

## NOTICE OF TEXT

[Authority G.S. 150B-21.2(c)]

### OAH USE ONLY

VOLUME:

ISSUE:

CHECK APPROPRIATE BOX:

- ☒ Notice with a scheduled hearing  
☐ Notice without a scheduled hearing  
☐ Republication of text. Complete the following cite for the volume and issue of previous publication, as well as blocks 1 - 4 and 7 - 14. If a hearing is scheduled, complete block 5.  
Previous publication of text was published in Volume:      Issue:

1. Rule-Making Agency: The North Carolina Landscape Contractors' Licensing Board

2. Link to agency website pursuant to G.S. 150B-19.1(c): [www.nclclb.com](http://www.nclclb.com)

3. Proposed Action -- Check the appropriate box(es) and list rule citation(s) beside proposed action:

☐ ADOPTION:

☒ AMENDMENT: 21 NCAC 28B .0103; .0204; .0402; .0403; .0503; .0508

☐ REPEAL:

☐ READOPTION with substantive changes:

☐ READOPTION without substantive changes:

☐ REPEAL through READOPTION:

4. Proposed effective date: July 1, 2021

5. Is a public hearing planned? ☒ Yes ☐ No

If yes: Public Hearing date: April 20, 2021

Public Hearing time: 10:00 am

Public Hearing location: 3901 Barrett Drive, Suite 202, Raleigh, NC 27609

6. If no public hearing is scheduled, provide instructions on how to demand a public hearing:

**7. Explain Reason For Proposed Rule(s):**

- 21 NCAC 28B .0103 – To clarify where license numbers must be displayed and who may sign contracts.  
21 NCAC 28B .0204 – To establish a deadline in which licensees are required to notify the Board of a change in business status and to confirm statutory requirement that financial responsibility always be maintained.  
21 NCAC 28B .0402 – To require licensees to obtain CE in a variety of topics and establish the date on which the requirement begins.  
21 NCAC 28B .0403 – To amend the period of time that a licensee must maintain their CE records.  
21 NCAC 28B .0503 – To include the installation of artificial turf within the jurisdiction of the Board.  
21 NCAC 28B .0508 – To provide clarification re: installation of walls.

**8. Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

☐ Rule(s) is automatically subject to legislative review. Cite statutory reference:

**9. The person to whom written comments may be submitted on the proposed rule(s):**

**Name:** Calvin M. Kirven

**Address:** The North Carolina Landscape Contractors' Licensing Board  
3901 Barrett Drive, Suite 202  
Raleigh, NC 27609

**Phone (optional):**

**Fax (optional):**

**E-Mail (optional):**

**10. Comment Period Ends:** April 30, 2021

**11. Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☐ State funds affected  
☐ Local funds affected  
☐ Substantial economic impact ( $\geq$ \$1,000,000)  
☐ Approved by OSBM  
☒ No fiscal note required

**12. Rule-making Coordinator:** Calvin M. Kirven

**Phone:** 919-266-8070

**E-Mail:** ckirven@nclclb.com

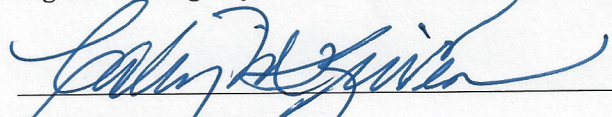
**Additional agency contact, if any:** Anna Baird Choi

**Phone:** 919-341-2636

**E-mail:** anna@ncl-law.com

**13. The Agency formally proposed the text of this rule(s) on**  
**Date:** January 26, 2021

**14. Signature of Agency Head\* or Rule-making Coordinator:**



**Typed Name:** Calvin M. Kirven  
**Title:** Executive Administrator

*\*If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.*

21 NCAC 28B .0103 is proposed for amendment as follows:

**21 NCAC 28B .0103      PRACTICE OF LANDSCAPE CONTRACTING; DISPLAY OF LICENSE  
NUMBER**

(a) An individual who is "readily available to exercise supervision over the landscape construction and contracting work" as set forth in G.S. 89D-12(a) and G.S. 89D-17(f) is an individual who is physically located no more than 100 miles from where the construction or contract project is located or who is available electronically with the ability to view the construction or contract project.

(b) The contractor's license number shall be displayed in accordance with G.S. ~~89D-12(3)~~. 89D-12(e). License numbers displayed on vehicles used in the contractor's landscaping business shall be a minimum of one inch in height.

(c) In addition to the requirements of G.S. 89D-12(e), license numbers shall be included on all estimates and proposals.

(d) All contracts, estimates, and proposals shall be signed by the contractor or his or her designee.

*History Note:      Authority G.S. 89D-12(a) and (e); 89D-15(2);  
Temporary Adoption Eff. January 1, 2016;  
Eff. September 1, 2016;  
Amended Eff. June 1, ~~2019~~, 2019;  
Amended Eff. July 1, 2021.*

21 NCAC 28B .0204 is proposed for amendment as follows:

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

(a) Every licensee shall keep the Board advised of the licensee's current mailing address, phone number, email address, and the name or names under which the licensee is practicing. If any change occurs, the licensee shall notify the Board in writing of the change within ~~60~~ 30 days.

(b) Upon the dissolution of a professional relationship, the member or members thereof shall notify the Board in writing within 30 days concerning such dissolution and of the succeeding business status and addresses of the individuals or firm.

(c) A licensee shall maintain a continuous surety bond coverage or an irrevocable letter of credit while the license is active. Within 5 days after the lapse of a surety bond or revocation of a letter of credit prescribed in G.S. 89D-16(a)(4), a licensee shall notify the Board in writing. If a licensee fails to renew the surety bond or obtain a new letter of credit within 30 days after the lapse or revocation, the license shall be revoked.

(d) Failure to notify the Board of the changes described in ~~Paragraphs (a), (b), or (c)~~ of this Rule shall constitute a violation of G.S. ~~89D-22~~. 89D-22(a)(6).

*History Note:      Authority G.S. 89D-15(2), 89D-15(11); 89D-16(a)(4); 89D-17(h); ~~89D-22(8)~~; 89D-22(a)(8);  
Temporary Adoption Eff. January 1, 2016;  
Eff. September 1, ~~2016~~. 2016.  
Amended Eff. July 1, 2021.*

21 NCAC 28B .0402 is proposed for amendment as follows:

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

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

(b) For the purposes of this Rule:

(1) "technical credits" are defined as credits relating ~~directly~~ to the subject matter of landscape contracting as described in G.S. ~~89D-11(3); and 89D-11(3) and rules .0502 through .0511 in this Subchapter. The rules shall be grouped as follows:~~

(A) Group A: topics covered in rules .0502, .0503, .0510, and .0511 in this Subchapter.

(B) Group B: topics covered in rules .0504 and .0506 in this Subchapter.

(C) Group C: topics covered in rules .0507 through .0509 in this Subchapter.

(D) Group D: topics covered in rule .0505; and

(2) "business credits" are defined as credits relating to general business practices, including business planning, contracts, liability exposure, human resources, basic accounting, financial statements, and safety.

(c) Beginning with renewals filed after August 1, 2022, a licensee shall obtain one technical credit in at least two groups described [above] in Subparagraph (b)(1) of this Rule in each licensing year. A licensee shall obtain at least one technical credit in each of the distinct groups described [above] in Subparagraph (b)(1) of this Rule during a consecutive three-year period.

~~(e)~~(d) CEUs shall be determined as follows:

Type of Qualifying Activity	Minimum time required for 1 CEU
Live course	50 minutes
Online course	50 minutes
Trade Shows, Field Days, and Tours	4 hours
Green Industry Board Member Service	<del>1 hour</del> 5 hours maximum (3 technical and 2 business)
Teaching or instructing	1 hour
In-house or Green Industry training	1 hour

21 NCAC 28B .0403 is proposed for amendment as follows:

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

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

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

(1) ~~Attendance~~ attendance verification records; and

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

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

(d) Failure to maintain compliance with the Board's continuing education requirements set forth in Rule .0402 of this Section shall result in the licensee's status being ~~changed to inactive.~~ administratively suspended.

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

*Temporary Adoption Eff. January 1, 2016;*

*Eff. September 1, 2016;*

*Amended Eff. June 1, ~~2019~~, 2019;*

*Amended Eff. July 1, 2021.*

21 NCAC 28B .0503 is proposed for amendment as follows:

**21 NCAC 28B .0503 TURF**

(a) When establishing natural turf, the licensed contractor shall:

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

(b) When installing artificial turf, the licensed contractor shall:

- (1) Ensure that the sub-grade is compacted and shall pitch properly to drain;
- (2) Establish a perimeter attachment system to secure the artificial turf;
- (3) Roll out the turf with the nap facing a consistent direction;
- (4) Secure the turf with an evenly weighted sand layer distributed over the entire surface; and
- (5) Follow all manufacturer's specifications for the type of turf being installed.

*History Note: Authority G.S. 89D-15(2); 89D-15(16);  
Temporary Adoption Eff. January 1, 2016;  
Eff. September 1, ~~2016~~ 2016;  
Amended Eff. July 1, 2021.*

21 NCAC 28B .0508 is proposed for amendment as follows:

**21 NCAC 28B .0508 WALLS**

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

(1) Adhere to all pertinent ~~codes.~~ codes;

(2) Adhere to all NC Department of Insurance requirements regarding the construction of retaining walls which are hereby incorporated by reference and can be found at [www.ncosfm.gov/codes](http://www.ncosfm.gov/codes) free of charge;

~~(2)(3)~~ Adhere to manufacturer's or design professionals ~~specifications.~~ specifications;

~~(3)(4)~~ Bury the first course of a retaining ~~wall.~~ wall;

~~(4)(5)~~ Not construct dry-laid stone walls of a height more than 3 feet above ~~grade.~~ grade;

~~(5)(6)~~ Include a subdrain system that is constructed and sized to release the subsurface water behind the wall and not allow hydrostatic pressure to build behind the ~~wall.~~ wall;

~~(6)(7)~~ Construct on a level, well-compacted base of granular material at least 6 inches ~~deep.~~ deep;

~~(7)(8)~~ Place backfill behind retaining walls in lifts no greater than 6 inches before compacted (each lift shall be ~~well-compacted~~). well-compacted);

~~(8)(9)~~ Prevent excessive runoff from passing over a retaining ~~wall.~~ wall;

~~(9)(10)~~ Construct vertically-set timber walls with above-ground heights equal to or less than the depth of timbers below ~~grade.~~ grade;

~~(10)(11)~~ Install deadmen every fourth course on 8 feet centers when constructing horizontally-set timber retaining walls with staggered ~~joints.~~ joints;

~~(11)(12)~~ Stagger the joints when constructing dry-laid stone walls. If successive vertical joints occur, the licensed contractor shall avoid running vertical joints more than two ~~courses.~~ courses; and

(13) Assure that segmental walls meet the manufacturer's specifications.

(b) When installing retaining walls of dry-laid stone or concrete rubble, the licensed contractor shall:

(1) Construct the wall no higher than three feet above grade; and

(2) Stagger the joints when constructing a dry-laid stone wall.

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

(1) Install footings for masonry and cast-in-place concrete freestanding walls of reinforced concrete. The top of the footing shall be at least 1 foot below grade.

(2) Reinforce freestanding walls as needed to prevent displacement from wind loads.

(3) ~~Insure~~ Ensure that moisture is prevented from entering a cavity wall during construction.

(4) ~~Insure~~ Ensure that segmental wall construction meets segmental wall manufacturer's specifications.

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

