

NORTH DAKOTA LOTTERY

Administrative Rules Committee Meeting
December 12, 2013

Mr. Chairman, and members of the Committee, my name is Randy Miller. I am the director of the North Dakota Lottery, a division of the Office of Attorney General. Today, I will be providing information describing the procedure followed by the North Dakota Lottery in adopting the amended rules to be published in the January 2014 supplement to the North Dakota Administrative Code.

I will begin by addressing the questions listed in the Legislative Council's November 25, 2013 email. Please feel free to ask questions at any time.

1. The rules do not result from statutory changes made by the Legislative Assembly.
2. The rules do not relate to any federal statute or regulation.
3. The Lottery drafted the amended rules which the Lottery Advisory Commission approved on July 9, 2013. A notice of public hearing was filed with the Legislative Council on July 10, 2013. The Lottery provided notice to Chairman Devlin on July 10, 2013. Notifications on the public hearings and availability of the proposed rules were publicized in 52 county newspapers during July 16 to July 22, 2013. The rules were available at the public hearing, Lottery's office, Lottery's website, and to the public upon request.

The Lottery conducted one public hearing on August 19, 2013 in Bismarck - no one attended the hearing.

The Office of Attorney General examined and approved the proposed rules as to their legality. The Lottery filed the rules with the Legislative Council.

4. There were no written or oral comments received on the rules.
5. The approximate cost of giving public notice, holding a hearing, and developing and adopting the rules (excluding staff time) is:

Publishing notices of public hearings	\$1,737
Holding public hearings	0
Developing and adopting the rules	<u>0</u>
Total	\$1,737

6. The purpose of the amendments is to update rules as required by the Multi-State Lottery Association. The amendments addressing changes to Mega Millions game description, expected prize pool percentages and odds, prize pool and payment, and megaplier option; Hot Lotto prize pool and payment and triple sizzler option; retailer sales commission and bonus; and claim of a prize and subscription are emergency rules with a declared effective date as interim final rules of October 19, 2013.

The proposed amendments addressing changes to Powerball prize pool and payment and power play option are not emergency rules and are effective January 19, 2014.

7. A regulatory analysis was not required by NDCC Section 28-32-08.
8. A regulatory analysis or economic impact statement of impact on small entities was not required by NDCC Section 28-32-08.1.
9. The rules do not have a fiscal effect on state revenues and expenditures.
10. A constitutional takings assessment was not required by NDCC Section 28-32-09.
11. Some amendments were adopted as emergency rules to update rules as required by the Multi-State Lottery Association. NDCC Section 53-12.1-13 allows the attorney general to adopt emergency rules as necessary without the grounds otherwise required under NDCC Section 28-32-03.

This completes my testimony. Thank you for the opportunity to appear before the Committee to describe the procedure followed by the Lottery in adopting the rules.

If there are any other questions, I would be happy to answer them at this time.

subsequent conviction. The department may not be compelled to make such determination.

4. An individual is known to have been found guilty of, pled guilty to, or pled no contest to an offense when it is:
 - a. Acknowledged by the individual; or
 - b. Discovered by the authorized agent or department as a result of a background check.

History: Effective April 1, 2004; amended effective January 1, 2014.

General Authority: NDCC 50-11-03

Law Implemented: NDCC 50-11-02

75-03-14-05. Operation of the family foster home for children.

1. The foster parents shall admit to the family foster home for children, public officials, such as fire and building inspectors, for the purpose of determining fire and building safety.
2. The foster parents shall admit to the family foster home for children, at any reasonable time, personnel of the supervising agency. For the purposes of this subsection, "any reasonable time" means a time mutually convenient to the foster parents and the supervising agency's personnel or any time the supervising agency determines that a foster child's health, safety, or welfare require the admittance.
3. The foster parents shall cooperate with the supervising agency in that agency's efforts to develop plans for the child, implement those plans, and meet the needs of the child and the child's family. The foster parents shall cooperate with the supervising agency in developing plans for the child to visit with the child's parents or guardian. If the foster parents agree, and it is appropriate, these visits may take place in the family foster home for children. Visits between the foster child and the child's parents or guardian must be arranged within a plan approved by the agency, foster child where appropriate, foster parents, and the foster child's parents or guardian. The foster parents need not admit any individual who has been using alcohol, drugs, or any other intoxicating substance, or who attempts a visit in a manner that is not in accordance with the approved visitation plan.
4. The foster parents may not accept other foster children or special education boarding care children, or accept children for supplemental parental care into their family foster home for children without the prior approval of the authorized agency. All changes in the number of persons living in the foster home must be immediately reported to the authorized agency.

5. When a foster child is placed in substitute care during the absence of the foster parents, prior approval of the substitute care must be given by the supervising agency. Prior approval is not required for short periods of substitute care such as a portion of one day. A foster child may not be removed from this state without the prior approval of the supervising agency.
6. The foster parents must make opportunities available for a foster child to attend religious ceremonies chosen by the foster child, or that child's parents, within the community in which the foster family resides. The foster parents must respect and not interfere with the religious belief of the foster child and the foster child's family.
7. Discipline must be constructive or educational in nature and may include diversion, separation from problem situation, talk with the foster child about the situation, praise for appropriate behavior, and gentle physical restraint such as holding.
 - a. No foster child may be kicked, bitten, punched, spanked, shaken, pinched, roughly handled, or struck with an inanimate object by foster parents or any other adult living in the family foster home for children.
 - b. Cruel and unusual punishments are prohibited.
 - c. Authority to discipline may not be delegated to or be accomplished by children.
 - d. Separation, when used as discipline, must be brief and appropriate to the foster child's age and circumstances, and when used to discipline a foster child, must be within hearing of an adult in a safe, lighted, well-ventilated room. A foster child may not be isolated in a locked room or closet.
 - e. A foster child may not be physically disciplined for lapses in toilet training.
 - f. Verbal abuse or derogatory remarks about a foster child, the foster child's family, race, religion, or cultural background may not be used and are not permitted.
 - g. A foster child may not be force fed unless medically prescribed and administered under a physician's care.
 - h. Deprivation of means, including food, clothing, shelter, hygiene, and medical care, may not be used as a form of discipline.
8. All information given to the foster parents by the supervising agency or the foster child's family concerning the foster child must remain

~~the agency.~~ The bureau of criminal investigation is required to process the renewal application and make a determination within ~~forty-five~~ sixty days of receipt.

History: Effective September 1, 1986; amended effective April 1, 2010; January 1, 2012; August 1, 2013.

General Authority: NDCC 62.1-04-03

Law Implemented: NDCC 62.1-04-03

10-12-01-09. Residence change or change in material facts.

1. A concealed weapons licenseholder shall notify the director of the bureau of criminal investigation ~~within thirty days~~ of a change of address. The notification must be in writing, must be postmarked within thirty days of the change of address, and must include the licenseholder's name, former address, license number, and new address. The new address must include the new house number or apartment number, street name, city, zip code, and county.
2. The applicant or licenseholder shall notify the director of any change of material facts that affect the need for or possession of a concealed weapons license.

History: Effective September 1, 1986; amended effective April 1, 2010; August 1, 2013.

General Authority: NDCC 62.1-04-03

Law Implemented: NDCC 62.1-04-03(10)

10-12-01-10. Appeals and reconsideration.

1. An individual who is aggrieved by the decision of the director to deny an application for a license or a renewal of a license, or to suspend or cancel a license, may petition for reconsideration and rehearing under North Dakota Century Code section 28-32-40.
2. An individual who is aggrieved by the decision of the director to deny an application for a license or a renewal of a license, or to suspend or cancel a license, may appeal to the district court of Burleigh County under North Dakota Century Code section 28-32-42.

History: Effective September 1, 1986; amended effective April 1, 2010.

General Authority: NDCC 28-32-40, 28-32-42, 62.1-04-03

Law Implemented: NDCC 62.1-04-03(7)

10-12-01-11. Reciprocity. The attorney general may enter into reciprocity agreements with other states to recognize another state's concealed weapons

ARTICLE 8-06

MISCELLANEOUS PROVISIONS

Chapter
8-06-01 Architect's or Landscape's Architect's Stamp

CHAPTER 8-06-01 ARCHITECT'S OR LANDSCAPE ARCHITECT'S STAMP

Section
8-06-01-01 Issuance and Use
8-06-01-02 Design of the Stamp
8-06-01-03 Use of the Stamp

8-06-01-01. Issuance and use. ~~Upon registration, the board shall issue each architect and landscape architect a rubber stamp which shall contain such wording as may be designated and authorized by the board. The title sheet of drawings, specifications, or technical submissions, or any combination of those items, intended for the construction of an architectural or landscape architectural project shall be imprinted by the stamp or facsimile. The architect or landscape architect under whose responsible control these instruments were prepared shall manually sign each original imprint of the seal. At the time of the issuance of the certification of registration, the board shall require the certificate holder to acquire, at the certificate holder's expense, a stamp or indicia to be used by the certificate holder in the conduct of the certificate holder's practice and to be impressed upon drawings, plans, and other documents prepared by the certificate holder. The board shall adopt rules governing the technical requirements of such stamp and indicia and the certificate holder's signature.~~

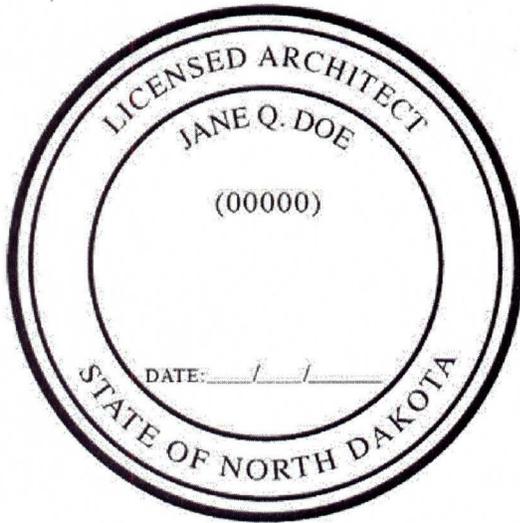
History: Amended effective February 1, 2005; January 1, 2014.

General Authority: NDCC 43-03-08

Law Implemented: NDCC 43-03-22

8-06-01-02. Design of stamp.

1. Each licensed architect's or landscape architect's stamp shall be no less than one and one-half inches and no more than two inches in diameter. It shall contain the name of the licensed architect or landscape architect; the individual's license number, the word "DATE: / / " and the words "LICENSED ARCHITECT - STATE OF NORTH DAKOTA" or "LICENSED LANDSCAPE ARCHITECT - STATE OF NORTH DAKOTA" as appropriate. This stamp shall be as per the format below:

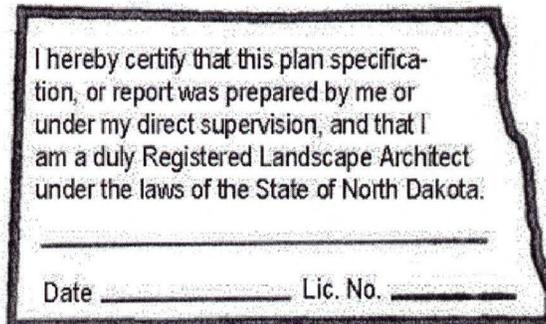
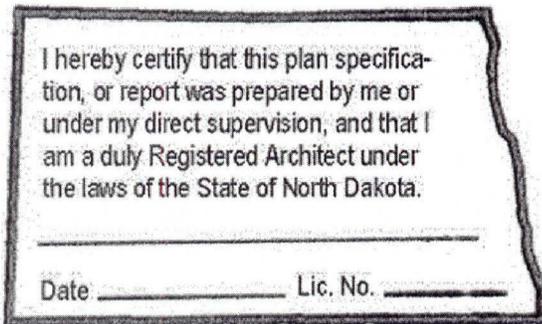


(Example - Architect's stamp)



(Example - Landscape architect's stamp)

The stamp designed and adopted by the board in the rules and regulations dated _____, as it appears below, will be accepted for persons licensed prior to the effective date of those rules.



(Example - North Dakota current stamps)

2. The format of the stamp may be a rubber stamp, an embosser, or a digital image.
3. Each licensee is responsible for procuring the licensee's own stamp.

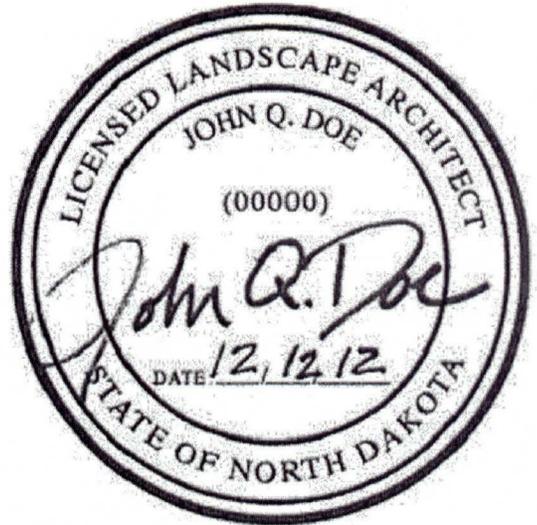
History: Effective January 1, 2014.
General Authority: NDCC 43-03-08
Law Implemented: NDCC 43-03-22

8-06-01-03. Use of the stamp.

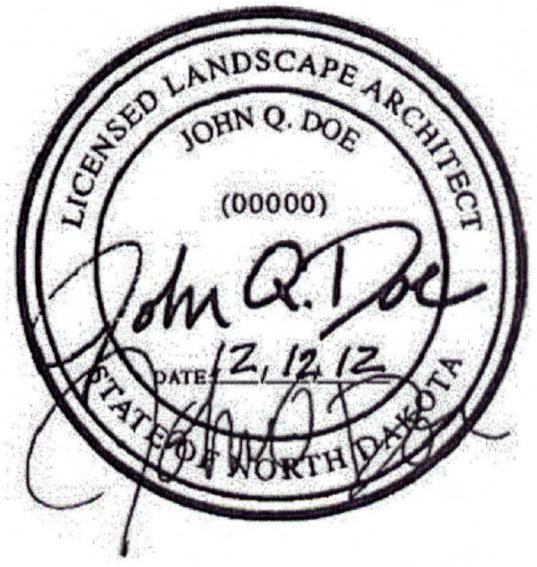
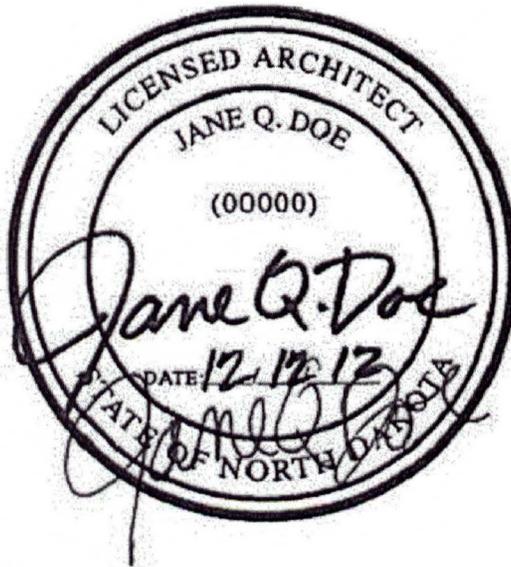
1. The stamp shall be imprinted on all documents prepared by the licensed architect or landscape architect to be used for construction or technical submissions whether the project or building type is exempt or not exempt under North Dakota statutes.
2. Documents to be used for construction shall be imprinted as follows:
 - a. On each final drawing sheet; and
 - b. On the cover, title, certification, or index page or each set of the project manual or specifications.
3. Documents to be used for technical submissions shall be imprinted as follows:
 - a. On each final design drawing; and
 - b. On the cover, title, certification, or index page of each set.
4. Letter-formatted reports or professional opinions shall be imprinted at the end of the letter in the area of the letter's salutation.
5. The original signature of the licensed architect or landscape architect named on the stamp shall appear across the face of each original stamp imprint, along with the date of signing. This signature may be either digital or wet. Documents with digital stamp, signature, and date that are submitted for building permitting shall have a wet signature and date written over the digital stamp, signature, and date. This requirement is for any project or building type whether exempt or not exempted under statutes of North Dakota. The digital signature with date and the wet stamp shall approximate the format shown below:



(Example of architect's digital or wet stamp)



(Example of landscape architect's digital or wet stamp)



(Examples of architect's and landscape architect's wet signature of digital stamp for permitting process)

6. The stamp appearing on any drawings, project manual or specification, technical submissions, or letter-formatted reports or opinions shall be prima facie evidence that said technical submission was prepared by or

under the responsible control of the individual name on the stamp only
if the stamp has been signed and dated.

History: Effective January 1, 2014.

General Authority: NDCC 43-03-08

Law Implemented: NDCC 43-03-22

ARTICLE 8-01

GENERAL ADMINISTRATION

Chapter
8-01-01 Organization of Board

CHAPTER 8-01-01 ORGANIZATION OF BOARD

Section
8-01-01-01 Organization of State Board of Architecture and Landscape
Architecture

8-01-01-01. Organization of state board of architecture and landscape architecture.

1. **History.** The 1917 legislative assembly passed architectural practice legislation which is codified as North Dakota Century Code chapter 43-03. This chapter requires the governor to appoint a state board of architecture:
 - a. To adopt rules to govern its proceedings.
 - b. For the examination of candidates for registration.
 - c. For the regulation of the practice of architecture and landscape architecture. The board's purpose is to protect the public health, safety, and welfare against incompetent and unscrupulous practice.
 - d. ~~The 2003 legislative assembly enacted landscape architectural registration laws codified in North Dakota Century Code chapter 43-03. This chapter requires the state board of architecture to appoint a landscape architect advisory committee and architect advisory committee to assist in the implementation and coordination of landscape architects' regulation. The committee must consist of three landscape architects and three architects.~~
2. **Board membership.** The board consists of three members appointed by the governor. A member must be an architect registered in North Dakota who has been a resident of, and in active practice as a principal in, this state for at least three five years prior to appointment.
3. **Terms of office.** Each member is appointed for a term of six years, with terms arranged so that one term expires on March fourteenth of each odd-numbered year.

4. **Qualifications and removal.** Each member qualifies by taking the oath of office required of civil officers. The governor may remove a member for inefficiency or neglect of duty.
5. **Officers.** The board elects a president and secretary, who shall also be treasurer, at a regular meeting each year.
6. **Secretary-treasurer's duties.** The secretary-treasurer:
 - a. Records all business of the board at its meetings and keeps all records.
 - b. Collects all fees, deposits all moneys to the board account, and makes all disbursements for board expenses.
 - c. Receives all applications for registration and examinations, receives and answers all correspondence, and maintains files of all communications received and sent, including copies of those by other members.
 - d. ~~Maintains a roster of current registrants and annually publishes and distributes the roster to all registrants and to other persons and agencies as the board determines.~~ Maintains a list of architects and landscape architects certified under this chapter. This list of certificate holders must contain each certificate holder's name, current business address, certification number, and the expiration date of the certificate.
7. **Board records - Seal.**
 - a. Records. Records are open to the public when information is of a general nature. Records and correspondence of a personal nature concerning an individual or firm, such as examination documents, correspondence, financial disclosures, and the like, are confidential and are available only to the board, its counsel, and to the individual or firm itself.
 - b. Seal. The board has adopted a seal for its use. The seal is affixed to certificates of registration, renewal cards, and legal documents, over signatures of the members.
8. **Meetings.** The board holds regular meetings ~~on the first Monday of April and October~~ at least once each year, with the date and location set by the board. ~~The board may meet as designated by a majority of the board.~~ Special meetings may be held as necessary. ~~Postponement, when necessary, is agreed to by at least two members, and is to a date certain.~~

- a. Notice. The ~~secretary~~ executive director shall notify each member in writing at least five days in advance of any special meeting. Should an applicant or other person wish to be present at a special meeting, a request shall be made in writing to the ~~secretary~~ executive director or other member, in time for the ~~secretary~~ executive director to give at least ten days' notice to the applicant or other person.
- b. Quorum. A quorum shall consist of two members.
- c. Presiding officer. The president shall preside at all meetings. In the president's absence, the senior member present shall preside.
- d. Open meetings. All meetings shall be open to the public.
- e. When meetings not required. Routine business, such as review of applications for registration, may be conducted by mail or electronically, when it is in the applicant's and the public's interest. Copies of all correspondence relating to any business conducted outside meetings shall be filed with the ~~secretary~~ executive director.

9. **Compensation of members and expenses of board.**

- a. Limit. The expenditures of the board shall at no time exceed the amount of moneys on deposit to the credit of the board.
- b. Audit. The board accounts shall be audited annually by an independent auditing firm whose members are authorized by law to perform auditing services in North Dakota, and a report of the audit shall be furnished to all members of the board and filed in accordance with state law.
- c. ~~Separate fund - vouchers~~ Bank account. All fees and other income collected by the board shall be deposited ~~by the secretary-treasurer in a separate account~~ in a bank authorized to do business in North Dakota. The account shall be drawn against only for expenses of the board, ~~upon properly drawn vouchers signed by the secretary-treasurer.~~
- d. ~~Secretary's salary - members' per diem.~~ ~~The secretary's salary shall be fixed by board resolution at a regular meeting. The other members shall receive twenty-five dollars per day, or portion thereof, spent in discharge of their duties when away from their practices.~~ Reserve accounts. At the discretion of the board reserve accounts may be established.

- e. ~~Travel and other expenses. Each member shall receive such travel and other actual expenses as are legitimately incurred in the performance of official duties. Official duties shall include board meetings, attendance as delegates to regional and national meetings of the national council of architectural registration boards, meetings with other professional boards, meetings at which candidates for registration are examined, and whenever attendance of board members is required by a court or other higher authority. Actual expenses incurred by board members for telephone, postage, and the like, in their official duties, shall be reimbursed as provided in subdivision e. Executive director. If the board appoints or contracts an executive director, the executive director is entitled to receive such fee as fixed by a resolution of the board adopted at a regular meeting, and is entitled to receive reimbursement for travel, lodging, and other expenses as are incurred in the performance of the executive director's official duties.~~
- f. Members. Each member of the board is entitled to receive a per diem of seventy-five dollars for each day or portion of a day spent in the discharge of the members, such mileage as is provided for by North Dakota Century Code section 54-06-09, and is entitled to reimbursement for the member's actual and necessary expenses incurred in the discharge of the member's official duties.
- f. g. Other expenses. The ~~secretary-treasurer~~ board or its designee shall pay office rental, ~~stenographic clerical~~, legal, auditing, printing, and all other legitimate expenses of the board from board funds.
10. **Counsel.** The board may, at its expense, employ as legal counsel an attorney who has been admitted to practice in North Dakota. When approved and appointed by the attorney general as "special assistant attorney general", the board attorney shall represent that office in all matters relating to the regulation of the practice of architecture and landscape architecture within the scope of North Dakota Century Code chapter 43-03.
11. **Inquiries.** Inquiries regarding the board, registration, examinations, or practice shall be addressed to the ~~secretary at the following address:~~ executive director in care of the state board of architecture and landscape architecture.

State Board of Architecture
P.O. Box 7370

~~Bismarck, ND 58507-7370~~

History: Amended effective October 1, 1989; February 1, 2005; January 1, 2014.

General Authority: NDCC 28-32-02(1)

Law Implemented: NDCC 28-32-02(1)