board based on the qualifications of the individual as evidenced by a certificate of licensure which is not transferable.

*Source: Laws 1997, LB 622, § 2.*

### § 81-3403. Definitions, where found.

For purposes of the Engineers and Architects Regulation Act, the definitions found in sections 81-3404 to 81-3427 shall be used.

*Source: Laws 1997, LB 622, § 3; Laws 2011, LB45, § 3.*

### § 81-3404. Architect, defined.

Architect means a person who engages in the practice of architecture and who has a current certificate of licensure issued by the board.

*Source: Laws 1997, LB 622, § 4.*

### § 81-3405. Board, defined.

Board means the Board of Engineers and Architects.

*Source: Laws 1997, LB 622, § 5.*

### § 81-3405.01. Building official, defined.

Building official means the person appointed by the state or political subdivision having jurisdiction over the project to have principal responsibility for the safety of the project as completed.

*Source: Laws 2011, LB45, § 4.*

### § 81-3406. Consulting engineer, defined.

Consulting engineer means a professional engineer whose principal occupation is the independent practice of engineering, whose livelihood is obtained by offering engineering services to the public, who serves clients as an independent fiduciary, who is devoid of public, commercial, and product affiliation that might tend to imply a conflict of interest, and who is cognizant of his or her public and legal responsibilities and is capable of discharging them.

*Source: Laws 1997, LB 622, § 6.*

**§ 81-3407. Continuing education, defined.**

Continuing education means the process of training and developing knowledge related to a profession after licensure is attained.

*Source: Laws 1997, LB 622, § 7.*

**§ 81-3408. Coordinating professional, defined.**

Coordinating professional means an architect or professional engineer who coordinates, as qualified, the various professional disciplines involved in a project.

*Source: Laws 1997, LB 622, § 8.*

**§ 81-3409. Design, defined.**

Design means the preparation of schematics, layouts, plans, drawings, specifications, calculations, and other diagnostic documents which show the features, scope, and detail of an architectural or engineering work to be executed.

*Source: Laws 1997, LB 622, § 9.*

**§ 81-3410. Design profession, design professionals, or licensed professional, defined.**

Design profession, design professionals, or licensed professional means the professions of architecture and engineering.

*Source: Laws 1997, LB 622, § 10.*

**§ 81-3411. Direct supervision, defined.**

Direct supervision means the degree of supervision by a person overseeing the work of other persons by which the supervisor has control over and professional knowledge of the work being done.

*Source: Laws 1997, LB 622, § 11.*

**§ 81-3412. Emeritus, defined.**

Emeritus, referring to an architect or professional engineer, means a professional who relinquishes or does not renew his or her licensure and who is approved by the board to receive publications and use the honorary title emeritus.

*Source: Laws 1997, LB 622, § 12.*

**§ 81-3413. Engineer, defined.**

Engineer means a person who is qualified to practice engineering by reason of special knowledge and use of the mathematical, physical, and engineering sciences and the principles and methods of engineering analysis and design acquired by engineering education and engineering experience, both of which are satisfactory to the board.

*Source: Laws 1997, LB 622, § 13.*

**§ 81-3414. Engineer-intern, defined.**

Engineer-intern means a person who has passed an examination in the fundamental engineering subjects as provided in section 81-3451.

*Source: Laws 1997, LB 622, § 14.*

**§ 81-3415. Estimator, technician, or other similar titles, defined.**

Estimator, technician, or other similar titles means a person who through training or experience is performing under the supervision of an architect or professional engineer tasks associated with the practice of architecture or engineering.

*Source: Laws 1997, LB 622, § 15.*

**§ 81-3416. Good moral character, defined.**

Good moral character means such character as will enable a person to discharge the fiduciary duties of an architect or professional engineer to his or her client and to the public for the protection of the public health, safety, and welfare. Evidence of inability to discharge such duties includes the commission of an offense justifying discipline.

*Source: Laws 1997, LB 622, § 16.*

**§ 81-3417. Occasional, part-time, or consulting services, defined.**

Occasional, part-time, or consulting services means services not provided by a full-time member of an organization engaged in a design profession.

*Source: Laws 1997, LB 622, § 17.*

**§ 81-3418. Organization, defined.**

Organization includes a partnership, limited liability company, corporation, or other form of business entity but not public service providers.

*Source: Laws 1997, LB 622, § 18.*

**§ 81-3419. Planning, defined.**

Planning means the mental formulation and written or graphic representation of a program for the accomplishment or attainment of design.

*Source: Laws 1997, LB 622, § 19.*

**§ 81-3420. Practice of architecture, defined.**

Practice of architecture means rendering or offering to render services in connection with the design and construction, enlargement, or alteration of a building or group of buildings and the space within and surrounding the buildings. The services include planning, providing preliminary studies, designs, drawings, specifications, and other technical submissions, administration of construction contracts, coordination of any elements of technical submissions prepared by others including, as appropriate and without limitation, consulting engineers and landscape architects, and acting as a coordinating professional. The practice of architecture does not include the practice of engineering.

*Source: Laws 1997, LB 622, § 20.*

**§ 81-3421. Practice of engineering, defined.**

Practice of engineering means any service or creative work if the adequate performance of the service or work requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to include such services or creative work as consultation, investigation, evaluation, planning, design and design coordination of engineering works and systems, planning the use of land and water, performing engineering surveys and studies, the review of construction for the purpose of monitoring compliance with drawings and specifications, administration of construction contracts, and acting as a coordinating professional, and any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, insofar as they involve safeguarding life, health, or property, and including such other

professional services as may be necessary to the planning, progress, and completion of any engineering services. The practice of engineering does not include the practice of architecture.

Design coordination includes the review and coordination of those technical submissions prepared by others, including, but not limited to, as appropriate and without limitation, consulting engineers, architects, landscape architects, land surveyors, and other professionals working under the direction of the professional engineer.

Engineering surveys includes all survey activities required to support the sound conception, planning, design, construction, maintenance, and operation of engineering projects but excludes the surveying of real property for the establishment of land boundaries, rights-of-way, easements, and the dependent or independent surveys or resurveys of the public land survey system.

A person shall be construed to practice or offer to practice engineering, within the meaning and intent of the Engineers and Architects Regulation Act, if he or she: (1) Practices any branch of the profession of engineering; (2) by verbal claim, sign, advertisement, letterhead, or card or in any other way, represents himself or herself to be a professional engineer; (3) through the use of some other title, implies that he or she is a professional engineer or licensed under the Engineers and Architects Regulation Act; or (4) holds himself or herself out as able to perform or does perform any engineering service or work or any other service designated by the practitioner which is recognized by the board as engineering. The practice of engineering does not include the services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, and marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant.

*Source: Laws 1997, LB 622, § 21.*

**§ 81-3422. Professional engineer, defined.**

Professional engineer means a person who is licensed as a professional engineer by the board. The board may designate a professional engineer, on the basis of education, experience, and examination, as being licensed in a specific discipline or branch of engineering signifying the area in which the professional engineer has demonstrated competence.

*Source: Laws 1997, LB 622, § 22.*

**§ 81-3422.01. Project, defined.**

Project means the construction, enlargement, or alteration of works involving the practice of architecture or engineering other than those exempted by sections 81-3449 and 81-3453.

*Source: Laws 2011, LB45, § 5.*

**§ 81-3423. Public service provider, defined.**

Public service provider means any political subdivision which appoints a municipal engineer or which employs a full-time person licensed under the Engineers and Architects Regulation Act who is in responsible charge of architectural or engineering work.

*Source: Laws 1997, LB 622, § 23.*

**§ 81-3424. Registration or licensure, defined.**

Registration or licensure means a certificate of registration or licensure issued by the board. The definition of license and registration shall be synonymous.

*Source: Laws 1997, LB 622, § 24.*

**§ 81-3425. Responsible charge, defined.**

Responsible charge means control and supervision for engineering or architectural work.

*Source: Laws 1997, LB 622, § 25.*

**§ 81-3426. Rules and regulations, defined.**

Rules and regulations means rules and regulations adopted and promulgated under the Engineers and Architects Regulation Act by the board.

*Source: Laws 1997, LB 622, § 26.*

**§ 81-3427. Technical submissions, defined.**

Technical submissions means designs, drawings, specifications, studies, and other technical reports.

*Source: Laws 1997, LB 622, § 27.*

**§ 81-3428. Board of Engineers and Architects; created; members; terms.**

(1) The Board of Engineers and Architects is created to administer the Engineers and Architects Regulation Act. The board may use any funds available to obtain suitable office space within Lincoln, Nebraska. The board shall consist of six members appointed by the Governor, after consultation with the appropriate professional organizations, for terms of five years terminating on the last day of February, and two education members appointed as prescribed in subsection (2) of this section. The board shall consist of:

- (a) Three architect members, including one education member;
- (b) Four professional engineer members, including one education member; and
- (c) One public member.

Each member shall hold office after the expiration of his or her term until his or her successor is duly appointed and qualified. The Governor may remove any member of the board for misconduct, incompetency, or neglect of duty. Vacancies in the membership of the board, however created, shall be filled for the unexpired term by appointment by the Governor. The Board of Examiners for Professional Engineers and Architects as it existed immediately prior to January 1, 1998, shall serve as the Board of Engineers and Architects until the additional public member is appointed. The Governor shall reappoint or replace existing members as their terms expire, and the public member shall be reappointed or replaced in the fifth year of his or her term.

- (2) The board shall include two education members who are licensed in the relevant profession representing the professional faculty of the College of Engineering and Technology and the College of Architecture within the University of Nebraska, as recommended by the dean of the respective college and appointed by the Governor. The appointments are for five years.
- (3) The board may designate a former member of the board as an emeritus member. Emeritus member status, when conferred, must be renewed annually.

*Source: Laws 1997, LB 622, § 28.*

**§ 81-3429. Board; members; requirements; per diem; expenses.**

Each member of the board shall be a citizen of the United States and a resident of the State of Nebraska for at least one year immediately preceding appointment. Each professional member shall have been engaged in the active practice of the design profession for at least ten years, shall have had responsible charge of work for at least five years at the time of his or her appointment, and shall be licensed in the appropriate profession. Each member of the board shall receive as compensation not more than sixty dollars per day for each day or substantial portion of a day actually spent in traveling to and from and while attending sessions of the board and its committees, authorized

meetings of the National Council of Architectural Registration Boards, the National Council of Examiners for Engineering and Surveying, or their subdivisions or committees, or other business as authorized by the board and all necessary expenses incident to the performance of his or her duties under the Engineers and Architects Regulation Act as provided in sections 81-1174 to 81-1177.

*Source: Laws 1997, LB 622, § 29; Laws 2011, LB45, § 6.*

**§ 81-3430. Certificate of appointment; oath; Attorney General; legal advisor; seal; rules and regulations under prior law.**

Each member of the board shall receive a certificate of appointment from the Governor and, before beginning his or her term of office, shall file with the Secretary of State the constitutional oath of office. The board or any committee of the board is entitled to the services of the Attorney General in connection with the affairs of the board, and the board may compel the attendance of witnesses, administer oaths, and take testimony and proofs concerning all matters within its jurisdiction. The Attorney General shall act as legal advisor to the board and render such legal assistance as may be necessary in carrying out the Engineers and Architects Regulation Act. The board shall adopt and have an official seal, which shall be affixed to all certificates of licensure granted, and shall adopt and promulgate rules and regulations to carry out the act. The rules and regulations of the Board of Examiners for Professional Engineers and Architects in effect immediately prior to January 1, 1998, shall continue in effect until changed by the Board of Engineers and Architects.

*Source: Laws 1997, LB 622, § 30.*

**§ 81-3431. Board; meetings; officers; quorum.**

The board shall hold at least one regular meeting each year. Special meetings shall be held as the rules and regulations provide and at such places as the board elects. Notice of all meetings shall be given in such manner as the rules and regulations provide. The board shall elect from its members, annually at its first meeting after March 1, a chairperson, vice-chairperson, and secretary. A quorum of the board shall consist of not less than five members.

*Source: Laws 1997, LB 622, § 31.*

**§ 81-3432. Engineers and Architects Regulation Fund; created; use; investment.**

The Engineers and Architects Regulation Fund is created. The secretary of the board shall receive and account for all money derived from the operation of the Engineers and Architects Regulation Act and shall remit the money to the State Treasurer for credit to the Engineers and Architects Regulation Fund. All expenses certified by the board as properly and necessarily incurred in the discharge of duties, including compensation and administrative staff, and any expense incident to the administration of the act relating to other states shall be paid out of the fund. Loan repayments payable pursuant to section 81-3432.01 shall be paid out of the fund. Warrants for the payment of expenses shall be issued by the Director of Administrative Services and paid by the State Treasurer upon presentation of vouchers regularly drawn by the chairperson and secretary of the board and approved by the board. At no time shall the total amount of warrants exceed the total amount of the fees collected under the act and to the credit of the fund. Transfers may be made from the fund to the General Fund at the direction of the Legislature through June 30, 2011. Any money in the Engineers and Architects Regulation Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

*Source: Laws 1997, LB 622, § 32; Laws 2009, LB446, § 2; Laws 2009, First Spec. Sess., LB3, § 86.*

**§ 81-3432.01. Repayment of qualified educational debt; authorized; eligibility.**

- (1) The board may repay qualified educational debt owed by an eligible graduate. Such repayment shall be made from the Engineers and Architects Regulation Fund. To be eligible for loan repayment, a recipient shall be a graduate of (a) a National Architectural Accrediting Board-accredited architecture program in Nebraska or (b) an ABET-accredited engineering program in Nebraska and shall have obtained qualified educational debt.
- (2) For purposes of this section, qualified educational debt means government and commercial loans obtained by a student for postsecondary education tuition, other educational expenses, and reasonable living expenses, as determined by the board.
- (3) The board may adopt and promulgate rules and regulations governing any loan repayment under this section.

*Source: Laws 2009, LB446, § 3.*

**§ 81-3433. Roster.**

The secretary of the board shall publish a complete roster showing the names and last-known addresses of all architects and professional engineers at intervals as established by the board. The secretary shall file the roster with the Secretary of State and may mail a copy to each licensed person as well as county and municipal officials. The secretary of the board may also sell or distribute copies of the roster to the public.

*Source: Laws 1997, LB 622, § 33.*

**§ 81-3434. Code of practice; contents.**

- (1) The Legislature hereby finds and declares that a code of practice established by the board by which architects and professional engineers could govern their professional conduct would be beneficial to the state and would safeguard the life, health, and property of the citizens of this state.
- (2) The code of practice established by this section shall include provisions on:
  - (a) Professional competence;
  - (b) Conflict of interest;
  - (c) Full disclosure of financial interest;
  - (d) Full disclosure of matters affecting public safety, health, and welfare;
  - (e) Compliance with laws;
  - (f) Professional conduct and good character standards; and
  - (g) Practice of architecture and engineering.
- (3) The board may establish a code of practice through rules and regulations.
- (4) The board may publish commentaries regarding the code of practice. The commentaries shall explain the meaning of interpretations given to the code by the board.

*Source: Laws 1997, LB 622, § 34.*

**§ 81-3435. Application for licensure or enrollment; form; fees.**

- (1) Application for licensure as an architect or professional engineer or enrollment as an engineer-intern shall be made on a form prescribed and furnished by the board. It shall contain statements made under oath showing the applicant's education and a detailed summary of technical experience and shall include the names and complete mailing addresses of the references, none of whom should be members of the board. The board may accept the verified information contained in a valid Council Record issued by the National Council of Architectural Registration

Board or the National Council of Examiners for Engineering and Surveying in lieu of the same information that is required on the form prescribed and furnished by the board.

- (2) Application and licensure fees shall be established by the board and shall accompany the application. Original and reciprocal fees shall not exceed three hundred dollars and shall be in addition to the examination fee which shall be set to recover the costs of examination and its administration.
- (3) The fee for intern enrollment shall be established by the board and shall accompany the application. The fee shall not exceed one hundred dollars and shall be in addition to the examination fee which shall be set to recover the costs of the examination and its administration.
- (4) The certificate of authorization fee for organizations shall be established by the board and shall accompany the application. The fee shall not exceed three hundred dollars per year.
- (5) The fee for emeritus status shall be established by the board and shall accompany the application. The fee shall not exceed one hundred dollars per year.
- (6) If the board denies the issuance of a certificate or enrollment to any applicant, including the application of an organization for a certificate of authorization, the board shall retain the fee.

*Source: Laws 1997, LB 622, § 35.*

**§ 81-3436. Organizational practice; certificate; authorization; immunity; Secretary of State; registration of trade name or service mark; limitation.**

- (1) The practice or offer to practice for others the professions of architecture or engineering by individuals licensed under the Engineers and Architects Regulation Act through an organization is permitted if the criteria for organizational practice established by the board are met and the organization had been issued a certificate of authorization by the board. All technical submissions by an organization involving the practice of architecture and engineering, when issued or filed for public record, shall be dated and bear the seal of the licensee qualified in the profession who prepared the submission or under whose immediate direction they were prepared. Public service providers are not included in this section.
- (2) An organization desiring a certificate of authorization shall file with the board an application, using the form provided by the board, listing the names and addresses of all officers of the organization, the members of the organization's governing body, and the individual or individuals duly licensed to practice their respective professions in this state who shall be in responsible charge of the practice of those professions in the state through the organization. Any change in status of any of these persons during the certificate period shall be designated on the same form and filed with the board within thirty days after the effective date of the change. If the requirements of this section are met, the board shall issue a certificate of authorization to the organization and the organization may contract for and collect fees for furnishing professional services.
- (3) The act shall not prevent an organization from performing professional services for itself.
- (4) An organization is not relieved of responsibility for the conduct or acts of its agents, employees, officers, or partners by reason of its compliance with this section. An individual practicing architecture or engineering is not relieved of responsibility for services performed by reason of employment or any other relationship with an organization holding a certificate of authorization.
- (5) Commencing one year after January 1, 1998, the Secretary of State shall not issue a certificate of authority to do business in the state to an applicant or issue a registration of name to an organization which includes among the objectives for which it is established the practice of architecture or engineering, or any modification or derivation of those design professions, unless the board has issued the applicant a certificate of authorization or a letter indicating the eligibility of the applicant to receive a certificate. The organization shall supply the certificate or letter with its application for incorporation or licensure.

- (6) Commencing one year after January 1, 1998, the Secretary of State shall not register any trade name or service mark which includes the words architect or engineer, or any modification or derivative of such words, in its firm name or logotype except to those organizations holding authorization certificates issued by the board except as authorized in the act or in the Professional Landscape Architects Act.
- (7) The certificate of authorization shall be renewed periodically as required by the board.
- (8) A design professional who renders occasional, part-time, or consulting services to or for an organization may not for the purposes of this section be designated as being responsible for the professional activities of the organization.

*Source: Laws 1997, LB 622, § 36; Laws 2013, LB 7, § 1.*

**§ 81-3437. Certificate of licensure; issuance; seal; use; enrollment card; issuance.**

- (1) The board shall issue to any applicant who, on the basis of education, experience, and examination, has met the requirements of the Engineers and Architects Regulation Act a certificate of licensure giving the licensee proper authority to carry out the prerogatives of the act. The certificate of licensure shall carry the designation Licensed Architect or Licensed Professional (discipline) Engineer. The certificate shall give the full name of the licensee and license number and shall be signed by the chairperson of the board, the secretary of the board, and a board member representing the respective profession under the seal of the board.
- (2) The certificate shall be prima facie evidence that the person is entitled to all rights, privileges, and responsibilities of an architect or a professional engineer while the certificate of licensure remains unrevoked and unexpired.
- (3)
  - (a) Each licensee authorized to practice architecture or engineering must obtain a seal. The design of the seal shall be determined by the board. The following information shall be on the seal: State of Nebraska; licensee's name; licensee's license number; and the words Architect or Professional (discipline) Engineer.
  - (b) Whenever the seal is applied, the licensee's signature shall be across the seal. The board may adopt and promulgate rules and regulations for application of the seal.
  - (c) The seal and the date of its placement shall be on all technical submissions and calculations whenever presented to a client or any public or governmental agency. It shall be unlawful for a licensee to affix his or her seal and signature or to permit his or her seal and signature to be affixed to any document after the expiration of the certificate or for the purpose of aiding or abetting any other person to evade or attempt to evade the act.
  - (d) The seal and date shall be placed on all originals, copies, tracings, or other reproducible drawings and the first and last pages of specifications, reports, and studies in such a manner that the seal, signature, and date will be reproduced and be in compliance with rules and regulations of the board. The application of the licensee's seal shall constitute certification that the work was done by the licensee or under the licensee's control. In the case of multiple sealings, the first or title page shall be sealed and dated by all involved. In addition, each sheet shall be sealed and dated by the licensee responsible for each sheet. In the case of an organization, each sheet shall be sealed and dated by the licensee involved. The architect or professional engineer in responsible charge shall seal and date the title or first sheet.
  - (e) In the case of a temporary permit issued to a licensee of another state, the licensee shall use his or her state of licensure seal and shall affix his or her signature and temporary permit to all his or her work.
  - (f) Projects involving more than one licensed architect or professional engineer shall have one designated as the coordinating professional. The coordinating professional shall apply his or her seal and the date to the cover sheet of all documents and denote the seal as that of the coordinating professional.

- (4) The board shall issue to any applicant who, in the opinion of the board, has met the requirements of the act an enrollment card as engineer-intern which indicates that his or her name has been recorded as such in the board office. The engineer-intern enrollment card does not authorize the holder to practice as a professional engineer.

*Source: Laws 1997, LB 622, § 37; Laws 2013, LB 7, § 2.*

**§ 81-3438. Certificates; expiration; renewal; fees; continuing education.**

Certificates of licensure and certificates of authorization shall expire on a date established by the board and shall become invalid after that date unless renewed. The secretary of the board shall notify every person licensed under the Engineers and Architects Regulation Act and every organization holding a certificate of authorization under the act of the date of the expiration of the certificate of licensure or certificate of authorization and the amount of the fee required for renewal. The notice shall be mailed to the licensee or organization at the last-known address on file with the board at least one month in advance of the date of the expiration. Renewal may be effected at any time prior to or during the period established by the board upon application and payment of a renewal fee. The fee shall not exceed two hundred dollars per year. Renewal of an expired certificate may be effected under rules and regulations of the board regarding requirements for reexamination and for penalty fees. The board may adopt a program of continuing education for individual licensees.

*Source: Laws 1997, LB 622, § 38.*

**§ 81-3439. Replacement certificates; fee.**

The board may issue a new certificate of licensure or certificate of authorization to replace any lost, destroyed, or mutilated certificate. A fee not to exceed one hundred dollars shall be charged for each such issuance.

*Source: Laws 1997, LB 622, § 39.*

**§ 81-3440. Enforcement.**

The board shall enforce the Engineers and Architects Regulation Act and the rules and regulations, including enforcement against any unlicensed person. If any person refuses to obey any decision or order of the board, the board or, upon the request of the board, the Attorney General or the appropriate county attorney shall file an action for the enforcement of the decision or order, including injunctive relief, in the district court. After a hearing, the court shall order enforcement of the decision or order, or any part thereof, if legally and properly made by the board and, if appropriate, injunctive relief.

*Source: Laws 1997, LB 622, § 40.*

**§ 81-3441. Use of title; unlawful practice.**

Except as provided in sections 81-3413 to 81-3415, 81-3449, and 81-3453, an individual shall not directly or indirectly engage in the practice of architecture or engineering in the state or use the title architect or professional engineer or display or use any words, letters, figures, titles, sign, card, advertisement, or other symbol or device indicating or tending to indicate that he or she is an architect or professional engineer or is practicing architecture or engineering unless he or she is licensed under the Engineers and Architects Regulation Act. A licensee shall not aid or abet any person not licensed under the act in the practice of architecture or engineering.

*Source: Laws 1997, LB 622, § 41; Laws 2011, LB45, § 7.*

**§ 81-3442. Prohibited acts; penalties.**

Any person who performs any of the following actions is guilty of a Class I misdemeanor for the first offense and a Class IV felony for the second or any subsequent offense:

- (1) Practices or offers to practice architecture or engineering in this state without being licensed in accordance with the Engineers and Architects Regulation Act unless such practice or offer to practice is otherwise exempt under the act;
- (2) Knowingly and intentionally employs or retains a person to practice architecture or engineering in this state who is not licensed in accordance with the act except as provided in sections 81-3413 to 81-3415 and who is not exempted by sections 81-3449 and 81-3453;
- (3) Uses the words architect, engineer, or any modification or derivative of such words in its name or form of business activity except as authorized in the act or in the Professional Landscape Architects Act;
- (4) Presents or attempts to use the certificate of licensure or the seal of another person;
- (5) Gives any false or forged evidence of any kind to the board or to any member of the board in obtaining or attempting to obtain a certificate;
- (6) Falsely impersonates any other licensee of like or different name;
- (7) Attempts to use an expired, suspended, revoked, or nonexistent certificate of licensure or who practices or offers to practice when not qualified;
- (8) Falsely claims that he or she is licensed or authorized under the act; or
- (9) Violates the act.

*Source: Laws 1997, LB 622, § 42; Laws 2011, LB45, § 8.*

**§ 81-3443. Enforcement procedures.**

A complaint against any person or organization involving any matter coming within the jurisdiction of the board shall be in writing and shall be filed with the board. The complaint, at the discretion of the board, shall be heard within a reasonable time in accordance with the rules and regulations and may be heard through the use of a hearing officer. The accused shall have the right to appear personally with or without counsel, to cross-examine adverse witnesses, and to produce evidence and witnesses in his, her, or its defense. The board shall set the time and place for the hearing and shall cause a copy of the complaint, together with a notice of the time and place fixed for the hearing, to be sent by registered mail to the accused, at his, her, or its last-known business or residence address known to the board, at least thirty days before the hearing. If after the hearing the board finds the accused has violated the Engineers and Architects Regulation Act or any rules or regulations, it may issue any order or take any action described in section 81-3444. If the board finds no violation, it shall enter an order dismissing the complaint. If the order revokes, suspends, or cancels a license, the board shall notify, in writing, the Secretary of State and the clerk of the city or village in the state where the person or organization has a place of business, if any. The board may reissue a license

that has been revoked. Application for the reissuance of a license shall be made in such a manner as the board directs and shall be accompanied by a fee established by the board.

*Source: Laws 1997, LB 622, § 43; Laws 2011, LB45, § 9.*

**§ 81-3444. Disciplinary actions authorized; civil penalties.**

- (1) The board may after hearing, by majority vote, take any or all of the following actions, upon proof satisfactory to the board that any person or organization has violated the Engineers and Architects Regulation Act or any rules or regulations. Upon a finding that a person or organization has committed a violation, the following actions may be taken against such person or organization upon a two-thirds majority vote of the board:
  - (a) Issuance of censure or reprimand;
  - (b) Suspension of judgment;
  - (c) Placement of the offender on probation;
  - (d) Placement of a limitation or limitations on the holder of a license and upon the right of the holder of a license to practice the profession to such extent, scope, or type of practice for such time and under such conditions as are found necessary and proper;
  - (e) Imposition of a civil penalty not to exceed ten thousand dollars for each offense. The amount of the penalty shall be based on the severity of the violation;
  - (f) Entrance of an order of revocation, suspension, or cancellation of the certificate of licensure;
  - (g) Issuance of a cease and desist order;
  - (h) Imposition of costs as in an ordinary civil action in the district court, which may include reasonable attorney's fees and hearing officer fees incurred by the board and the expenses of any investigation undertaken by the board; or
  - (i) Dismissal of the action.
- (2) In hearings under this section, the board may take into account suitable evidence of reform.
- (3) Civil penalties collected under subdivision (1)(e) of this section shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska. All costs collected under subdivision (1)(h) of this section shall be remitted to the State Treasurer for credit to the Engineers and Architects Regulation Fund.

*Source: Laws 1997, LB 622, § 44; Laws 2011, LB45, § 10.*

**§ 81-3445. State and political subdivisions; construction projects.**

Except as otherwise provided in this section and sections 81-3449 and 81-3453, the state and its political subdivisions shall not engage in the construction of any public works involving architecture or engineering unless the plans, specifications, and estimates have been prepared and the construction has been observed by an architect, a professional engineer, or a person under the direct supervision of an architect, professional engineer, or those under the direct supervision of an architect or professional engineer. This section shall not apply to any public work in which the contemplated expenditure for the complete project does not exceed one hundred thousand dollars. The board shall adjust the dollar amount in this section every fifth year. The first such adjustment after August 27, 2011, shall be effective on July 1, 2014. The adjusted amount shall be equal to the then current amount adjusted by the cumulative percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics for the five-year period preceding the adjustment date. The amount shall be rounded to the next highest one-thousand-dollar amount.

*Source: Laws 1997, LB 622, § 45; Laws 1999, LB 253, § 2; Laws 2004, LB 599, § 2; Laws 2011, LB45, § 11.*

**§ 81-3446. Construction projects on private lands; owner; duties.**

- (1) The owner of any real property who allows a project to be constructed on his or her real property is engaged in the practice of architecture or engineering unless he or she employs or causes others to employ licensed professionals or persons under the direct supervision of licensed professionals to furnish at least minimum construction phase services with respect to the project or is exempt from the Engineers and Architects Regulation Act under sections 81-3449 and 81-3453.
- (2) For purposes of this section:
  - (a) Construction phase service includes at least the following services: (i) Visiting the project site on a regular basis as is necessary to determine that the work is proceeding generally in accordance with the technical submissions submitted to the building official at the time the project permit was issued; and (ii) processing technical submissions required of the contractor by the terms of contract documents. The term does not include supervision of construction, review of payment applications, resolution of disputes between the owner and contractor, and other such items which are considered additional construction administration services which the owner may or may not elect to include in the architect's or engineer's scope of work; and
  - (b) Owner means with respect to any real property the following persons: (i) The record owner of such real property; (ii) the lessee of all or any portion of the real property when the lease covers all of that portion of the real property upon which the project is being constructed, the lessee has significant approval rights with respect to the project, and the lease, at the time the project begins, has a remaining term of not less than ten years; or (iii) the grantee of an easement granting right-of-way to construct the project.

*Source: Laws 1997, LB 622, § 46; Laws 2011, LB45, § 12.*

**§ 81-3447. Repealed.**

*Laws 2004, LB 599, § 7.*

**§ 81-3448. Architect; license; application; fee; requirements; examination; issuance.**

- (1) A person applying to the Board of Engineers and Architects for initial licensure as an architect shall submit an application accompanied by the fee established by the board and satisfactory evidence that he or she holds a degree in architecture accredited by the National Architectural Accrediting Board and that he or she has completed practical training in architectural work as required by the Board of Engineers and Architects. If an applicant is qualified, the Board of Engineers and Architects shall, by means of a written or electronic examination, examine the applicant on technical and professional subjects as prescribed by the board. None of the examination materials shall be considered public records. The board may exempt from the written examination an applicant who holds a certification issued by the National Council of Architectural Registration Boards. The Board of Engineers and Architects may adopt guidelines published from time to time by the National Council of Architectural Registration Boards. The Board of Engineers and Architects may also adopt the examinations and grading procedures of the National Council of Architectural Registration Boards and the accreditation decisions of the National Architectural Accrediting Board. The Board of Engineers and Architects shall issue a certificate of licensure to each applicant who is found to be of good moral character and who satisfies the requirements set forth in this section. Licensure shall be effective upon issuance.
- (2) A person applying for initial licensure who does not hold a degree in architecture accredited by the National Architectural Accrediting Board shall submit an application accompanied by the fee established by the Board of Engineers and Architects. The application shall demonstrate satisfactory evidence of twelve years' combined architectural education and architectural work experience, including the equivalent of the Intern Development Program promulgated by the National Council of Architectural Registration Boards. If an applicant is determined by the Board

of Engineers and Architects to meet this requirement, the board shall, by means of a written or electronic examination, examine the applicant on technical and professional subjects as prescribed by the board. Only an individual who has earned a bachelor of science in architectural studies degree with an architecture emphasis prior to December 31, 1999, may be considered under this subsection.

*Source: Laws 1997, LB 622, § 48; Laws 2011, LB45, § 13.*

**§ 81-3449. Practice of architecture; exempted activities.**

The provisions of the Engineers and Architects Regulation Act regulating the practice of architecture do not apply to the following activities:

- (1) The construction, remodeling, alteration, or renovation of a detached single-family through four-family dwelling of less than five thousand square feet of above grade finished space. Any detached or attached sheds, storage buildings, and garages incidental to the dwelling are not included in the tabulation of finished space. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;
- (2) The construction, remodeling, alteration, or renovation of a one-story commercial or industrial building or structure of less than five thousand square feet of above grade finished space which does not exceed thirty feet in height unless such building or structure, or the remodeling or repairing thereof, provides for the employment, housing, or assembly of twenty or more persons. Any detached or attached sheds, storage buildings, and garages incidental to the building or structure are not included in the tabulation of finished space. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;
- (3) The construction, remodeling, alteration, or renovation of farm buildings, including barns, silos, sheds, or housing for farm equipment and machinery, livestock, poultry, or storage, if the structures are designed to be occupied by no more than twenty persons. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;
- (4) Any public works project with contemplated expenditures for a completed project that do not exceed one hundred thousand dollars. The board shall adjust the dollar amount in this subdivision every fifth year. The first such adjustment after August 27, 2011, shall be effective on July 1, 2014. The adjusted amount shall be equal to the then current amount adjusted by the cumulative percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics for the five-year period preceding the adjustment date. The amount shall be rounded to the next highest one-thousand-dollar amount;
- (5) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;
- (6) The teaching, including research and service, of architectural subjects in a college or university offering a degree in architecture accredited by the National Architectural Accrediting Board;
- (7) The preparation of submissions to architects, building officials, or other regulating authorities by the manufacturer, supplier, or installer of any materials, assemblies, components, or equipment that describe or illustrate the use of such items, the preparation of any details or shop drawings required of the contractor by the terms of the construction documents, or the management of construction contracts by persons customarily engaged in contracting work;

- (8) The preparation of technical submissions or the administration of construction contracts by employees of a person or organization lawfully engaged in the practice of architecture if such employees are acting under the direct supervision of an architect;
- (9) The offering by an organization of a combination of services involved in the practice of architecture and construction services if:
  - (a) An architect or person otherwise permitted under subdivision (11) of this section to offer architectural services participates substantially in all material aspects of the offering;
  - (b) There is written disclosure at the time of the offering that an architect is engaged by and contractually responsible to such organization;
  - (c) Such organization agrees that the architect will have direct supervision of the work and that such architect's services will not be terminated without the consent of the person engaging the organization; and
  - (d) The rendering of architectural services by such architect will conform to the Engineers and Architects Regulation Act and the rules and regulations;
- (10) A public service provider or an organization who employs a design professional performing professional services for itself;
- (11) A nonresident who holds the certification issued by the National Council of Architectural Registration Boards offering to render the professional services involved in the practice of architecture. The nonresident shall not perform any of the professional services involved in the practice of architecture until licensed as provided in the act. The nonresident shall notify the board in writing that (a) he or she holds a National Council of Architectural Registration Boards certificate and is not currently licensed in Nebraska but will be present in Nebraska for the purpose of offering to render architectural services, (b) he or she will deliver a copy of the notice to every potential client to whom the applicant offers to render architectural services, and (c) he or she promises to apply immediately to the board for licensure if selected as the architect for the project;
- (12) The practice by a qualified member of another legally recognized profession who is otherwise licensed or certified by this state or any political subdivision to perform services consistent with the laws of this state, the training, and the code of ethics of the respective profession, if such qualified member does not represent himself or herself to be practicing architecture and does not represent himself or herself to be an architect;
- (13) Financial institutions making disbursements of funds in connection with construction projects;
- (14) Earthmoving and related work associated with soil and water conservation practices performed on farmland or any land owned by a political subdivision that is not subject to a permit from the Department of Natural Resources or for work related to livestock waste facilities that are not subject to a permit by the Department of Environmental Quality; and
- (15) The work of employees and agents of a political subdivision or a nonprofit entity organized for the purpose of furnishing electrical service performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance.

*Source: Laws 1997, LB 622, § 49; Laws 1999, LB 253, § 3; Laws 1999, LB 440, § 1; Laws 2000, LB 900, § 251; Laws 2004, LB 599, § 3; Laws 2011, LB45, § 14.*

#### **§ 81-3450. Signing and sealing of technical submissions by architect.**

An architect shall not affix his or her signature or seal to technical submissions unless they were prepared by the architect or under his or her direct supervision, except that in the case of the portions of such technical submissions prepared under the direct supervision of another architect employed by the first architect or by his or her firm, he or she may affix his or her signature or seal to

those portions of the technical submissions if the architect has reviewed such portions and has coordinated their preparation or integrated them into his or her work. He or she may affix his or her signature or seal to those portions of the technical submissions that are not required by the Engineers and Architects Regulation Act to be prepared by or under the direct supervision of an architect if the architect has reviewed or adapted in whole or in part such submissions and integrated them into his or her work.

*Source: Laws 1997, LB 622, § 50; Laws 2013, LB 7, § 3.*

**§ 81-3451. Professional engineer or engineer-intern; license; application; examination; requirements.**

- (1) To be eligible for admission to examination to be a professional engineer or engineer-intern, an applicant must be of good moral character and reputation and shall submit five references with his or her application for licensure as a professional engineer or enrollment as an engineer-intern. Three of the references shall be professional engineers having personal knowledge of the applicant's engineering experience or, in the case of an application for enrollment as an engineer-intern, character references.
- (2)
  - (a) A person holding a certificate of licensure to engage in the practice of engineering, issued by the proper authority of a state, territory, or possession of the United States, the District of Columbia, or any foreign country, based on requirements that do not conflict with the Engineers and Architects Regulation Act and were of a standard not lower than that specified in the applicable licensure law in effect in this state at the time such certificate was issued may, upon application, be licensed as a professional engineer without further examination.
  - (b) A person holding an active Council Record with the National Council of Examiners for Engineering and Surveying whose qualifications as evidenced by the Council Record meet the requirements of the act may, upon application, be licensed as a professional engineer after passing an examination testing the applicant's knowledge of the applicable statutes and rules and regulations unique to the State of Nebraska.
  - (c) A graduate of an ABET-accredited engineering curriculum, enrolled as an engineer-intern, and having a specific record of an additional four years or more of progressive post-accredited-degree experience on engineering projects of a grade and a character which indicates to the Board of Engineers and Architects that the applicant may be competent to practice engineering shall be admitted to an examination of at least eight hours in length, administered by the board, on the principles and practice of engineering. Upon passing the examination, the applicant shall be granted a certificate of licensure to practice engineering in this state if the applicant is otherwise qualified. Engineering teaching of advanced subjects and the design of engineering research and projects in a college or university offering an ABET-accredited engineering curriculum of four years or more may be considered as engineering experience. An applicant who does not hold an ABET-accredited engineering degree but who is enrolled as an engineer-intern in this state and has a specific record of an additional six years or more of progressive experience on engineering projects of a grade and a character which indicates to the Board of Engineers and Architects that the applicant may be competent to practice engineering shall be admitted to an examination of at least eight hours in length, administered by the board, in the principles and practice of engineering. Upon passing the examination, the applicant shall be granted a certificate of licensure to practice engineering in this state if otherwise qualified.
- (3)
  - (a) A graduate of or senior in an ABET-accredited engineering curriculum, or the substantial equivalent as determined by the board, shall be admitted to an eight-hour examination on the fundamentals of engineering. Upon passing the examination and verification of graduation, the applicant shall be enrolled as an engineer-intern.

- (b) A person enrolled as an engineer-intern in a state, territory, or possession of the United States, the District of Columbia, or any foreign country, based on requirements that do not conflict with the Engineers and Architects Regulation Act and were of a standard not lower than that specified in the applicable law in effect in this state at the time such person was enrolled and who is a resident of this state may, upon application, be enrolled in this state as an engineer-intern.

*Source: Laws 1997, LB 622, § 51; Laws 2004, LB 599, § 4; Laws 2004, LB 1069, § 1; Laws 2011, LB45, § 15.*

**§ 81-3452. Engineering examinations; board; procedure.**

- (1) The board or its agent shall direct the time and place of engineering examinations. The board shall determine the acceptable grade on examinations.
- (2) The examination will be given in at least two sections and may be taken only after the applicant has met the other minimum requirements as described in section 81-3451 and has been approved by the board for admission to the examination as follows:
  - (a) The fundamentals of engineering examination consists of an eight-hour test period on the fundamentals of engineering. Passing this examination qualifies the examinee for an engineer-intern enrollment card if all other requirements for certification are met; and
  - (b) The principles and practice of engineering examination consists of at least an eight-hour test period on applied engineering. Passing this examination qualifies the examinee for licensure as a professional engineer if all other requirements for certification are met.
- (3) A candidate failing one examination may apply for reexamination, which may be granted upon payment of a fee established by the board. In the event of a second failure, the examinee may, at the discretion of the board, be required to appear before the board with evidence of having acquired the necessary additional knowledge to qualify before admission to the examination.
- (4) The board may prepare and adopt specifications for the examinations. They shall be published in brochure form and be available to any person interested in being licensed or certified.

*Source: Laws 1997, LB 622, § 52; Laws 2011, LB45, § 16.*

**§ 81-3453. Practice of engineering; exempted activities.**

The provisions of the Engineers and Architects Regulation Act regulating the practice of engineering do not apply to the following activities:

- (1) The construction, remodeling, alteration, or renovation of a detached single-family through four-family dwelling of less than five thousand square feet above grade finished space. Any detached or attached sheds, storage buildings, and garages incidental to the dwelling are not included in the tabulation of finished space. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;
- (2) The construction, remodeling, alteration, or renovation of a one-story commercial or industrial building or structure of less than five thousand square feet above grade finished space which does not exceed thirty feet in height unless such building or structure, or the remodeling or repairing thereof, provides for the employment, housing, or assembly of twenty or more persons. Any detached or attached sheds, storage buildings, and garages incidental to the building or structure are not included in the tabulation of finished space. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

- (3) The construction, remodeling, alteration, or renovation of farm buildings, including barns, silos, sheds, or housing for farm equipment and machinery, livestock, poultry, or storage and if the structures are designed to be occupied by no more than twenty persons. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;
- (4) Any public works project with contemplated expenditures for the completed project that do not exceed one hundred thousand dollars. The board shall adjust the dollar amount in this subdivision every fifth year. The first such adjustment after August 27, 2011, shall be effective on July 1, 2014. The adjusted amount shall be equal to the then current amount adjusted by the cumulative percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics for the five-year period preceding the adjustment date. The amount shall be rounded to the next highest one-thousand-dollar amount;
- (5) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;
- (6) The teaching, including research and service, of engineering subjects in a college or university offering an ABET-accredited engineering curriculum of four years or more;
- (7) A public service provider or an organization who employs a design professional performing professional services for itself;
- (8) The practice by a qualified member of another legally recognized profession who is otherwise licensed or certified by this state or any political subdivision to perform services consistent with the laws of this state, the training, and the code of ethics of such profession, if such qualified member does not represent himself or herself to be practicing engineering and does not represent himself or herself to be a professional engineer;
- (9) The offer to practice engineering by a person not a resident of and having no established place of business in this state if the person is legally qualified by licensure to practice engineering in his or her own state or country. The person shall make application to the board in writing and after payment of a fee established by the board may be granted a temporary permit for a definite period of time not to exceed one year to do a specific job. No right to practice engineering accrues to such applicant with respect to any other work not set forth in the permit;
- (10) The work of an employee or a subordinate of a person holding a certificate of licensure under the act or an employee of a person practicing lawfully under subdivision (9) of this section if the work is done under the direct supervision of a person holding a certificate of licensure or a person practicing lawfully under such subdivision;
- (11) Those services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant;
- (12) Financial institutions making disbursements of funds in connection with construction projects;
- (13) Earthmoving and related work associated with soil and water conservation practices performed on farmland or any land owned by a political subdivision that is not subject to a permit from the Department of Natural Resources or for work related to livestock waste facilities that are not subject to a permit by the Department of Environmental Quality;
- (14) The work of employees and agents of a political subdivision or a nonprofit entity organized for the purpose of furnishing electrical service performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance;

- (15) Work performed exclusively in the exploration for and development of energy resources and base, precious, and nonprecious minerals, including sand, gravel, and aggregate, which does not have a substantial impact upon public health, safety, and welfare, as determined by the board, or require the submission of reports or documents to public agencies;
- (16) The construction of water wells as defined in section 46-1212, the installation of pumps and pumping equipment into water wells, and the decommissioning of water wells, unless such construction, installation, or decommissioning is required by the owner thereof to be designed or supervised by an engineer or unless legal requirements are imposed upon the owner of a water well as a part of a public water supply;
- (17) Work performed in the exploration, development, and production of oil and gas or before the Nebraska Oil and Gas Conservation Commission; and
- (18) Siting, layout, construction, and reconstruction of a private onsite wastewater treatment system with a maximum flow from the facility of one thousand gallons of domestic wastewater per day if such system meets all of the conditions required pursuant to the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act unless the siting, layout, construction, or reconstruction by an engineer is required by the Department of Environmental Quality, mandated by law or rules and regulations imposed upon the owner of the system, or required by the owner.

*Source: Laws 1997, LB 622, § 53; Laws 1999, LB 253, § 4; Laws 1999, LB 440, § 2; Laws 2000, LB 900, § 252; Laws 2003, LB 94, § 19; Laws 2004, LB 599, § 5; Laws 2011, LB45, § 17.*

**§ 81-3454. Sealing and signing of technical submissions by professional engineer.**

- (1) A professional engineer shall not affix his or her seal or signature to sketches, working drawings, specifications, or other documents developed by others not under his or her direct supervision, except that in the case of the portions of such technical submissions prepared under the direct supervision of another professional engineer employed by the first professional engineer or by his or her firm, he or she may affix his or her signature or seal those portions of the technical submissions if the professional engineer has reviewed such portions and has coordinated their preparation or integrated them into his or her work. He or she may affix his or her signature or seal to those portions of the technical submissions that are not required by the Engineers and Architects Regulation Act to be prepared by or under the direct supervision of a professional engineer if the professional engineer has reviewed or adapted in whole or in part such submission and integrated them into his or her work.
- (2) In the case of a temporary permit issued to a professional engineer of another state, the licensee shall use his or her state of licensure seal and shall affix his or her signature and a copy of the temporary permit to all his or her work.

*Source: Laws 1997, LB 622, § 54; Laws 2013, LB 7, § 4.*

**§ 81-3455. Act, how construed.**

The Legislature declares that the Engineers and Architects Regulation Act is necessary for the public convenience and welfare, is remedial in nature, and shall be construed liberally. Nothing in the act shall be construed to establish a statewide building code.

*Source: Laws 1997, LB 622, § 55.*

# RULES AND REGULATIONS

## TITLE 110, NEBRASKA ADMINISTRATIVE CODE BOARD OF ENGINEERS AND ARCHITECTS

### TABLE OF CONTENTS

<u>SUBJECT</u>	<u>STATUTORY AUTHORITY</u>	<u>PAGE</u>
Chapter 1; General Provisions.....	§§ 81-3401 to 81-3455, 84-712.05 .....	24
Chapter 2; Engineering .....	§§ 81-3421, 81-3422, 81-3437, 81-3438, ..... 81-3451, 81-3452, 81-3453, 81-3454	29
Chapter 3; Architecture .....	§§ 81-3420, 81-3435, 81-3437, 81-3438, ..... 81-3448, 81-3449, 81-3450	34
Chapter 4; Reciprocity .....	§§ 81-3435, 81-3448, 81-3451.....	36
Chapter 5; Code of Practice.....	§ 81-3434 .....	39
Chapter 6; The Licensee Seal.....	§§ 81-3437, 81-3450, 81-3454.....	43
Chapter 7; Organizational Practice.....	§§ 81-3436, 81-3449 .....	45
Chapter 8; Disciplinary Action.....	§§ 81-3441, 81-3442, 81-3443, 81-3444 .....	47
Chapter 9; Continuing Education.....	§ 81-3438 .....	50
Chapter 10; Exemptions; Clarification.....	§§ 81-3449, 81-3453 .....	53
Chapter 11; Promulgation, Amendment or Repeal of Rules .....		56

# RULES AND REGULATIONS

## CHAPTER 1; GENERAL PROVISIONS

### 1.1 Definitions

- 1.1.1 **ABET:** The acronym "ABET" means the Engineering Accreditation Commission of ABET, Inc.
- 1.1.2 **ACE:** The acronym "ACE" means Architectural Continuing Education, the biennial continuing education required by the board for renewal or reinstatement of licensure for architects.
- 1.1.3 **ARE:** The acronym "ARE" means the Architects Registration Examination, as developed by NCARB.
- 1.1.4 **ECE:** The acronym "ECE" means the Engineering Continuing Education, the biennial continuing education required by the board for renewal or reinstatement of licensure for professional engineers.
- 1.1.5 **FE:** The acronym "FE" means the Fundamentals of Engineering Exam, as developed by NCEES.
- 1.1.6 **IDP:** The acronym "IDP" means the Intern Development Program of NCARB.
- 1.1.7 **NAAB:** The acronym "NAAB" means the National Architectural Accrediting Board. NAAB accreditation is required for architecture programs not later than two years after issuance of the degree.
- 1.1.8 **NCARB:** The acronym "NCARB" means the National Council of Architectural Registration Boards.
- 1.1.9 **NCEES:** The acronym "NCEES" means the National Council of Examiners for Engineering and Surveying.
- 1.1.10 **PPE:** The acronym "PPE" means the Principals and Practice of Engineering Exam, as developed by NCEES.
- 1.1.11 **Consumer of Design-Build Services:** The person or entity who engages the design-build organization with respect to a design-build project.
- 1.1.12 **Design-Build:** A combination of services which include both construction and the practice of engineering and/or architecture.
- 1.1.13 **Discipline of Practice:** Engineering licensees are discipline specific. Disciplines of practice are recognized as those which are given in a current PPE examination format, as developed by NCEES.
- 1.1.14 **Design-Build Offering:** An offering which specifically describes in writing aspects of the engineering and/or architectural services proposed by the design-build organization.
- 1.1.15 **E&A Act:** The Engineers and Architects Regulation Act, Neb. Rev. Stat. §§ 81-3401 through 81-3455, shall be known and may be cited as E&A Act.
- 1.1.16 **E&A Rules:** The Nebraska Rules and Regulations, Title 110 of the Nebraska Administrative Code, Chapters 1 through 11, shall be known and may be cited as E&A Rules.

- 1.1.17 **Emeritus Status:** Professional engineers and architects who choose Emeritus status retain their professional honorary title but are ineligible to practice.
- 1.1.18 **Expiration Date:** Certificates, permits and licenses expire on their expiration date.
- 1.1.19 **Maintenance:** The care and work put into property to keep it operating and productive; general repair and upkeep.
- 1.1.20 **Nonrenewable License:** A license to practice is nonrenewable when it has been expired for more than twelve months.
- 1.1.21 **Public Works:** Structures, such as roads, buildings, dams, waterworks or sewers, built for public use or paid for by public funds but not primarily intended for human occupancy or habitation.
- 1.1.22 **References:** References required for application of licensure must be from those individuals who have personal knowledge of an applicant and who are able to issue judgments concerning an applicant's experience, ability, character or reputation. Professional references shall not be relatives or current board members. References must be provided on a form acceptable to the board.
- 1.1.23 **Renewable License:** A license to practice is renewable when it has been expired for twelve months or less.
- 1.1.24 **Temporary Permit:** A permit issued by board staff for use on a single project, not lasting in duration for more than one year. Temporary Permits can only be issued once and cannot be extended.
- 1.1.25 **Work:** Unless otherwise qualified, means professional services comprising the practice of engineering and/or the practice of architecture.

## 1.2 Terms Defined by Statute

Terms defined in the E&A Act shall have the same meanings when used in these regulations.

## 1.3 Purpose

The Nebraska Rules and Regulations are set forth for the purpose of interpreting and implementing The Engineers and Architects Regulation Act (hereafter, the E&A Act), establishing the board, and conferring upon it responsibility for licensure of architects and professional engineers and the regulation of the practice of engineering and architecture. The Rules and Regulations of the Board of Engineers and Architects, Title 110: Nebraska Administrative Code, Chapters 1 through 11 effective 27 May 2000, are hereby repealed.

## 1.4 Board's Regulatory Authority

The E&A Rules are promulgated under authority of the E&A Act, and in conformity with Neb. Rev. Stat. §§ 81-3401 through 81-3455.

## 1.5 Severability

If any provisions of these regulations or the application thereof to any person or circumstance is invalid, such invalidity shall not affect other provisions or application of these regulations which can be given effect without the invalid provision or application, and to this end the provisions of these regulations are declared to be severable.

## 1.6 Adoption of the Attorney General's Model Rules

The board has adopted Title 53, Nebraska Administrative Code, Chapters 1 through 4 of the Nebraska Department of Justice, also known as the Attorney General's Model Rules, and has incorporated them into these regulations. Copies of the Model Rules are available at the Office of the Board of Engineers and Architects.

**1.7 Federal Requirements**

Nothing in the Act shall imply exemption from requirements of Title VIII of the Civil Rights Act of 1968, and its subsequent amendments, commonly known as the Fair Housing Act.

**1.8 Declaratory Rulings**

Procedures governing Declaratory Rulings shall be in accordance with Title 53, Nebraska Administrative Code, Chapter 3 of the Nebraska Department of Justice. Copies of Title 53, Nebraska Administrative Code, Chapter 3 are available from the Nebraska Secretary of State's Office, the Nebraska Board of Engineers and Architects and the Attorney General's Office.

**1.9 Record of Board's Actions**

A quorum of five members of the board is required for board actions. The board may keep record of actions enacted at its meetings for use by staff in administration of the board's affairs.

**1.10 Board Member Conflicts of Interest**

No board member shall vote on any matter in which he or she has any interest, financial or otherwise, direct or indirect, or engage in any business transaction or professional activity or incur any obligation of any nature which is in conflict with the proper discharge of his or her duties as a board member.

1.10.1 Board members are prohibited from using or attempting to use their official position to secure unwarranted privileges or exemptions for themselves or others.

1.10.2 A board member shall not give the impression that any person can improperly influence him or her in the performance of board member duties, or that he or she is improperly affected by the kinship, rank, position or influence of any party or person.

1.10.3 A board member shall not accept gifts of value or loans from persons having business before the board which are intended to or which appear to influence the official relationship between the donor and recipient.

**1.11 Confidentiality of Information**

1.11.1 Records denoted in Neb. Rev. Stat. § 84-712.05 shall be considered confidential.

1.11.2 Replies received from references regarding the qualifications of an applicant shall be placed in files that are considered non-public records. The source and character of the information will not be divulged except when required by law.

**1.12 Expired License Status****1.12.1 License Expiration Date**

1.12.1.1 A license to practice expires on the expiration date.

1.12.1.2 A licensee cannot practice, as provided in Neb. Rev. Stat. § 81-3402, with an expired license.

**1.12.2 Renewable License**

1.12.2.1 Licenses that expire on their expiration date may be renewed during the following twelve months, upon payment of a penalty fee.

1.12.2.2 The fee to be paid for the renewal shall be increased ten percent for each month or fraction of a month that the payment is delinquent.

1.12.2.3 The maximum fee for a delinquent renewal shall not exceed twice the amount of the regular renewal fee.

**1.12.3 Nonrenewable License**

1.12.3.1 Licenses that expire on their expiration date and are not renewed within twelve months become Nonrenewable.

**1.12.4 Reinstatement of a License**

1.12.4.1 A Nonrenewable License may be reinstated to active status, pending approval of the board with:

1.12.4.1.1 A new application;

1.12.4.1.2 Payment of fees;

1.12.4.1.3 Documentation of continuing education compliance; and

1.12.4.1.4 Certification that the applicant has not practiced or offered to practice engineering or architecture during the time the license was nonrenewable.

1.12.4.2 All reinstated licenses must meet current requirements for licensure by examination or reciprocity.

1.12.4.3 The previous license number will be retained.

**1.12.5 Emeritus Status**

1.12.5.1 Professional Engineers or Architects who choose Emeritus status will be ineligible to practice.

1.12.5.2 Emeritus status professional will receive board publications and an annual renewal notice at a fee established by the board.

1.12.5.3 An Emeritus status professional must submit a new application to the board and certify that they have not practiced or offered to practice engineering or architecture during the Emeritus license period to be reinstated to practice.

1.12.5.4 When requested by the Board, an Emeritus board member may represent the Board at authorized meetings. Expenses incurred by the Emeritus board member at such functions may be reimbursed by the Board.

**1.13 License Fees**

1.13.1 The fee schedule and methods of payment shall be set by the board.

1.13.2 All fees are non-refundable. However, fees paid to the Board by an applicant initially for a specific application, but not used for that specific application, may be used as a credit for a different application fee during the same fiscal year at the applicant's discretion.

**1.14 Professional Assistance**

The board may retain professional assistance in carrying out administrative matters and other general governance of the board. Such assistance may include financial, technological, legal, and administrative consultation.

**1.15 Mailing Labels or Lists**

Mailing labels or lists of licensees or prospective licensees may be issued at the discretion of the board. Requests for lists must be made in writing. Lists requested by government agencies, political subdivisions in Nebraska, or engineering and architectural professional societies will be issued at no cost to the requesting organization.

**1.16 Photographs and Transcripts**

Photographs shall not be required for identification on applications received by the board. Transcripts or other documents issued directly by the granting institution of higher education will be acceptable as proof of graduation when such proof is required by the board.

## CHAPTER 2; ENGINEERING

### 2.1 Required Documents

- 2.1.1 Every individual seeking licensure shall submit a completed application to the board, accompanied by the filing fee established by the board.
- 2.1.2 The applicant shall provide official proof of education requirements of his or her college record.
- 2.1.3 References
  - 2.1.3.1 For enrollment application as an engineer intern, three of the five references must be character references.
  - 2.1.3.2 For licensure as a professional engineer by examination, an applicant must submit five references, three of whom shall be professional engineers having personal knowledge of the applicant's engineering experience.
  - 2.1.3.3 For licensure as a professional engineer by experience, an applicant must submit five licensed engineer references.

### 2.2 Education Requirements

- 2.2.1 Candidates for the Fundamentals of Engineering Examination (FE) and the Principles and Practice of Engineering Examination (PPE) are required to:
  - 2.2.1.1 Hold a degree or have senior standing in a curriculum leading to an engineering degree from an engineering program accredited by the ABET, or meet the NCEES Education Standard.
  - 2.2.1.2 ABET accreditation is required for engineering programs not later than two years after issuance of the degree.
  - 2.2.1.3 Those holding degrees from programs not accredited by ABET must establish that their education meets the NCEES Education Standard by submitting it to a board approved evaluation service for analysis.
    - 2.2.1.3.1 Deficiencies defined by the evaluation service may be corrected by taking coursework related to the deficiency in a post-secondary institution offering ABET accredited engineering programs or as otherwise acceptable to the board.
      - 2.2.1.3.1.1 Coursework from post-secondary education institutions that are not ABET accredited will be acceptable if the course(s) are approved by an ABET school to be "transferable." A letter from the ABET accredited institution may be required for substantiation.
      - 2.2.1.3.1.2 Passing scores will be accepted in college level exams given by approved third parties including College Board Exams (CLEP) in subjects related to the deficiency or as otherwise acceptable to the board.

2.2.1.3.1.3 With Board approval, up to nine semester credit hours of deficiency in general education may be removed for applicants who have obtained a college degree from an institution whose primary language of instruction is not English.

2.2.1.3.2 Once the deficiencies are removed, the board will consider the education as satisfying the Board’s education requirement.

2.2.1.3.3 The board may defer action on deficient applications until these education requirements have been met.

**2.3 Experience**

- 2.3.1 Candidates for the Principles and Practice of Engineering Examination (PPE) shall have not less than four years of work experience acceptable to the board, except as provided in Neb. Rev. Stat. § 81-3451(2)(c).
- 2.3.2 Work experience for applicants may start immediately following graduation from a four-year or equivalent engineering program.
- 2.3.3 Work experience gained as a part of the curriculum and shown on the transcript; for example, “Co-op Experience” will be credited toward the requirement for licensure based on the time actually worked, but not to exceed six months.
- 2.3.4 Successful completion of graduate study leading to the Masters degree in engineering, which has followed a baccalaureate degree in engineering, may be used for credit for one year’s experience. If the Ph.D. in engineering is completed under the same conditions, two year’s total experience may be credited. The two year’s credit includes the one year for the Masters degree. If the Ph.D. is obtained without the Masters degree, the credit for experience will be two years.
- 2.3.5 The board will consider engineering experience performed outside the United States when it is deemed that such experience is gained under a licensed professional engineer from a NCEES jurisdiction, or it is determined upon reasonable investigation by an engineer board member, of materials provided by and at the expense of the applicant, that such experience was performed under circumstances comparable to the standards for engineering in the United States.
- 2.3.6 Experience must be progressive on engineering projects to indicate that it is of increasing quality and requiring greater responsibility.
- 2.3.7 Only work of an engineering nature which follows graduation from a professional program is creditable.
- 2.3.8 Experience must not be obtained in violation of the E&A Act.
- 2.3.9 Experience gained in the armed services, to be creditable, must be of a character equivalent to that which would have been gained in the civilian sector doing similar work. It is expected that the applicant serve in an engineering or engineering-related group.
- 2.3.10 Experience should be gained under the supervision of a licensed professional engineer or if not, an explanation should be made showing why the experience should be considered acceptable.
- 2.3.11 For sales experience to be creditable, it must be demonstrated that engineering principles were required and used in gaining the experience.

- 2.3.12 Engineering teaching experience to be creditable must be at an advanced level in a college or university offering an engineering curriculum of four years or more that is approved by the board.
- 2.3.13 Experience gained in engineering research and design projects by members of an engineering faculty where the curriculum is approved by the board is creditable.
- 2.3.14 Experience may not be anticipated. The experience must have been received at the time of the application.

## 2.4 Examinations

- 2.4.1 The Examinations used by the board to determine eligibility for licensure shall be the current NCEES Fundamentals of Engineering Examination (FE) and the Principles and Practice of Engineering Examination (PPE), as accepted by the board.
  - 2.4.1.1 The board will follow NCEES policy on scheduling and retaking examinations.
  - 2.4.1.2 The board will determine applicant eligibility and forward eligibility information to NCEES.
    - 2.4.1.2.1 Once an applicant has been approved to take either the FE (Fundamentals of Engineering exam) or the PE (Principles and Practice of Engineering exam), they remain qualified to retake that same examination for five years. The five years shall commence on the date of the first scheduled exam after the applicant has been approved.
  - 2.4.1.3 The board will accept the examination result as determined by NCEES and will report the result to the applicant.
  - 2.4.1.4 If there is any alleged improper behavior on the part of an applicant, the board will investigate the allegation and take appropriate action.
  - 2.4.1.5 An applicant must have passed the Examination(s) in accordance with the NCEES pass/fail standards current at the time the applicant took the examination.
  - 2.4.1.6 For security reasons, items in the examination will not be available for review by the examinee. Examinees have the right to review or challenge failed examination(s) through the board.
  - 2.4.1.7 After a fourth or subsequent failure of either engineering examination, the candidate shall present the board with evidence of having acquired additional relevant formal learning before being reexamined. Such candidates shall be eligible for examination annually. Relevant formal learning means coursework consisting of at least two semester credit hours at the undergraduate or graduate level in the knowledge areas identified as failed in the NCEES diagnostic report. The coursework must be acceptable at, or transferrable to, an institution that offers ABET-accredited engineering programs. Online coursework is acceptable. Examination preparatory classes, continuing education offerings, and individual study do not satisfy the formal learning requirement.
  - 2.4.1.8 Except for U.S. military personnel serving on active duty, the Board will not proctor FE or PPE examinations for applicants who reside outside Nebraska, or allow an applicant who resides in Nebraska to have their FE or PPE examinations proctored in another jurisdiction.

- 2.4.2 The Fundamentals of Engineering Examination (FE) as accepted by the board.
  - 2.4.2.1 Passage of the FE examination is required of all applicants unless it has been passed in another jurisdiction.
- 2.4.3 The Principles and Practice of Engineering Examination (PPE) as accepted by the board.
  - 2.4.3.1 The PPE examinations are given in disciplines offered by NCEES.
  - 2.4.3.2 An examinee will be permitted to sit for the PPE exam in a discipline different from that of his or her FE examination on the basis of experience as approved by the board.
  - 2.4.3.3 An examinee will be permitted to sit for the PPE exam in a discipline different from that of his or her education upon verification of four years of work experience acceptable to the Board in the discipline of examination.
  - 2.4.3.4 The board reserves the right to not examine in certain disciplines offered by NCEES or to examine in specialized branches of engineering not offered by NCEES.
- 2.4.4 The Principles and Practice of Engineering Examination (PPE) in Structural Engineering as accepted by the board.
  - 2.4.4.1 Professional Engineers who have passed the sixteen-hour NCEES Structural Engineering examination, or its equivalent as defined by NCEES, shall be eligible for licensure as a Professional Structural Engineer.
  - 2.4.4.2 The sixteen-hour Structural examination shall consist of two 8-hour components: the Vertical Forces (gravity/other) and Incidental Lateral component and the Lateral Forces (wind/earthquake) component. A candidate may sit for each component in separate exam administrations but must receive acceptable results on both components within a 5-year period. Receiving acceptable results on only one 8-hour component shall not be sufficient for licensure in structural engineering or any other engineering discipline.
- 2.4.5 The Nebraska E&A Act Exam as accepted by the board.
  - 2.4.5.1 An examination on the Nebraska E&A Act and practice ethics must be passed before a professional engineer can be licensed to practice in Nebraska.
  - 2.4.5.2 The purpose of the examination is to ensure that applicants are familiar with the Engineers and Architects Regulation Act and the ethics of practicing engineering. This is an open book examination administered by the board.
  - 2.4.5.3 After a second or subsequent failure of the Nebraska E&A Act Exam, the candidate may be required to acquire additional learning before being reexamined. Such candidates shall be eligible for examination every thirty days.

## 2.5 Enrollment and Licensure

### 2.5.1 Enrollment as an Engineer Intern (E.I.)

2.5.1.1 Upon request, a candidate will be enrolled as an Engineer Intern when they complete the following:

2.5.1.1.1 Passage of the Fundamentals of Engineering (FE) Examination;  
and

2.5.1.1.2 Proof of graduation from an ABET accredited engineering program or satisfying the NCEES Education Standard.

### 2.5.2 Licensure as a Professional Engineer (P.E.)

2.5.2.1 When the board has determined that an applicant for licensure has satisfied the licensure standards set forth herein, the board shall issue a certificate of licensure containing the licensed applicant's name, license number and Discipline of Practice.

2.5.2.2 Certificates of Licensure issued to Professional Engineers will be inscribed with the discipline in which the individual is licensed to practice.

2.5.2.2.1 Those licensed in multiple disciplines will be issued certificates in each.

2.5.2.2.2 Engineers will submit a separate application for each discipline.

2.5.2.2.3 Verification of discipline may be provided by NCEES record or written documentation of PE examination discipline.

#### 2.5.2.3 Professional Architectural Engineer

2.5.2.3.1 Professional Engineers licensed on the basis of Architectural Engineering education, experience, and examination shall be designated Professional Architectural Engineers.

2.5.2.3.2 Professional Architectural Engineers shall be considered qualified to design engineering systems commonly associated with buildings. They shall not practice or offer to practice architecture.

#### 2.5.2.4 Professional Structural Engineer (S.E.)

2.5.2.4.1 Professional Engineers licensed on the basis of structural engineering education, experience, and examination shall be designated Professional Structural Engineers and may use the designation S.E. with their name.

## CHAPTER 3; ARCHITECTURE

### 3.1 Required Documents

- 3.1.1 Every individual seeking a licensure shall submit a completed application to the board, accompanied by the filing fee established by the board.
- 3.1.2 The applicant shall provide official proof of education. This record shall be forwarded directly to the board by the school(s) the applicant attended.

### 3.2 Education Requirements

- 3.2.1 Except as provided in Neb. Rev. Stat. § 81-3448 (2), an applicant must either:
  - 3.2.1.1 Hold a professional degree in architecture from a program accredited by the National Architectural Accrediting Board (NAAB); or
  - 3.2.1.2 Obtain an evaluation report in accordance with board requirements stating that the applicant has met the NCARB Education Requirement with a degree in the field of architecture.

### 3.3 Experience

- 3.3.1 An applicant must satisfy the Intern Development Program (IDP) training criteria, as required and verified by NCARB at the time of application.

### 3.4 Examinations

- 3.4.1 The Examination used by the board to determine eligibility for licensure shall be the current NCARB Architect Registration Examination (ARE) as accepted by the board.
  - 3.4.1.1 The board will follow NCARB's policies on scheduling and retaking examinations.
  - 3.4.1.2 The board will verify applicant eligibility and forward eligibility information to NCARB.
  - 3.4.1.3 The board may allow candidates to make application to take all divisions of the ARE after verification of having met the education requirements and enrollment in IDP.
  - 3.4.1.4 The board will allow its applicants to take the ARE at any NCARB-approved test center, whether or not it is located within the State of Nebraska.
  - 3.4.1.5 The board will accept the examination result as determined by NCARB and will report the result to the applicant.
  - 3.4.1.6 If there is any alleged improper behavior on the part of an applicant, the board will investigate the allegation and take appropriate action.
  - 3.4.1.7 An applicant must have passed the examination in accordance with the NCARB pass/fail standards current at the time the applicant took the examination.
  - 3.4.1.8 For security reasons, items in the examination will not be available for review by the examinee. Examinees have the right to review or challenge failed examination(s) through the board.

**3.4.2 Rolling Clock**

3.4.2.1 Applicants shall be required to complete the ARE in accordance with NCARB requirements.

**3.4.3 The Nebraska E&A Act Examination as accepted by the board.**

3.4.3.1 An examination on the Nebraska E&A Act and practice ethics must be passed before an architect can be licensed to practice in Nebraska.

3.4.3.2 The purpose of the examination is to ensure that applicants are familiar with the Engineers and Architects Regulation Act and the ethics of practicing architecture. This is an open book examination administered by the board.

3.4.3.3 After a second or subsequent failure of the Nebraska E&A Act Exam, the candidate may be required to acquire additional learning before being reexamined. Such candidates shall be eligible for examination every thirty days.

**3.5 Certificates**

3.5.1 When the board has determined that an applicant for licensure has satisfied the licensure standards set forth herein, the board shall issue a certificate of licensure containing the licensed applicant's name and license number.

**CHAPTER 4; RECIPROCITY**

**4.1 Reciprocity with Other Jurisdictions**

- 4.1.1 A person licensed as an architect or as a professional engineer in the State of Nebraska may acquire licensure in other jurisdictions from the registration authority by reciprocity.
- 4.1.2 The Nebraska Board will provide information upon official request.

**4.2 Reciprocity for Engineers from Other Jurisdictions with Nebraska**

- 4.2.1 Licensure by Discipline of Practice
  - 4.2.1.1 In order to be eligible for licensure in Nebraska the engineering candidate must qualify in one or more engineering discipline(s).
  - 4.2.1.2 Verification of good standing must be provided by the registration authority of current licensure, including the discipline of examination.
    - 4.2.1.2.1 Should the state not license by discipline or have record of examination discipline, verification of discipline of practice may be provided by NCEES record.
- 4.2.2 Jurisdictional Reciprocity
  - 4.2.2.1 An engineering applicant who holds a current and valid certification issued by a registration authority recognized by the board may be licensed by Jurisdictional Reciprocity if he or she:
    - 4.2.2.1.1 Files an application with required fee; and
    - 4.2.2.1.2 Submits satisfactory evidence of such certification to the board.
  - 4.2.2.2 The applicant must meet the current standards for licensure by examination in Nebraska.
    - 4.2.2.2.1 With respect to candidates applying for licensure who have passed the NCEES Structural I examination, such candidates may be licensed as a Professional Civil Engineer.
  - 4.2.2.3 The applicant will go to the board for review and final determination.
- 4.2.3 Expedited Reciprocal Licensure
  - 4.2.3.1 The board administrator is authorized to review and evaluate the applications of all reciprocal applicants to determine if they meet or exceed the criteria of a "Model Law Engineer" (MLE) as designated by NCEES.
  - 4.2.3.2 If the applicants meets or exceeds these requirements, the board administrator may issue a contingent license authorizing that individual to offer or provide engineering services in Nebraska if he or she:
    - 4.2.3.2.1 Files an application with required fee; and
    - 4.2.3.2.2 Submits satisfactory evidence of such certification to the board.
  - 4.2.3.3 A listing of all professional engineers issued contingent licenses will be placed on the agenda of the next meeting of the board for formal approval by the board.

#### 4.2.4 Licensure by Experience

4.2.4.1 Engineers licensed by a registration authority recognized by the board by professional examination with 15 years or more of licensed work experience may be licensed by experience if he or she:

4.2.4.1.1 Files an application with required fee;

4.2.4.1.2 Submits satisfactory evidence of 15 years of licensed work experience in a discipline acceptable to the board; and

4.2.4.1.3 Provides five professional references.

4.2.4.2 The applicant will go to the board for review and final determination.

#### 4.2.5 Temporary Permit

4.2.5.1 An engineering applicant who holds a current and valid certification issued by a registration authority recognized by the board may apply for a Temporary Permit for the purpose of providing engineering service in a single discipline for no more than one project, not to exceed one year, if he or she:

4.2.5.1.1 Files an application with required fee; and

4.2.5.1.2 Submits satisfactory evidence of such certification to the board.

4.2.5.2 Verification of good standing must be provided by the registration authority of current licensure, including the discipline of examination.

4.2.5.2.1 Should the registration authority of current licensure not license by discipline or have record of examination discipline, verification of discipline may be provided by NCEES record.

4.2.5.3 The permit will consist of labels containing the pertinent information which may be applied to documents or may be copied onto clear media for application to sealed transparencies.

4.2.5.4 The holder of a temporary permit shall use his or her seal from the state of verified licensure when sealing documents pertaining to the Nebraska project and shall accompany the seal with an information label issued by the board.

4.2.5.5 A listing of all professional engineers issued Temporary Permits will be placed on the agenda of the next meeting of the board for formal approval by the board.

### 4.3 Reciprocity for Architects from Other Jurisdictions with Nebraska

#### 4.3.1 Expedited Reciprocal Licensure

4.3.1.1 The board administrator is authorized to review and evaluate the applications of all reciprocal applicants to determine if they meet or exceed the criteria of a "Model Law" Architect as defined in Neb. Rev. Stat. § 81-3448 and as designated by NCARB.

4.3.1.2 If the applicants meets or exceeds these requirements, the board administrator may issue a contingent license authorizing that individual to offer or provide architectural services in Nebraska if he or she:

4.3.1.2.1 Files an application with required fee; and

4.3.1.2.2 Submits satisfactory evidence of such certification to the board.

- 4.3.1.3 A listing of all architects issued contingent licenses will be placed on the agenda of the next meeting of the board for formal approval by the board.
- 4.3.2 Licensure by Experience
  - 4.3.2.1 Architects licensed by a registration authority recognized by the board by professional examination with 15 years or more of licensed work experience may be licensed by experience if he or she:
    - 4.3.2.1.1 Files an application with required fee;
    - 4.3.2.1.2 Submits satisfactory evidence of 15 years of licensed work experience acceptable to the board; and
    - 4.3.2.1.3 Provides five professional references.
  - 4.3.2.2 The applicant will go to the board for review and final determination.
- 4.3.3 Temporary Permit
  - 4.3.3.1 An architectural applicant who holds a current and valid certification issued by a registration authority recognized by the board may apply for a Temporary Permit for the purpose of providing architectural service for no more than one project, not to exceed one year, if he or she:
    - 4.3.3.1.1 Files an application with required fee; and
    - 4.3.3.1.2 Submits satisfactory evidence of such certification to the board.
  - 4.3.3.2 Verification of good standing must be provided by NCARB.
  - 4.3.3.3 The permit will consist of labels containing the pertinent information which may be applied to documents or may be copied onto clear media for application to sealed transparencies.
  - 4.3.3.4 The holder of a temporary permit shall use his or her seal from the state of verified licensure when sealing documents pertaining to the Nebraska project and shall accompany the seal with an information label issued by the board.
  - 4.3.3.5 A listing of all architects issued Temporary Permits will be placed on the agenda of the next meeting of the board for formal approval by the board.

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## CHAPTER 5; CODE OF PRACTICE

### 5.1 Competence

- 5.1.1 In practicing engineering or architecture, the architect or professional engineer shall act with reasonable care and competence and shall apply the technical knowledge and skill ordinarily applied by architects or professional engineers of good standing in the same locality.
- 5.1.2 In designing a project, the architect or professional engineer shall take into account all applicable state and municipal laws and regulations. While the architect or professional engineer may rely on the advice of other professionals (e.g., attorneys, architects, professional engineers, or other qualified persons) as to the intent and meaning of such regulations, once having obtained such advice, the architect or professional engineer shall not knowingly design a project in violation of such laws and regulations.
- 5.1.3 The architect or professional engineer shall undertake to perform professional services only when he or she, together with those whom the architect or professional engineer may engage as consultants, is qualified by education, training, and experience in the specific technical areas involved.
- 5.1.4 No person shall be permitted to practice engineering or architecture if, in the board's judgment, such person's professional competence is substantially impaired by physical or mental disabilities.
- 5.1.5 An architect or professional engineer convicted of a crime in connection with the profession or moral turpitude under state law, federal law, or the law of another jurisdiction, if in the opinion of the board the events and circumstances leading to the conviction indicate a condition which would affect the competency of the licensee to serve the health, safety, and welfare of the public may be held in violation of the code of practice.
- 5.1.6 The architect or professional engineer shall not sign, seal or attest to any work pertaining to any technical discipline or specialty which the architect or professional engineer does not fully understand and/or is not professionally trained and experienced.

### 5.2 Conflict of Interest

- 5.2.1 The architect or professional engineer shall not accept compensation for his or her services from more than one party on a project unless the circumstances are fully disclosed to and agreed to (such disclosure and agreement to be in writing) by all interested parties.
- 5.2.2 If the architect or professional engineer has any business association or direct or indirect financial interest which is substantial enough to influence his or her judgment in the selection of any contractor or sub-consultant or in connection with his or her performance of professional services, the architect or professional engineer shall fully disclose in writing to his or her client or employer the nature of the business association or financial interest, and if the client or employer objects to such association or financial interest, the architect or professional engineer will either terminate such association or interest or offer to give up the commission or employment.
- 5.2.3 The architect or professional engineer shall not solicit or accept compensation from material or equipment suppliers, contractors or sub-consultants in return for specifying or endorsing their products.

- 5.2.4 When acting as the interpreter of construction contract documents, studies, and reports, the architect or professional engineer shall render decisions impartially. When acting as the judge of contract performance, the architect or professional engineer shall render decisions in an objective manner, favoring neither party to the contract.
- 5.2.5 An architect or professional engineer who initiates a complaint to the board shall not become involved as the architect or professional engineer of record for the project which was the subject of the complaint.

**5.3 Full Disclosure**

- 5.3.1 The architect or professional engineer making public statements on engineering or architectural questions, shall disclose when he or she is being compensated for making such statement.
- 5.3.2 The architect or professional engineer shall accurately represent to a prospective or existing client or employer his or her qualifications and the scope of his or her responsibility in connection with work for which he or she is claiming credit.
- 5.3.3 If, in the course of his or her work on a project, the architect or professional engineer becomes aware of a decision or an action taken by the employer or client against the architect's or professional engineer's advice, which violates applicable state or municipal laws and regulations and which will, in the licensee's judgment, materially affect adversely the safety to the public of the finished project, the architect or professional engineer shall advise the employer or the client of the violation and request reconsideration of the decision. In the event the employer or client does not reverse or alter the decision in order to bring it into conformity with applicable laws, the architect or professional engineer shall:
  - 5.3.3.1 Report the decision to the local building inspector or other public official charged with the enforcement of the applicable state or municipal laws and regulations;
  - 5.3.3.2 Refuse to consent to the decision; and
  - 5.3.3.3 In circumstances where the architect or professional engineer reasonably believes that other such decisions will be taken notwithstanding his or her objection, terminate his or her services with reference to the project.
- 5.3.4 The architect or professional engineer shall not deliberately make a materially false statement or fail deliberately to disclose accurately and completely a material fact requested in connection with his or her application for licensure or renewal or otherwise requested by the board.
- 5.3.5 The architect or professional engineer shall not assist the application for licensure of a person known by the architect or professional engineer to be unqualified in respect to education, training, experience, or character.
- 5.3.6 The architect or professional engineer possessing knowledge of a violation of these rules by another architect or professional engineer shall report such knowledge to the board.

**5.4 Compliance with Laws**

- 5.4.1 The architect or professional engineer shall not, in the conduct of his or her engineering or architectural practice, knowingly violate any state or federal criminal law. Allegations of violations of this section may be based on an independent finding of a violation of the law by a court of competent jurisdiction or an administrative or regulatory body.

- 5.4.2 The architect or professional engineer shall neither offer nor give any gift of significant value, or any monetary payment, to a government official with the intent of influencing the official's judgment in connection with a prospective or existing project in which the architect or professional engineer is interested or has an interest.
- 5.4.3 The architect or professional engineer shall comply with the laws and regulations governing his or her professional practice in any United States jurisdiction.
  - 5.4.3.1 An architect or professional engineer may be subject to disciplinary action if, based on grounds substantially similar to those which lead to disciplinary action in this jurisdiction, the architect or professional engineer is disciplined in any other United States jurisdiction.
  - 5.4.3.2 A person whose Nebraska license was issued on the basis of a NCARB or NCEES certificate shall, upon suspension or revocation of that certificate, have his or her Nebraska license suspended until the certificate is reinstated.
  - 5.4.3.3 A Nebraska license based upon reciprocity with another jurisdiction shall be concurrently suspended upon suspension or revocation of that jurisdiction's license, pending reinstatement.
  - 5.4.3.4 A license under suspension must be kept current through the suspension period. If the license has expired during the suspension period, a new application for licensure will be required.

## 5.5 Professional Conduct

- 5.5.1 Each office maintained for the purpose of serving the public through professional engineering or architectural work including the preparation of drawings, specifications, reports and the administration of contract documents shall have a qualified architect or professional engineer in charge of such office and the preparation of such work. This involvement shall be of such nature as to provide the licensee with direct knowledge of the work performed as well as the opportunity to exercise direct and supervisory control of the activity of that office.
- 5.5.2 The architect or professional engineer shall not sign or seal drawings, specifications, reports or other professional work for which he or she does not have direct supervision; provided, however, that in the case of the portions of such professional work prepared by the architect's or professional engineer's consultants, licensed under the law of the State of Nebraska or another state, the architect or professional engineer may sign or seal that portion of the professional work if the architect or professional engineer has reviewed such portion, has coordinated its preparation and accepts responsibility for its adequacy.
- 5.5.3 The architect or professional engineer shall neither offer nor make any gifts, other than gifts of nominal value (including, for example, reasonable entertainment and hospitality), with the intent of influencing the judgment of an existing or prospective client in connection with a project in which the architect or professional engineer is interested.
- 5.5.4 The architect or professional engineer shall not engage in conduct involving fraud or wanton disregard of the rights of others.
- 5.5.5 The architect or professional engineer shall not engage in grossly immoral or dishonorable conduct which would provide evidence of unfitness to perform the tasks required by clients or would provide evidence of a degree of proficiency which is not sufficient to serve the public interest.

- 5.5.6 The architect or professional engineer shall not engage in misleading or untruthful or improbable statements, or flamboyant, exaggerated or extravagant claims concerning the licensee’s professional excellence or abilities in advertisements or public statements.
- 5.5.7 The architect or professional engineer shall not knowingly aid or abet the practice or the performance of activities requiring a license by a person not licensed to conduct such practice or activity.

**5.6 Practice of Architecture and Engineering**

- 5.6.1 The practice of architecture shall be as defined in Neb. Rev. Stat. § 81-3420 of the E&A Act.
- 5.6.2 The practice of engineering shall be as defined in Neb. Rev. Stat. § 81-3421 of the E&A Act.

**5.7 Use of Titles in Architecture and Engineering**

- 5.7.1 Except for those specifically exempted from the law, the title “Professional Engineer” is to be used only by those who are licensed to practice engineering in Nebraska.
- 5.7.2 The criteria for use of the title “Engineer” is education and experience, both of which are satisfactory to the board. A person who has earned an ABET accredited degree or equivalent in engineering may use the title “Engineer.”
- 5.7.3 The criteria for use of the title “Engineer Intern” is a person who has earned an ABET accredited degree, passed the FE exam and holds an “Engineer Intern Certificate.”
- 5.7.4 Except for those specifically exempted from the law, the title “Architect” is to be used only by those who are licensed to practice architecture in Nebraska.
- 5.7.5 The criteria for use of the title “Intern Architect” is education and experience, both of which are satisfactory to the board. A person who has earned a NAAB-accredited degree or equivalent in architecture may use the title “Intern Architect.”
- 5.7.6 With respect to Neb. Rev. Stat. § 81-3441, individuals who are not licensed as an architect or professional engineer in Nebraska, but who hold a like license in another U.S. state or territory and reside or work in Nebraska, may use the title “Architect” or “Professional Engineer” on correspondence, business cards, and other routine communication wherein the individual is not practicing or offering to practice provided that the jurisdiction(s) in which they are licensed are written or printed after the title so as to not mislead the public regarding their credentials. The listing of jurisdictions after the title is not required on correspondence, business cards, or other communication from an office outside Nebraska, provided that the individual is licensed in that jurisdiction.

**5.8 Design Approvals Required By Governmental Agencies**

- 5.8.1 It is the responsibility of design professionals to obtain formal review and approval of design work, when such approval is required prior to construction.

## CHAPTER 6; THE LICENSEE SEAL

### 6.1 Use of the Seal

- 6.1.1 Each person licensed as an architect or professional engineer is required to acquire a seal which bears the licensee's name, his or her license number, the words "State of Nebraska" and whether the individual is licensed to practice as a professional engineer, with discipline specified, or an architect.
- 6.1.2 The purpose of requiring each architect or professional engineer to acquire a seal is to assist in identification of the design professional responsible for work performed under the requirements of Neb. Rev. Stat. §§ 81-3401 through 81-3455.
- 6.1.3 The seal used by a licensee, whether an embossing, computer generated, or other type of seal shall be legible. In the absence of legibility, the seal is invalid.
- 6.1.4 The responsible architect or professional engineer shall identify all work that he or she has prepared as well as all work that has been prepared under the licensee's direct supervision by applying his or her seal to each sheet of original drawings.
- 6.1.5 All specifications, reports, studies, and other documents prepared as professional engineering or architectural service shall be sealed on the title page and/or the first page as well as the last page of the document by the individual licensee responsible for the work. Two or more licensees may affix their signatures and seals to a sheet provided it is designated by a note under the seal the specific subject matter for which each is responsible.
- 6.1.6 No seal shall be valid unless the licensee signs his or her name across the face of the seal and indicates the date on which the material was signed.
- 6.1.7 Documents clearly marked as "Draft" prepared for preliminary submission and review do not require the professional's seal, signature, and date, including documents prepared for a client or governmental agency unless otherwise required by that entity.
- 6.1.8 It is the responsibility of the licensee to provide adequate security over their seal and signature wherever it appears, regardless of whether the seal and signature is produced electronically or by other means.

### 6.2 Prototypical Projects

- 6.2.1 Documents prepared for projects that are designed by other architects and professional engineers to be built in several locations with only site adaptation, may be sealed by a Nebraska licensee under the following conditions:
  - 6.2.1.1 Written permission of the original architect(s) and/or professional engineer(s) to adapt the documents.
  - 6.2.1.2 Acceptance of full responsibility for the documents.
  - 6.2.1.3 Provision of a coordinating professional, if required.
  - 6.2.1.4 Complete review for code compliance and coordination.
  - 6.2.1.5 Documentation of all changes made to the documents.

**6.3 The Coordinating Professional**

- 6.3.1 The board recognizes the following as interpretations of coordinating professional provisions of the E&A Act:
  - 6.3.1.1 The Coordinating Professional is a licensed professional member of the design team.
  - 6.3.1.2 The Coordinating Professional’s seal connotes coordination of design disciplines, but does not signify responsible charge for the work.
  - 6.3.1.3 The Coordinating Professional may not practice outside his or her expertise.
  - 6.3.1.4 The Coordinating Professional shall act as project liaison with the governing building official.
  - 6.3.1.5 The Coordinating Professional shall not comprise nor act as a construction manager, a general engineering consultant, a contractor, a developer, or a design builder unless qualified as a licensed professional member of the design team.
- 6.3.2 The intent of the Coordinating Professional requirement is to verify that all design disciplines involved in a project are working in coordination with one another, and that any changes made to the design are approved by the corresponding discipline, so that life, health, safety, and welfare are not compromised.
- 6.3.3 The Coordinating Professional’s role is applicable primarily during a project’s design, both before and during construction.
- 6.3.4 The designation of the coordinating professional may be transferred between licensed professional members of the design team on a particular project.
- 6.3.5 The Coordinating Professional should use the following language in conjunction with their individual seal for identification as the Coordinating Professional: “I, (name of licensee), am the Coordinating Professional on the (name of project) project.”

## CHAPTER 7; ORGANIZATIONAL PRACTICE

### 7.1 Applications

Organizations practicing or offering to practice engineering or architecture in Nebraska shall apply to the board for a Certificate of Authorization. The board reviews the organization's application and issues a Certificate of Authorization if the minimum requirements are satisfied. The certificate is for use only by the organization to indicate that it has satisfied the minimum requirements of the board for a period of two years to practice or offer to practice the professions of engineering and/or architecture in the State of Nebraska. The certificate of authorization shall be used to file any applications with the Nebraska Secretary of State to fulfill the appropriate statutes or requirements for practicing in Nebraska as a corporation, partnership, limited liability corporation, professional corporation or other such organizational designations appropriate under Nebraska law.

### 7.2 Minimum Organizational Requirements

- 7.2.1 The minimum requirement for an organization to practice engineering in Nebraska is to have one professional engineer for engineering practice for the duration of the certificate of authorization.
- 7.2.2 The minimum requirement for an organization to practice architecture in Nebraska is to have one architect for architectural practice for the duration of the certificate of authorization.
- 7.2.3 The minimum requirement for an organization to practice engineering and architecture in Nebraska is to have one professional engineer and one architect for engineering and architectural practice for the duration of the certificate of authorization.
- 7.2.4 The architect and/or professional engineer must be licensed to practice in the State of Nebraska and must be a full-time employee of the organization.

### 7.3 Criteria for Issuing a Certificate of Authorization

- 7.3.1 For certification to practice the profession of engineering, the signature of a professional engineer licensed in the State of Nebraska must appear on the organization application. That individual must be a full-time employee of the organization.
- 7.3.2 For certification to practice the profession of architecture, the signature of an architect licensed in the State of Nebraska must appear on the organization application. That individual must be a full-time employee of the organization.
- 7.3.3 A licensed professional whose signature appears on the application may or may not have ownership interest in the organization.
- 7.3.4 The applicant must pay appropriate application fees.
- 7.3.5 The certificate of authorization expires on the expiration date.
- 7.3.6 Should any licensed professional who has signed the application leave the organization or become deceased or lose their signatory authority, the organization within 30 days must notify the board and file an amendment to its application identifying the new licensed individual(s) with signatory authority.

**7.4 Design-Build**

An organization may offer engineering and/or architectural services combined with construction services under the following conditions:

- 7.4.1 An architect and/or professional engineer licensed to practice in Nebraska participates substantially in those aspects of the offering which involve engineering and/or architectural services;
- 7.4.2 At the time of the design-build offering such organization shall furnish to the consumer of design-build services a written statement identifying the architect and/or professional engineer who will perform the engineering and/or architectural work for the design-build project;
- 7.4.3 The architect and/or professional engineer engaged by such organization to perform the engineering and/or architectural work with respect to a design-build project shall have direct supervision of such work, and may not be removed by such organization prior to the completion of the project without the written consent of the consumer of design-build services;
- 7.4.4 An organization offering design-build services with its own employees who are design professionals licensed to practice in Nebraska, shall comply with the E&A Act by procuring a certificate of authorization to practice engineering and/or architecture; and
- 7.4.5 The rendering of engineering and/or architectural services by such licensed architect and/or professional engineer will conform to the E&A Act and E&A Rules.

## CHAPTER 8; DISCIPLINARY ACTION

### 8.1 Probable Cause

- 8.1.1 When a complaint is received by the board in which a person or organization is alleged to have violated the Act, the board may refer the complaint to an investigative panel or an investigator.
- 8.1.2 The panel or the investigator makes a determination and/or a recommendation as to:
  - 8.1.2.1 Whether the complaint should be pursued;
  - 8.1.2.2 If an informal process or mediation should be used;
  - 8.1.2.3 If further investigation is required; or
  - 8.1.2.4 If probable cause exists for taking further action or for issuing a summons and complaint to initiate the formal process.
- 8.1.3 The board reviews the determination and/or recommendation and determines whether the allegation should be dismissed, or an informal process, mediation, or formal process should be taken.
- 8.1.4 Action against the person or organization holding a certificate of authorization may be brought in the name of the board or brought before the board in the name of the complainant versus the respondent.

### 8.2 Informal Process

The board may wish to select an “informal process” in lieu of or as a prerequisite for entering into a “formal legal process.” Under this option, the board would generally follow these steps after receiving a written complaint that an individual or organization has violated the E&A Act or the E&A Rules:

- 8.2.1 The board sends a letter to any or all of the parties involved in the complaint, requesting that they attend a board meeting to informally discuss matters related to the complaint. At the scheduled meeting with the board, the board shall clearly state to the parties that the meeting is informal and that no individuals or organizations will be giving up their “due process rights” by participating in this “informal process.” The board may request that parties bring materials, documents, or exhibits that might be useful in facilitating the informal discussion with the board.
- 8.2.2 If the board and the parties can reach a mutual understanding that any violations of the E&A Act and/or the E&A Rules that may have been violated in this complaint can easily be corrected through “education” and applied properly in future activities of the parties, then the board may consider the complaint to be resolved. Under this process the board is looking to the party or parties named in the complaint to take their own corrective actions to establish compliance with the E&A Act and the E&A Rules.
- 8.2.3 The board retains the authority to separate items within a complaint into those that can be resolved with this “informal process” from those of a more serious nature which must be resolved under the “legal process.”
- 8.2.4 Matters resolved through the “informal process” will so be acknowledged in writing to all parties who participated in the process.
- 8.2.5 Participation in the informal process is intended to be voluntary, not mandatory, on the part of the respondent.

**8.3 Mediation**

At the request of either party, if agreed to by both parties, the complaint shall be referred to a state approved mediation center for resolution pursuant to the Nebraska Dispute Resolution Act.

**8.4 Formal Process**

8.4.1 The procedure for hearings in contested cases shall be in accordance with Title 53, Nebraska Administrative Code, Chapter 4 of the Nebraska Department of Justice. Copies of Title 53, Nebraska Administrative Code, Chapter 4 are available from the Nebraska Secretary of State’s Office and are also available on computer disc from the Nebraska Attorney General’s Office.

8.4.2 Any person aggrieved by a final decision in a contested case is entitled to judicial review under the Administrative Procedures Act, or resort to such other means of review as may be provided by law.

**8.5 Publication**

The board, having taken disciplinary action after hearing or by agreed settlement, may publish the respondent’s name and place of business.

**8.6 Remediation**

**8.6.1 Remediation of Projects with Inadequately Sealed Documents**

8.6.1.1 Pursuant to a complaint alleging the unlicensed practice of engineering or architecture, the Board may, at its discretion, allow work not in compliance with the E&A Act to be remediated by the following method:

8.6.1.1.1 A letter is written by a licensed architect or professional engineer, as appropriate, explaining his or her relationship to the project and deficiencies found in the improperly sealed documents, including the need for involvement of other design disciplines;

8.6.1.1.2 The letter is sealed with the requisite signature and date by the licensed professional;

8.6.1.1.3 The licensed professional assumes responsibility for the design and becomes the coordinating professional;

8.6.1.1.4 The letter becomes a permanent part of the existing contract documents;

8.6.1.1.5 Revisions are made to the deficient documents by the architect or professional engineer and are attributed accordingly; and

8.6.1.1.6 The unsealed or improperly sealed documents remain unsealed by the licensed professional, but are supplemented by the sealed letter.

**8.6.2 Remediation of Projects without Design Documents**

8.6.2.1 In addition to the requirements described in Rule 8.6.1, where there are no original design and/or construction documents for work not in compliance with the law, the following additional information will be required:

8.6.2.1.1 The remediation letter written should describe the deficiencies found in the design and/or construction of the work.

8.6.2.1.2 The letter shall be submitted to the Board within 30 days of the Board’s authorization to proceed with remediation.

8.6.2.1.3 New documents, prepared by the licensed professionals involved, are sealed, signed, and dated.

**8.7 Enforcement**

8.7.1 If any person refuses to obey any decision or order of the board, enforcement proceedings may be commenced in the appropriate district court in accordance with Neb. Rev. Stat. § 81-3440.

**CHAPTER 9; CONTINUING EDUCATION**

**9.1 Introduction**

9.1.1 Every licensee shall meet the Continuing Education requirements of these regulations as a condition for license renewal.

**9.2 Definitions Regarding Continuing Education**

9.2.1 Architectural Continuing Education (ACE) means the biennial continuing education required by the American Institute of Architects (AIA) for maintenance of membership in that professional organization. For those not associated with the AIA, twenty-four (24) actual hours of architectural-related learning are required; of those, at least sixteen (16) are to address the safeguarding of life, health, and property.

9.2.2 Engineering Continuing Education (ECE) means the biennial continuing education requirements for professional engineers in any NCEES jurisdiction. For those not involved in a mandatory continuing education program in another jurisdiction, thirty (30) actual hours of engineering-related learning are required.

**9.3 Requirements**

9.3.1 Every architect is required to obtain an ACE, or the equivalent from another jurisdiction of his or her licensure.

9.3.2 Every professional engineer is required to obtain an ECE, or the equivalent from another jurisdiction of his or her licensure.

9.3.2.1 Professional engineers are encouraged to obtain their ECE in their discipline of licensure.

9.3.2.2 Professional engineers who hold multiple license disciplines may satisfy the ACE requirement in any of the licensed disciplines, at the thirty (30) actual hour biennial requirement.

9.3.3 A person who is licensed as both an architect and professional engineer in Nebraska may satisfy either the ACE or the ECE requirement.

9.3.4 Professional Civil Engineers, who are licensed as land surveyors in the state, can use one-half of their required credits from their surveying continuing education credits.

**9.4 Units and Carry-over**

9.4.1 One actual hour of learning means at least fifty (50) minutes spent in verifiable educational pursuit.

9.4.1.1 One semester credit hour of formal education is equivalent to forty-five (45) actual hours.

9.4.1.2 One quarter credit hour of formal education is equivalent to thirty (30) actual hours.

9.4.1.3 One Professional Development Hour (PDH) is equivalent to one actual hour.

9.4.2 The licensee may carry forward excess credit, up to a maximum of one-half the required credits from the previous biennial requirement, into the subsequent renewal period. Excess continuing education credits can be carried forward only into the biennial period immediately following the period in which the credit was earned.

**9.5 Determination of Credit**

- 9.5.1 The Nebraska Board of Engineers and Architects has final authority with respect to approval of courses, credit, or unit value for courses, and other methods of earning ACE and ECE credit. No pre-approval of offerings will be issued.
- 9.5.2 Certified satisfaction of mandatory continuing education requirements in any NCARB or NCEES jurisdiction, for the time period in question, will satisfy the Nebraska requirement.

**9.6 Recordkeeping**

- 9.6.1 The maintenance of records to be used to support credits claimed is the responsibility of the licensee. Records required include, but are not limited to:
  - 9.6.1.1 A log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and unit credits earned;
  - 9.6.1.2 Attendance verification records in the form of completion certificates or other documents supporting evidence of attendance; or
  - 9.6.1.3 Records as maintained by the American Institute of Architects, the Professional Development Registry for Engineers and Surveyors (PDRES), the NCEES CPC tracking program, or other similar repositories. These records must be maintained for a period of four years and copies may be requested by the board for audit verification purposes.

**9.7 Exemptions and Waiver**

- 9.7.1 A licensee may be exempt from the continuing education requirements for one of the following reasons:
  - 9.7.1.1 New licensees by way of examination or reciprocity shall be exempt for their initial renewal period.
  - 9.7.1.2 A licensee serving on temporary active duty in the armed forces of the United States for a period of time exceeding one hundred twenty (120) consecutive days in a year shall be exempt from obtaining the continuing education hours required during that year.
  - 9.7.1.3 Licensees experiencing physical disability, illness, or other extenuating circumstances as reviewed and approved by the board may be exempt. Supporting documentation must be furnished to the board.
  - 9.7.1.4 Licensees who choose the Emeritus option on the board approved renewal form shall be exempt from the continuing education hours required. In the event such a person elects to return to active practice of architecture or professional engineering, continuing education hours must be earned before returning to active practice for each year exempted not to exceed the biennial ACE or ECE requirement.
- 9.7.2 The board reserves the right to waive the continuing education requirement at their discretion.

**9.8 Reinstatement**

- 9.8.1 A licensee may bring a nonrenewable license or Emeritus license to active status by obtaining all delinquent continuing education units, not to exceed the biennial ACE or ECE requirement. Documentation is required at the time of application for reinstatement.

**9.9 Satisfaction by Comity with Other Jurisdictions**

- 9.9.1 The continuing education requirements for Nebraska will be satisfied when a licensee is certified to be licensed in, and as having met the mandatory continuing education requirements of, an NCARB or NCEES jurisdiction for the period of time in question.

**9.10 Forms and Audits**

- 9.10.1 Renewal forms will contain a section for indication of satisfactory continuing education. A license will become nonrenewable without hearing after December 31st following the expiration date if the continuing education requirement is not met.
- 9.10.2 The board will establish a number of licensees to be selected at random to submit substantiating information to support their continuing education claim. These submittals will be analyzed by the board who will recommend renewal or denial of licensure based on the result.
- 9.10.3 If the board disallows the professional development hours claimed, the applicant for licensure renewal or reinstatement shall have 120 days after notification to substantiate the original claim or to earn other credit to meet the minimum requirements.

## CHAPTER 10; EXEMPTIONS; CLARIFICATION

### 10.1 Introduction

Any citation to the state building code shall mean the most recent edition of the state building code as adopted in Neb. Rev. Stat. § 71-6403.

### 10.2 Definitions; Neb. Rev. Stat. §§ 81-3449 (1) & 81-3453 (1)

The following definitions may be used as an adjunct to that reference:

- 10.2.1 Above-grade Finished Space: For single-family through 4-dwelling units; this includes all enclosed, potentially-habitable area on any level, up to a maximum of three levels.
- 10.2.2 Detached sheds or storage buildings and attached or detached garages, up to a maximum of three stalls, are exempted from the area calculations for Residential occupancies.
- 10.2.3 Occupancy Classification relates to the type of occupancy intended for the built area and shall be as defined in the state building code.
- 10.2.4 Building area shall be as defined in the state building code.

### 10.3 Statutory Exemptions to the Engineers and Architects Regulation Act

Notwithstanding other provisions of the E&A Act, persons who are not licensed architects or professional engineers may perform planning and design services in connection with any building, structure, or work as indicated below:

	<u>OCCUPANCY CLASSIFICATION</u>	<u>MAXIMUM BUILDING AREA</u>
10.3.1	A - Assembly .....	Less than 1,000 square feet
10.3.2	B - Business .....	Less than 3,000 square feet
10.3.3	E - Educational .....	Less than 1,000 square feet
10.3.4	F - Factory .....	Less than 5,000 square feet
10.3.5	H - Hazardous	
	H-1, H-2, H-3, H-4 .....	Less than 2,000 square feet
	H-5.....	Less than 4,000 square feet
10.3.6	I - Institutional	
	I-1, Personal care .....	Less than 3,000 square feet
	I-2, Healthcare.....	Less than 5,000 square feet
	I-1, Detention .....	Less than 3,000 square feet
	I-4, Day care .....	Less than 2,000 square feet
10.3.7	M - Mercantile .....	Less than 3,000 square feet
10.3.8	R - Residential	
	R-1, R-2, R-4 .....	Less than 4,000 square feet
	R-3, Single family through 4-plex.....	Less than 10,000 square feet
10.3.9	S - Storage .....	Less than 5,000 square feet
10.3.10	U - Utility .....	Less than 5,000 square feet
10.3.11	Any structure which contains two or more occupancies shall be governed by the most restrictive occupancy for the purpose of utilizing Rule 10.3.	

**10.4 Renovations and One-Level Additions**

- 10.4.1 Renovations and one-level additions to an existing building, structure, or work shall be exempt from the E&A Act if:
  - 10.4.1.1 The total impacted area is less than the area set by Section 10.3 of this Chapter; and
  - 10.4.1.2 The area of renovation or addition does not adversely impact the mechanical system; the electrical system; the structural integrity; the means of egress; and does not change or come into conflict with the occupancy classification of the existing or adjacent tenant space, building, structure or work.

**10.5 The Practice of Engineering and Architecture**

- 10.5.1 The development and utilization of construction means and methods such as schedules, work plans, work orders and directions, procedures, construction calculations, selection, provision and use of temporary facilities in support of construction activities, reports, selection and use of safety procedures and facilities, instructions and similar items customarily used by contractors to implement construction work designed by licensed persons does not constitute the practice of engineering or architecture.
- 10.5.2 The preparation by employees of construction companies of ancillary drawings and data, such as field details, shop drawings, product data, conceptual drawings, calculations, diagrammatic instructions and similar documents and information, which are typically utilized to implement the construction of a facility designed by a licensed person does not constitute the practice of engineering or architecture.
- 10.5.3 The performance of field layout and installation work by employees of construction companies on projects designed by a licensed person or persons, including construction work such as field staking and measurement; installation of material or equipment at designed locations or locations selected in the field; field fitup and modification work; and layout of construction installation and support work does not constitute the practice of engineering or architecture.
- 10.5.4 The estimate of the cost of construction work (including the extent of the cost of changes in the work) by construction companies including such things as preparing and reviewing preliminary concepts of the project, identifying the scope of the construction work, preparing preliminary schedules and sequences for the construction work, and evaluating the estimates of subcontractors and suppliers, does not constitute the practice of engineering or architecture.
- 10.5.5 The performance of work customarily involved in project management of construction work on projects designed by licensed persons does not constitute the practice of engineering or architecture. Examples would be:
  - 10.5.5.1 The evaluation of the project and its budget;
  - 10.5.5.2 Services relating to financing the project;
  - 10.5.5.3 Recommendations on construction feasibility, timing of design and construction, and factors relating to construction costs such as alternative designs prepared by a licensed professional;
  - 10.5.5.4 Procurement of labor and materials;
  - 10.5.5.5 Coordination and evaluation of subcontractor performance;
  - 10.5.5.6 Preparation of schedules;

- 10.5.5.7 Estimating the project costs;
- 10.5.5.8 Performing construction work; and
- 10.5.5.9 Reporting on the progress and costs of the work.

#### 10.5.6 Preliminary and Final Plats

Preparation of a preliminary plat is not restricted, but the final plat must be prepared and certified by a registered Land Surveyor. If, however, the final plat contains streets (other than rights-of-way), sewers, water lines, or other engineering works, it needs to be prepared and certified by both a registered Land Surveyor and a professional engineer. Mathematical details of the final plat are the responsibility of the registered Land Surveyor. Physical details, such as grading, public works, or construction are the responsibility of the professional engineer and may not be certified by the registered Land Surveyor.

#### 10.5.7 Livestock Waste Permits; Neb. Rev. Stat. §§ 81-3449(13) & 81-3453(12)

Under the E&A Act, the seal of an architect or professional engineer will be required for work related to livestock waste facilities only when the work falls within the definition of practice of architecture (Neb. Rev. Stat. § 81-3420) or practice of engineering (Neb. Rev. Stat. § 81-3421).

#### 10.5.8 Water Based Fire Protection Systems; Neb. Rev. Stat. §§ 81-3449 (11) & 81-3453 (7)

Nothing in the E&A Act shall prevent a certified water-based fire protection system contractor with a responsible managing employee from engaging in the business of installation, repair, alteration, addition, maintenance, or inspection of water-based fire protection systems, or system layout recognized by the State Fire Marshal, in accordance with Neb. Rev. Stat. §§ 81-5,158 to 81-5,164.

#### 10.5.9 Participation in a Design Competition

Conceptual design services, as provided in a design competition, are a part of the practice of architecture and engineering. Those services are also an offer to practice; therefore, design professionals participating in a Design Competition in Nebraska must be licensed to practice their profession in Nebraska, or procure a temporary permit.

#### 10.5.10 Spill Prevention Containment and Countermeasures

Preparation of Spill Prevention Containment and Countermeasure (SPCC) plans for a project located in Nebraska that requires the seal of a professional engineer constitutes the practice of engineering and must be prepared by a professional engineer licensed by the board.

### 10.6 Building Officials

Notwithstanding these exemptions, the responsible building official may require plans and specifications to be designed and prepared by an architect and/or professional engineer if the official finds a hazard to life, health, safety, or welfare due to the unusual circumstances of the building or structure or an unusually large number of potential occupants in relation to square footage for a particular occupancy.

### 10.7 Emergency Services

A person who is not currently licensed in this state, but who is currently licensed in another jurisdiction in the United States, may provide uncompensated (other than reimbursement of expenses) professional services at the scene of a declared emergency at the request of a public officer acting in an official capacity.

**CHAPTER 11; PROMULGATION, AMENDMENT, OR REPEAL OF RULES**

**11.1 Petitioning For Rulemaking**

11.1.1 Petitioning for rulemaking shall be in accordance with Title 53, Nebraska Administrative Code, Chapter 2 of the Nebraska Department of Justice. Copies of Title 53, Nebraska Administrative Code, Chapter 2 are available from the Nebraska Secretary of State's Office and are also available on computer disc from the Nebraska Attorney General's Office.

## INDEX

<b>KEYWORD</b>	<b>PAGE</b>	<b>KEYWORD</b>	<b>PAGE</b>
ABET		Construction phase services .....	16
Defined.....	24	Consulting engineer.....	4
Above-grade finished space .....	53	Consulting services.....	6, 12
Acronyms.....	24	Continuing education.....	13, 50
Alterations.....	17, 21, 54	Active duty, temporary .....	51
Applications .....	10	Architects, requirements for .....	50
Architect		Audits .....	52
Continuing education.....	50	Carryover .....	50
Defined.....	4	Civil engineer and land surveyor.....	50
Title, Use of.....	42	Comity with other jurisdictions.....	52
Architectural engineering.....	33	Credit, determination of .....	51
Architecture		Defined.....	5
Education.....	16, 34	Emeritus .....	51
Examinations.....	16, 34	Engineers, requirements for .....	50
Exemptions to practice .....	17	Exemptions and waiver .....	51
Experience (IDP).....	34	New licensees .....	51
Practice of, defined.....	6	Recordkeeping.....	51
Teaching .....	17	Reinstatement, license .....	51
ARE Exam.....	24, 34	Units .....	50
Rolling clock.....	35	Coordinating professional.....	12, 44
Area, building.....	53	Architecture, practice of.....	6
Board of Engineers and Architects .....	4, 8	Defined.....	5
Attorney General, and.....	9	Engineering, practice of .....	6
Education members .....	8	Declaratory Rulings .....	26
Emeritus members .....	8	Design coordination.....	7
Meetings.....	9	Design profession(al).....	5
Per diem.....	8	Design, defined .....	5
Quorum .....	9, 26	Design-build .....	18, 24, 46
Requirements.....	8	Direct supervision .....	18, 21, 22, 43
Seal, board .....	9	Defined.....	5
Building code, state .....	22, 53	Disciplinary action	
Building official.....	4, 55	Authorized .....	15
Certificate of Authorization .....	11	Formal process .....	48
Applications .....	45	Informal process .....	47
Criteria .....	45	Probable cause.....	47
Fees .....	11	Discipline of practice.....	24, 33
Organizational requirements .....	45	Reciprocity/comity .....	36
Code of Practice.....	10, 39	Disclosure.....	10, 40
Competence .....	39	Education	
Compliance with laws.....	40	Architecture .....	34
Conflict of Interest.....	39	Engineering .....	29
Disclosure.....	40	Educational debt, repayment.....	10
Professional conduct.....	41	Emergency services .....	55
Competence .....	39	Emeritus.....	25
Competitions, design .....	55	Continuing education.....	51
Complaints.....	14, 47	Defined.....	5
Compliance with laws.....	10, 40	Fee .....	11
Confidentiality .....	26	Enforcement.....	13, 49
Conflict of interest.....	10, 39	Procedures.....	14
Board members, and.....	26	Engineer	
		Defined.....	5

Title, Use of.....	42	NCEES	
Engineer Intern .....	19	"Model Law" Engineer .....	36
Defined.....	5	Defined.....	24
Enrollment.....	33	Record holder .....	19
Enrollment card .....	13	Occasional services .....	6
Fee, enrollment.....	11	Occupancy classification.....	53
Title, Use of.....	42	Organization	
Engineering		Certificate of authorization, required ..	11
Education.....	29	Defined.....	6
Examinations.....	20	Owner.....	16
Exemptions to practice.....	20	Part-time services .....	6, 12
Experience.....	30	Penalties	
Practice of, defined.....	6	Civil.....	15
Surveys.....	7	Criminal.....	14
Teaching.....	21	Photographs.....	28
Examinations		Planning.....	6
ARE Exam.....	34	Plats.....	55
FE Exam.....	32	Political subdivision .....	4, 7, 15, 18, 21, 27
Nebraska E&A Act.....	32, 35	PPE Exam.....	24
PPE Examination.....	32	Professional conduct.....	10, 41
PPE Structural Exam.....	32	Professional engineer	
Reexamination .....	20	Continuing education.....	50
Exemptions		Defined.....	7
Commercial or industrial, for .....	17, 53	Licensure .....	33
Electrical service, furnishing.....	21	Title, Use of.....	42
Farm buildings, for.....	17	Prohibited acts.....	4, 14
Residential, for.....	17, 53	Project.....	7
Wastewater systems.....	22	Prototypical projects .....	43
Experience		Public service provider	
Architecture .....	34	Architecture, and .....	18
Engineering .....	30	Defined.....	7
Expiration date.....	13, 25, 26	Engineering, and.....	21
FE Exam.....	24	Public works.....	15
Fees.....	10, 27	Architecture, and .....	17
Fire Protection Systems .....	55	Defined.....	25
IDP.....	24, 34	Engineering, and.....	21
Intern architect		Reciprocity/comity .....	36
Title, Use of.....	42	Architects, for .....	37
Law exam, E&A Act .....	32, 35	Engineers, for.....	36
Licensure		Reexamination .....	20
Certificates.....	12	References .....	10, 25
Defined.....	7	Architects, for .....	38
Expiration.....	27	Confidential.....	26
Professional engineer.....	33	Engineers, for.....	19, 29, 37
Lists, mailing.....	27	Reinstatement, License .....	27
Livestock Waste Permits.....	55	Continuing education.....	51
Means and methods, construction.....	54	Remediation .....	48
Mediation.....	48	Renewals, License .....	13
Moral character .....	6	Fees .....	13
NAAB .....	34	Renovations and One-Level Additions	
Defined.....	24	Exemption .....	54
NCARB		Responsible charge .....	7, 8, 11, 12, 44
"Model Law" Architect/Certificate .....	37	Defined.....	8
Defined.....	24		

Roster.....	10	Secretary of State .....	11, 12
Rules and regulations		Spill prevention containment and countermeasures (SPCC) .....	55
Defined.....	8	Structural engineer, professional.....	32, 33
Seal		Surveys, engineering .....	7
Application of.....	12, 18, 43	Technical submissions	
Design .....	12	Defined.....	8
Draft, documents marked as .....	43	Temporary permit.....	25
Electronic.....	43	Architects, for .....	38
Prohibited acts.....	22	Engineers, for.....	37
Temporary permits.....	12	Titles, use of .....	14, 42
		Licensed outside Nebraska .....	42
		Structural engineers, professional.....	33
		Trade name or service mark.....	12
		Transcripts .....	28, 30
		Work.....	25