

# **NORTH DAKOTA ADMINISTRATIVE CODE**

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**Prepared by the Legislative Council staff  
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Administrative Rules Committee**

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**TITLE 7**  
**AGRICULTURE COMMISSIONER**



**JULY 2019**

**ARTICLE 7-01  
GENERAL ADMINISTRATION**

[Repealed effective July 1, 2019]

Chapter

7-01-01 — Organization of Department

**ARTICLE 7-02  
APIARY DIVISION**

[Repealed effective July 1, 2019]

Chapter

~~7-02-01 — General Provisions [Repealed]~~

~~7-02-02 — Rules of the Apiary Division~~

~~7-02-03 — Alfalfa Leafcutter Bee Provisions [Repealed]~~

**ARTICLE 7-02.1**  
**APIARY DIVISION**

Chapter  
7-02.1-01      Rules of the Apiary Division

**CHAPTER 7-02.1-01**  
**RULES OF THE APIARY DIVISION**

Section  
7-02.1-01-01      Beekeeper's License  
7-02.1-01-02      Notification of Violation

**7-02.1-01-01. Beekeeper's license.**

    The registration of apiaries required under North Dakota Century Code section 4.1-16-08 must be submitted at the same time as a license application.

**History:** Effective July 1, 2019.  
**General Authority:** NDCC 28-32-02  
**Law Implemented:** NDCC 4.1-16-02

**7-02.1-01-02. Notification of violation.**

    Each beekeeper or beekeeper's agent will be notified by receiving a summary of the inspection report of any violation found in the apiary at the time of inspection. It is the beekeeper's responsibility to comply with the recommended procedures for correcting the violation.

**History:** Effective July 1, 2019.  
**General Authority:** NDCC 28-32-02  
**Law Implemented:** NDCC 4.1-16-12

## CHAPTER 7-03.2-03

### 7-03.2-03-04. Sample reporting - Records.

1. The results of all raw milk testing done for regulatory purposes by industry laboratories must be reported to the commissioner weekly. When a test shows the presence of adulterants ~~in these samples, the test results must be reported immediately to the commissioner by telephone or facsimile with a hard copy of the results immediately sent to the commissioner. All tests above the maximum levels established by law must be reported to the commissioner weekly, the commissioner must be informed immediately.~~
2. Records on sampling, testing, or grading of milk or cream created to comply with article 7-03.2 and North Dakota Century Code chapter ~~4-304.1-25~~ to establish producer pay levels must be retained and available to the commissioner for twelve months. These records must include the following:
  - a. Producer identification number.
  - b. Date of sampling, testing, or grading.
  - c. Type of sampling, testing, or grading procedure used.
  - d. Results of sampling, testing, or grading.
  - e. Name of licensed tester, grader, or sampler conducting the procedure.
3. When the commissioner is investigating a complaint, the plant must give the commissioner access to all quality records that the commissioner requests.

**History:** Effective October 1, 2009; amended effective July 1, 2019.

**General Authority:** NDCC ~~4-30-55.14.1-25-50~~

**Law Implemented:** NDCC ~~4-30-18, 4-30-374.1-25-26, 4.1-25-34~~

### 7-03.2-03-11. Adulterants.

1. **Drug testing.**
  - a. Raw milk. Prior to processing, the processor must test all bulk milk pickup tankers for the presence of beta lactam drug residues and for other residues as determined necessary by the commissioner. Test methods will be those approved by the association of official analytical chemists or the food and drug administration. A positive test on the commingled sample requires confirmation testing for drug residues of all individual producer samples making up the bulk pickup tanker. Bulk milk tankers testing positive must be reported to the commissioner immediately. This report must include the tests used, volume of milk contaminated, how the milk was disposed of, and which producer caused the positive residue. All milk sample residue results must be recorded and retained for examination by the commissioner for twelve months.
  - b. Bulk load rejected. If a bulk load of milk tests positive for a drug residue, the processor shall reject the entire bulk load. The rejected bulk load may not be used for human food.
  - c. Processor's loss - investigation. If a processor sustains a monetary loss because a bulk load of milk is rejected, the processor may file a complaint with the commissioner. The commissioner may investigate the complaint and may issue a report on the amount of monetary loss suffered by the processor and on the responsibility for the rejected load and for the processor's monetary loss.



- d. Followup testing. If a bulk load of milk tests positive for drug residue, the processor shall immediately notify the commissioner and suspend further pick up of milk from the producer whose milk contaminated the bulk load until followup tests of that producer's milk test negative for drug residues. The dairy processor must perform these followup tests.
  - e. Testing bulk loads. In addition to performing routine beta lactam tests, a processor shall randomly test bulk milk deliveries for other drug residues as required by the commissioner. The drug testing program shall include milk from each producer in at least four separate months during any consecutive six-month period.
  - f. Finished product. All finished milk products must be free of antibiotics. Raw milk contaminated with antibiotics may not be used in processing finished milk products. All manufacturing grade finished milk products must be tested as determined by the commissioner. These products include fluid and cultured products, butter, cheese, and other products so designated by the commissioner.
2. **Drug residue and other substances.** A person may not sell or offer for sale milk that contains drug residues or other chemical substances in amounts above the tolerances set in the food and drug administration's Memorandum of Information No. ~~M-I-05-5, dated September 27, 2005~~M-I-28-9, dated February 9, 2018, and in title 21, Code of Federal Regulations, parts 530 and 556. These levels are merely guidelines. Milk with drug residues or other chemical substances below these tolerances is not necessarily unadulterated or otherwise acceptable milk, and selling or offering to sell such milk may be subject to penalty and other regulatory action by the commissioner.
    - a. When a producer has shipped milk that tests positive for residue, the producer's farm license must be suspended until a sample of the producer's milk tests negative.
    - b. When a producer has shipped milk that tests positive for residue three times in a twelve-month period, the producer's farm license may be revoked if the commissioner's investigation warrants such action.
    - c. The commissioner will complete a followup inspection when a producer's milk tests positive for residue.
  3. **Pesticides.** Milk containing any pesticides or chemical contamination exceeding food and drug administration or environmental protection agency standards for safe food may not be offered for sale.
  4. **Added water.** Milk may not contain added water. Any milk that tests under .530 degrees Horvet using the cryscope thermistor test may not be offered for sale.

**History:** Effective October 1, 2009; amended effective July 1, 2019.

**General Authority:** NDCC ~~4-30-55.14.1-25-50~~

**Law Implemented:** NDCC ~~4-30-02, 4-30-18, 4-30-31, 4-30-38, 4-30-40~~4.1-25-02, 4.1-25-26, 4.1-25-35, 4.1-25-36, 4.1-25-37

## CHAPTER 7-03.2-04

### 7-03.2-04-02. Special requirements for licensing dairy farms.

1. **Grade A milk farm.** To be licensed as a grade A milk farm, the farm must satisfy the following:
  - a. ~~The farm, including its water supply and all facilities, must meet all pasteurized milk ordinance requirements. The farm must score a ninety or above during the initial inspection, without any equipment cleaning, major drug labeling, major drug storage, or milk cooling violations.~~
  - b. The water supply must meet the requirements of the North Dakota board of water well contractors and state department of health, or the water supply must be approved for municipal or rural water use by the state department of health.
  - c. ~~Properly constructed wells must be located at least fifty feet [15.24 meters] from privy pits, cesspools, septic tanks, control pits, absorption fields, sewers, barnyards, and feedlots, and from the high water marks of lakes, streams, sloughs, ponds, etc. Fifty feet [15.24 meters] is the distance requirement with favorable soil conditions. The commissioner may require more than fifty feet [15.24 meters] when soil conditions are unknown or unfavorable, and when required by the presence of contaminants or toxic chemical wastes in the area.~~
  - ~~d. Wells must be at least ten feet [3.01 meters] from basements.~~
  - ~~e. Wells must be at least one hundred fifty feet [45.72 meters] from underground manure storage, chemical or fertilizer storage, or chemical preparation area.~~
  - f. Wells must be at least ten feet [3.01 meters] from hydrants unless the hydrant is frost-free style and with an approved atmospheric vacuum breaker or the hose connection threads are cut off.
  - ~~g. Well sites may not be subject to flooding and should be graded to facilitate the rapid drainage of surface water away from the well. The area must be filled, if necessary, graded, and maintained to prevent the accumulation or retention of surface water within fifty feet [15.24 meters] of the well.~~
  - ~~h. For a well on a hillside, intercepting ditches must be constructed on the uphill side of the well to keep runoff at least fifty feet [15.24 meters] away from the well.~~
  - ~~i. The casing or pitless unit for all ground water sources must project not less than twelve inches [30.48 centimeters] above the final ground elevation, the well cover slab, or pumphouse floor.~~
  - ~~j. Pit wells, buried well seals, and sand point wells are unacceptable. If, however, a pit well is presently being used on an existing permitted farm, it may continue to be used until there is a need and intention to repair or upgrade it, and, if so, then the pit well must be eliminated from the dairy operation.~~
  - k.d. The farm bulk tank must be empty at the time of licensing.
  - l.e. The hoseport must be installed in an exterior milkhouse wall.
  - ~~m. The hoseport slab must be at least a six-foot by six-foot [1.83-meter by 1.83-meter] cement slab centered under the hoseport.~~
  - ~~n. The milkhouse must have a direct door to the outdoors. Haulers must not have to go into milking area or animal housing area to access the milkhouse.~~

- ~~o.~~ All bulk tanks must have an accurate working thermometer.
- ~~p-f.~~ Neither light fixtures nor vents may be placed over bulk tanks.
- ~~q.~~ Handwashing facilities must be in the milkhouse. Hand sinks must be of lavatory fixture style and at least twenty-four inches [60.96 centimeters] away from wash vats or have a splash board of sufficient size to prevent contaminating the wash vat. Wash vats must be stainless steel and have two compartments.
- ~~r.g.~~ Light must be provided to properly inspect the interior of bulk tanks.
- ~~s-h.~~ Livestock or fowl may not have access to truck approach (driveway) or loading area.
- ~~t-i.~~ Hot water heater capacity must be adequate to properly clean equipment.
- ~~u-j.~~ There must be adequate backflow preventors upstream from tube, plate coolers and heat exchangers to protect the milkhouse and water supply. Backflow preventors are also required downstream of tubeplate coolers, and heat exchangers unless there is a physical break downstream. The physical break must be at least two times the diameter of the discharge line.
- ~~v-k.~~ Properly mounted and installed 36A ~~and~~or N36 vacuum relief valves or a properly installed low pressure cut off switch downstream from a shut off valve, are required on power washers and booster pumps.
- ~~w-l.~~ All equipment must meet applicable 3A standards and practices.
- ~~x.~~ All milk to be offered for sale must be maintained at forty-five degrees Fahrenheit [7.22 Celsius] or less.

2. **Manufacturing grade milk farm.** Manufacturing grade milk farms must meet all rules of the United States department of agriculture.

**History:** Effective October 1, 2009; amended effective July 1, 2019.

**General Authority:** NDCC ~~4-30-55.14.1-25-50~~

**Law Implemented:** NDCC ~~4-30-28, 4-30-29~~4.1-25-28, 4.1-25-50

**7-03.2-04-03. Denial of license and appeal.**

1. Should the inspection determine that deficiencies exist ~~that prevent licensing,~~ causing a score below a ninety without any equipment cleaning, major drug labeling, major drug storage, or milk cooling violations, the farm may not be licensed.
2. The producer shall correct ~~all~~ deficiencies before requesting a reinspection.
3. A producer denied a license may appeal that decision to the commissioner within thirty days of the denial, by requesting, in writing, a hearing. The commissioner shall convene a hearing as soon as possible.

**History:** Effective October 1, 2009; amended effective July 1, 2019.

**General Authority:** NDCC ~~4-29-03, 4-29-04, 4-30-55.14.1-25-50~~

**Law Implemented:** NDCC ~~4-30-28~~4.1-25-02

**7-03.2-04-05. Grade A farms - Loss of status - Inspection - Access.**

1. If a grade A farm has three repeat violations that concern the same inspection item, or if the farm scores seventy-five or below in an inspection, it will be downgraded to manufacturing

grade status. The commissioner shall notify the milk plant, the milk hauler, and the producer of the status change.

2. A grade A farm in violation of equipment cleaning, drugs, temperature, and other requirements established to protect the public from serious health risks will be reinspected not before three days but before twenty-one days.
3. If a grade A dairy farm is downgraded three times in any two-year period for any reason, the farm must remain downgraded for up to ninety days as determined by the commissioner. For a farm to regain a grade A license, a reinstatement inspection is required.
4. If access to a grade A farm is denied to persons seeking to undertake an inspection, federal check rating, an interstate milk survey, or any state inspection, then the farm will be immediately downgraded to manufacturing grade status and will lose its grade A status.

**History:** Effective October 1, 2009; amended effective July 1, 2019.

**General Authority:** NDCC ~~4-30-55.14.1-25-50~~

**Law Implemented:** NDCC ~~4-30-27, 4-30-28, 4-30-36~~4.1-25-24, 4.1-25-30

## CHAPTER 7-03.2-05

### 7-03.2-05-02. Quality standards.

1. Milk offered for sale must meet United States department of agriculture regulations.
2. The commissioner will place a producer's raw milk under warning when:
  - a. Two of the last four bacteria counts exceed 500,000 cells/ml. No sooner than three days, nor more than twenty-one days, after the commissioner issues the warning, another milk sample must be taken and tested. If the result is more than 500,000 cells/ml, the producer's milk must be excluded from the market. To regain access to the market the farm must pass an inspection by the commissioner, during which the bulk milk tank must be empty, and the farm's milk must be sampled and tested under and must meet conditions set by the commissioner. If the result of this test is 500,000 cells/ml or less, a temporary permit will be issued. If a temporary permit is issued, three milk samples must be taken within twenty-one days after the permit is issued. No more than two samples may be taken within any seven-day period. If the bacteria count of all three samples is 500,000 cells/ml or less, the producer will again have full status for manufacturing grade milk.
  - b. Two out of the last four monthly somatic cell counts exceed 750,000 cells/ml. No sooner than three days, nor more than twenty-one days, after the commissioner issues the warning another milk sample must be taken and tested. If the result is more than 750,000 cells/ml, the producer's milk must be excluded from the market. To regain access to the market the farm's milk must be sampled and tested and must meet conditions set by the commissioner. If the result of this test is 750,000 cells/ml or less, a temporary permit will be issued. If a temporary permit is issued, three milk samples must be taken within twenty-one days after the permit is issued. No more than two samples may be taken within any seven-day period. If the somatic count of all three samples is 750,000 cells/ml or less, the producer will again have full status for manufacturing grade milk.
  - ~~c. The sediment content exceeds regulations set by United States department of agriculture. No sooner than three days, nor more than twenty-one days, after the commissioner issues the warning another milk sample must be taken and tested. If the result shows that the sediment content does not exceed regulations set by the United States department of agriculture, the warning will be withdrawn. If the result shows that the sediment content exceeds regulations set by the United States department of agriculture, the milk must be excluded from the market. To regain access to the market the producer's farm must pass an inspection by the commissioner and the farm's milk must be sampled and tested under conditions set by the commissioner and the result must show that the milk satisfies standards set in the pasteurized milk ordinance and regulations set by the United States department of agriculture.~~
3. A farm license will be suspended if the farm scores below eighty on three consecutive farm inspections. The commissioner will reinstate a license when conditions leading to the suspension have been corrected by evidence of either test results or a satisfactory farm inspection.
- ~~4. Milk offered for sale must be tested monthly to determine sediment content. The sediment standard must not exceed fifty hundredths milligrams. All sediment tests must be by the mixed sample method, unless otherwise approved by the commissioner.~~
- ~~5.~~ The volume of milk in the bulk tank after the first milking must be sufficient to ensure adequate agitation of the milk. Failure to produce adequate volumes on the first milking may result in suspension of a farm's license to sell raw milk.

**History:** Effective October 1, 2009; amended effective July 1, 2019.

**General Authority:** NDCC ~~4-30-55.14.1-25-50~~

**Law Implemented:** NDCC ~~4-30-27, 4-30-31~~4.1-25-28, 4.1-25-36, 4.1-25-37

#### **7-03.2-05-04. Milk truck approach - Hoseport slab - Port opening.**

The milk truck approach to the milk loading area must prevent excess mud and allow easy access to the milkroom. Farm animals must not have free access to the milk loading area. The hoseport slab and milk loading area must be kept clean. The hoseport slab must be constructed of concrete or other impervious material and centered under the port opening through which milk is transferred from the bulk tank to the milk truck. ~~New hoseport slabs must be at a minimum six feet by six feet [1.83 meters by 1.83 meters].~~The hoseport slab must be sufficiently large to protect the milk hose from contamination. The port opening must be closed when not in use.

**History:** Effective October 1, 2009; amended effective July 1, 2019.

**General Authority:** NDCC ~~4-30-55.14.1-25-50~~

**Law Implemented:** NDCC ~~4-30-27~~4.1-25-30

## CHAPTER 7-03.2-09

### 7-03.2-09-03. Resampling.

When a sample exceeds the microbiological requirements, the licensed operator must be notified in writing. ~~An~~When two samples out of four consecutive samples are not in compliance, a warning must be sent. After which, an additional sample must be taken in not less than three days or more than twenty-one days from the notification. ~~When two samples out of four consecutive samples are not in compliance, a warning must be sent.~~ An inspection must be made at this time to determine sanitary conditions. When three out of five consecutive samples are not in compliance, sale of the product must be stopped until the test results are in compliance.

**History:** Effective October 1, 2009; amended effective July 1, 2019.

**General Authority:** NDCC ~~4-29-03, 4-29-04, 4-30-55.14.~~ 1-25-50

**Law Implemented:** NDCC ~~4-30-33, 4-30-35, 4-30-36~~ 4.1-25-29, 4.1-25-30, 4.1-25-44

## CHAPTER 7-03.2-12

### 7-03.2-12-05. Washing trucks.

1. a. All tankers and farm bulk trucks used for transporting raw milk from the farm to the plant must be washed and sanitized at the end of each day's use. A record of this cleaning must be kept and may consist of a mechanical recording chart, a wash log, or any other approved ~~method that contains the following information:~~

~~(1) Truck identification, with the state identification number if applicable.~~

~~(2) Name and location of wash station.~~

~~(3) Date and time of washing.~~

~~(4) Date and time of sanitizing.~~

~~(5) Type of sanitizer.~~

~~(6) Complete name of the person who did the washing and sanitizing.~~ methods consistent with the requirements of appendix B, milk sampling hauling, and transportation of the pasteurized milk ordinance.

- b. All items such as valves and milk pumps that cannot be cleaned in place must be manually cleaned and sanitized at the end of each day's use.

- ~~2. a. All tankers and farm bulk trucks washed and sanitized outside of North Dakota require a seal on the outlet valve and wash tag containing the following information:-~~

~~(1) Truck identification, with the state identification number if applicable.~~

~~(2) Name and location of wash station.~~

~~(3) Date and time of washing.~~

~~(4) Date and time of sanitizing.~~

~~(5) Type of sanitizer.~~

~~(6) Complete name of the person who did the washing and sanitizing.~~

- ~~b.c.~~ All milk transported in tankers or farm bulk trucks that are washed out of state and do not have the required seal and wash tag must be diverted to nongrade A uses.

- ~~3.2.~~ If milk is held in tankers or farm bulk trucks overnight, the milk may not exceed forty-five degrees Fahrenheit [7.22 degrees Celsius].

**History:** Effective October 1, 2009; amended effective July 1, 2019.

**General Authority:** NDCC ~~4-30-55.14.1-25-50~~

**Law Implemented:** NDCC ~~4-30-384.1-25-35~~

### 7-03.2-12-06. Topping off - Emptying farm bulk tank.

Milk haulers must completely empty a farm bulk tank at every pickup. If this is not possible, the milk remaining in the farm bulk tank must be picked up before the next milking. ~~Failure to completely empty the farm bulk tank prior to the next milking is defined as "topping off. It is a violation of this section to top off any farm bulk tank, unless the farm bulk tank is equipped with seven-day temperature-recording device that complies with appendix H, IV, temperature-recording devices used in storage tanks of the~~



pasteurized milk ordinance. The tank must be emptied, cleaned, and sanitized at least every seventy-two hours.

**History:** Effective October 1, 2009; amended effective July 1, 2019.

**General Authority:** NDCC ~~4-30-55~~.14.1-25-50

**Law Implemented:** NDCC ~~4-30-384~~.1-25-35

**CHAPTER 7-03.2-13  
MILK HAULERS LICENSING**

Section

7-03.2-13-01 License Requirements  
7-03.2-13-02 Training [Repealed]  
7-03.2-13-03 Violations

**7-03.2-13-02. Training.**

Repealed effective July 1, 2019.

~~—The milk hauler must train new employees, samplers, and haulers, and must schedule with the commissioner annual training sessions for all employees.~~

~~**History:** Effective October 1, 2009.~~

~~**General Authority:** NDCC 4-30-55.1~~

~~**Law Implemented:** NDCC 4-30-38.1~~

## CHAPTER 7-03.2-17

### 7-03.2-17-01. Requirements.

1. All grade A goat and sheep milk must be produced according to the pasteurized milk ordinance.
2. Processing goat and sheep milk must meet the United States department of agriculture's manufacturing rules if the milk is to be sold as manufacturing grade milk, but if it is to be sold as grade A milk then it must meet the pasteurized milk ordinance.
3. All raw goat and sheep milk must be pasteurized or heat-treated before being used in cheese or other food products intended for human consumption. All goat or sheep milk cheeses must be properly identified as to type of the product and ingredients, and all heat-treated cheeses must be aged at least six months before being offered for human consumption.
4. The commissioner may modify the requirements of this section if the commissioner finds that the health, safety, and welfare of the general public, as well as the quality of the product, will not be compromised.

**History:** Effective October 1, 2009; amended effective July 1, 2019.

**General Authority:** NDCC ~~4-30-55.14~~.1-25-50

**Law Implemented:** NDCC ~~4-30-274~~.1-25-30

**ARTICLE 7-04**  
**ENTOMOLOGY DIVISION PLANT INDUSTRIES**

Chapter	
7-04-01	Pest Prevention - <u>Black Stem Rust Quarantine</u>
7-04-02	Nurseries
<u>7-04-03</u>	<u>Ginseng</u>

**CHAPTER 7-04-02**  
**NURSERIES**

Section	
7-04-02-01	Definitions <u>[Repealed]</u>
7-04-02-02	Shipping Tag Required [Repealed]
7-04-02-03	License to be Posted
7-04-02-04	Labeling of Nursery Stock
7-04-02-05	Storage and Display Requirements
7-04-02-06	Minimum Standards of Viability
7-04-02-07	Exemptions
7-04-02-08	Misrepresentation [Repealed]
7-04-02-09	Certification of Nursery Stock
7-04-02-10	License Fees
7-04-02-11	Application for License

**7-04-02-01. Definitions.**

Repealed effective July 1, 2019.

- ~~1. "Noncommercial" means sales made by nonprofit and charitable organizations, occasional sales of nursery stock that has not been specifically grown for sale purposes, and sales from hobby type growers or propagators.~~
- ~~2. "Occasional sales" means the sale of not more than twelve trees, shrubs, or woody vines within one calendar year. This exemption is restricted to only nursery stock grown by the seller.~~

~~**History:** Amended effective August 1, 1978; January 1, 1988.~~

~~**General Authority:** NDCC 4-21.1-02~~

~~**Law Implemented:** NDCC 4-21.1-01~~

**7-04-02-04. Labeling of nursery stock.**

1. No person may sell or offer for sale any nursery stock which is not securely labeled in accordance with the "International Code of Nomenclature for Cultivated Plants" with the complete correct botanical or approved recognized common name as recognized by the latest edition of one of the following:
  - a. Hortus Third, Liberty Hyde Bailey Hortorium.
  - b. Manual of Woody Landscape Plants and Dirr's Encyclopedia of Trees and Shrubs, Michael A. Dirr.
  - c. Hilliers' Manual of Trees and Shrubs.
  - e.d. Manual of Cultivated Conifers, Den Oudem and Boon.

~~d.e.~~ Plant names recognized and accepted by ~~the American association of nurserymen, incorporated as published annually in Sources of Plants and Related Supplies~~AmericanHort cultivar.

~~e.f.~~ Plant-name listings of well-recognized, nonprofit horticultural societies and organizations.

2. Fruit trees, evergreens, shade trees, flowering trees, and shrubs must be labeled as to variety or cultivar.
3. All collected wild plants offered for sale must be labeled "collected from the wild" unless the stock has been grown under cultivation for at least one year.
4. The statement "nonhardy in North Dakota" must be easily visible to the consumer and printed in minimum twelve-point font. The commissioner's nonhardy list must be updated and accessible on the department website.

**History:** Amended effective August 1, 1978; January 1, 1988; July 1, 2019.

**General Authority:** NDCC ~~4-21.1-02~~4.1-22-02

**Law Implemented:** NDCC ~~4-21.1-114~~4.1-22-07

#### **7-04-02-06. Minimum standards of viability.**

All nursery stock offered for sale must meet these minimum standards of viability or be removed from public view and not offered for sale.

1. Woody-stemmed deciduous stock must have moist, green cambium tissue in the stems and branches and must have viable buds or normal green, unwilted growth sufficient to permit the stock to live and grow in a form characteristic of the species when planted and given reasonable care.
2. Nursery stock when in a wilted, rotted, or other such condition indicative of subnormal vitality may not be sold or offered for sale.
3. Bare-rooted or prepackaged woody-stemmed stock having more than two inches [5.08 centimeters] of etiolated (nongreen) growth from individual buds may not be sold or offered for sale.
4. Balled and burlapped stock in a weakened condition as evidenced by dieback or dryness of foliage or stock having broken or loose soil balls or soil balls of a size smaller than that specified by ~~the American association of nurserymen's~~AmericanHort's "American Standard for Nursery Stock" may not be sold or offered for sale.
5. Colored waxes or other materials used to coat the aerial parts of plants that change the appearance of the plant surface so as to prevent adequate inspection are prohibited.

**History:** Amended effective January 1, 1988; July 1, 2019.

**General Authority:** NDCC ~~4-21.1-02~~4.1-22-02

**Law Implemented:** NDCC ~~4-21.1-114~~4.1-22-07

#### **7-04-02-07. Exemptions.**

The following plant species are exempt from all provisions of North Dakota Century Code chapter ~~4-21.14~~4.1-22:

1. All clematis species.
2. All rosa species.

3. All yucca species.
4. Soil conservation districts are exempt from the requirements if the districts abide by the following:
  - a. Only sell nursery stock limited to a caliper of one inch at flare of root, base of tree.
  - b. Bare root or one gallon or less container size.
  - c. No grafted trees.

**History:** Amended effective August 1, 1978; January 1, 1988; July 1, 2019.

**General Authority:** NDCC ~~4-21.1-02~~4.1-22-02

**Law Implemented:** NDCC ~~4-21.1-14~~4.1-22-10

#### **7-04-02-09. Certification of nursery stock.**

1. An inspection certificate will not be issued for any deciduous nursery stock unless the stock has been inspected during active growth.
2. Persons growing Christmas trees and persons with overgrown trees or shrubs that will no longer be sold as nursery stock may be required to declare which trees are to be inspected for certification.
3. All field-grown nursery stock must be maintained by mechanical or chemical, or both, vegetation control. ~~Nursery stock growing in grass or sod will not be certified.~~

**History:** Effective January 1, 1988; amended effective July 1, 2019.

**General Authority:** NDCC ~~4-21.1-02~~4.1-22-02

**Law Implemented:** NDCC ~~4-21.1-05~~4.1-22-05

#### **7-04-02-11. Application for license.**

1. Each application for an initial license or annual renewal must set forth the applicant's business name, phone number, the name of the manager or owner, the principal location where nursery stock will be sold, the address or location of additional sales locations, the mailing address, the location of the growing area, the number of acres [hectares] in the growing area, the number and type of plant species being grown, and a map of the growing area.
2. The application must also include the names and addresses of the nurseries of the sources of their stock.
3. The applicant must certify that only officially inspected and certified nursery stock will be offered for sale.

**History:** Effective January 1, 1988; amended effective July 1, 2019.

**General Authority:** NDCC ~~4-21.1-02~~4.1-22-02

**Law Implemented:** NDCC ~~4-21.1-06~~4.1-22-06

**CHAPTER 7-04-03**  
**GINSENG**

Section

<u>7-04-03-01</u>	<u>Definitions</u>
<u>7-04-03-02</u>	<u>Growers and Dealers - License - Fees</u>
<u>7-04-03-03</u>	<u>Sale or Shipment of Cultivated Ginseng</u>
<u>7-04-03-04</u>	<u>Inspection or Submission of Records</u>
<u>7-04-03-05</u>	<u>Enforcement Actions</u>

**7-04-03-01. Definitions.**

1. "Commissioner" means the commissioner of agriculture.
2. "Cultivated ginseng" means ginseng dry root, live root, tissue culture, or seed propagated in this state.
3. "Dealer" means a person that buys cultivated ginseng for the purpose of resale. The term does not include a person that buys cultivated ginseng dry root solely for the purpose of final retail sale to consumers in the United States.
4. "Ginseng" means panax quinquefolius L.
5. "Grower" means a person that grows cultivated ginseng and who sells cultivated ginseng to a dealer.
6. "Out-of-state cultivated ginseng" means cultivated ginseng grown or nurtured outside this state.

**History:** Effective July 1, 2019.

**General Authority:** NDCC 4.1-17-01

**Law Implemented:** NDCC 4.1-17-01

**7-04-03-02. Growers and dealers - License - Fees.**

1. A person that desires to act as a grower or a dealer shall register with the commissioner on a form provided by the commissioner. A person that acts as a dealer and a grower shall register as both.
2. Each dealer shall pay an annual license fee of fifty dollars. Each grower shall pay an annual license fee of twenty-five dollars. The fee must be submitted with the license application. The commissioner shall assign a license number to each person licensed.
3. A ginseng license issued under these rules expires on December thirty-first.

**History:** Effective July 1, 2019.

**General Authority:** NDCC 4.1-17-01

**Law Implemented:** NDCC 4.1-17-01

**7-04-03-03. Sale or shipment of cultivated ginseng.**

1. Any grower that harvests ginseng shall report the harvest to the commissioner, as required by United States fish and wildlife service.
2. All ginseng roots intended for sale must be certified by the commissioner on report forms. Certification must include inspection of roots to ensure maturity and weight of each shipment. The commissioner may charge a fee of not more than five dollars for the ginseng forms.

3. Any grower or dealer holding unsold ginseng after December thirty-first of the year of harvest shall notify the commissioner. The commissioner shall weigh the remaining ginseng and provide certification report of remaining ginseng. This report is used for future certificate of ginseng.
4. Except as provided in subsection 8, a person may not sell or ship cultivated ginseng to a dealer or ship cultivated ginseng out of this state unless the cultivated ginseng is accompanied by a completed shipment certificate provided by the commissioner. The shipment certificate must specify the year in which the cultivated ginseng was harvested. The person selling or shipping the cultivated ginseng shall submit a report form describing to the commissioner the source of all cultivated ginseng included in the sale or shipment. The report must be within thirty days of the sale or shipment. Each person that completes a shipment certificate or report form must retain a copy for three years from the date of the sale or shipment.
5. A dealer may not purchase or receive cultivated ginseng unless it is accompanied by a completed shipment certificate. A dealer shall retain a copy of each shipment certificate received for a period of three years from the date of receipt.
6. A dealer may not purchase or receive out-of-state cultivated ginseng unless it is accompanied by a valid certificate, issued by the state of origin, certifying that the shipment consists solely of out-of-state cultivated ginseng. The certificate must include the source, year of harvest, and dry weight of the out-of-state cultivated ginseng included in the shipment. The dealer shall retain a copy of each certificate received for a period of three years from the date of receipt.
7. A person may not import out-of-state cultivated ginseng into this state unless the imported shipment is accompanied by a valid certificate issued by the state of origin. A person may not ship out-of-state cultivated ginseng using a shipment certificate issued by this state.
8. Subsection 4 does not apply to a person that sells or ships cultivated ginseng dry root to a person outside this state who is buying or receiving the cultivated ginseng dry root solely for the purpose of final retail sale to consumers in the United States, if the person selling or shipping keeps a record of the sale or shipment which includes the following:
  - a. The name and address of the purchaser or recipient.
  - b. The dry weight of the cultivated ginseng dry root included in the sale or shipment.
  - c. The date of the sale or shipment.
  - d. The source of all of the cultivated ginseng dry root included in the sale or shipment.
  - e. The year in which the cultivated ginseng dry root was harvested.

**History:** Effective July 1, 2019.

**General Authority:** NDCC 4.1-17-01

**Law Implemented:** NDCC 4.1-17-01

#### **7-04-03-04. Inspection or submission of records.**

Each dealer or grower shall make all records, including records that are located outside of this state, required to be kept under this chapter available for inspection or copying by the commissioner upon the commissioner's request.

**History:** Effective July 1, 2019.

**General Authority:** NDCC 4.1-17-01

**Law Implemented:** NDCC 4.1-17-01



#### **7-04-03-05. Enforcement actions.**

The commissioner may deny, suspend, or revoke the registration of any dealer or grower and may invalidate shipment certificates completed by the dealer or grower, if the commissioner finds that the dealer or grower has violated this chapter. The commissioner, without prior notice or hearing, may suspend or invalidate the registration and shipment certificates of a dealer or grower if the commissioner finds there is a need for immediate action to prevent a violation of this chapter. Any action of the commissioner pursuant to this section must be in writing. Any person that receives a notice under this section is entitled to a hearing before the commissioner if requested within ten days after receipt of the notice. Hearings must be conducted within ten days after receipt of a request for the hearing. Enforcement of any action may not be stayed pending the hearing.

**History:** Effective July 1, 2019.

**General Authority:** NDCC 4.1-17-01

**Law Implemented:** NDCC 4.1-17-01

## CHAPTER 7-06-01

### 7-06-01-02. Noxious weeds listed.

Weeds declared noxious shall be confined to weeds that are difficult to control, easily spread, and injurious to public health, crops, livestock, land, or other property. The following weeds have been declared noxious for the purpose of North Dakota Century Code chapter 63-01.1:

1. Absinth wormwood (*Artemisia absinthium* L.).
2. Canada thistle (*Cirsium arvense* (L.) Scop.).
3. Dalmatian toadflax (*Linaria ~~genistifolia~~ spp. dalmatica*).
4. Diffuse knapweed (*Centaurea diffusa* Lam.).
5. Houndstongue (*Cynoglossum officinale*).
6. Leafy spurge (*Euphorbia esula* L.).
- ~~6.7.~~ Musk thistle (*Carduus nutans* L.).
- ~~7.8.~~ Purple loosestrife (*Lythrum salicaria* L., *Lythrum virgatum* L., and all cultivars).
- ~~8.9.~~ Russian knapweed (~~*Centaurea repens* L.~~ *Rhaponticum repens*).
- ~~9.10.~~ Saltcedar (~~*Tamarisk*~~ *Tamarix* spp.).
- ~~10.11.~~ Spotted knapweed (*Centaurea ~~maculosa~~ Lam. stoebe*).
- ~~11.12.~~ Yellow toadflax (*Linaria vulgaris*).

**History:** Amended effective June 1, 1985; February 1, 2000; September 1, 2002; April 1, 2010; July 1, 2019.

**General Authority:** NDCC 4.1-47-04, 28-32-02

**Law Implemented:** NDCC 4.1-47-04

## ARTICLE 7-11 EGG REGULATIONS

Chapter  
7-11-01 Farm Flock Egg Handling Requirements

### CHAPTER 7-11-01 FARM FLOCK EGG HANDLING REQUIREMENTS

Section  
7-11-01-01 Definitions  
7-11-01-02 Licenses  
7-11-01-03 Labeling and Sales Requirements  
7-11-01-04 Candling  
7-11-01-05 Egg Handling  
7-11-01-06 Egg Cleaning  
7-11-01-07 General Requirements  
7-11-01-08 Consumer Grades

#### 7-11-01-01. Definitions.

1. "Check" means any crack in the exterior shell of an egg. Sometimes called cracked eggs.
2. "Department" means the department of agriculture.
3. "Destination" means the point other than the place of origin where eggs are offered for sale.
4. "Dirties" means eggs that have an unbroken shell with adhering dirt or other foreign material.
5. "Egg inspector" means an employee of the state of North Dakota authorized by the commissioner of agriculture, responsible for performing inspections pursuant to these rules.
- 5-6. "Leaker" means an egg that has a crack or break in the shell and shell membranes to the extent the egg contents are exposed or are exuding or free to exude through the shell.
7. "Small commercial flock" means a flock of ~~hens between five hundred and up to~~ three thousand laying hens.
- 6-8. "Washed eggs" means eggs which are washed and candled but are not graded to size. Grade B tolerances for checks will be allowed on these eggs.

**History:** Effective January 1, 1993; amended effective July 1, 2019.

**General Authority:** NDCC 19-07-024.1-19-06

**Law Implemented:** NDCC 19-07-024.1-19-06

#### 7-11-01-02. Licenses - Application for licenses.

Application for licenses must be made on forms provided by the commissioner of agriculture.

1. **Egg dealer's license.** Every person who wants access to commercial egg markets, engaged in the business of producing eggs shall first apply to and obtain from the department of agriculture an egg dealer's license. Licenses must be issued by the department upon receipt of proper application after inspection and approval of premises and equipment by an egg inspector pursuant to the rules of this article.
2. **Candler license.** Every person who candles and grades eggs must be licensed. Candler or egg grader licenses must be issued after the candler or grader shows competence in grading and candling eggs as determined by the department of agriculture.

Egg dealer and candler grader licenses are not transferable. ~~No egg dealer or candler grader licenses may be transferred from one person to another.~~ New egg dealers or candler graders must possess a license. License fees are ten dollars annually and must be renewed by June first of each year.

**History:** Effective January 1, 1993; amended effective July 1, 2019.

**General Authority:** NDCC ~~19-07-024.1-19-06~~

**Law Implemented:** NDCC ~~19-07-024.1-19-06~~

### 7-11-01-03. Labeling and sales requirements.

1. **Farm flock egg handling requirements.** The farm flock egg handling requirements for egg production is a voluntary program.
2. **Temperature.** All eggs held or offered for sale must be stored in refrigerated compartments. The temperature cannot exceed forty-five degrees Fahrenheit [7.22 degrees Celsius]. This also includes temporary storage.
3. **Cartons.** Farm flock eggs offered for sale must be identified with the producer's name and address. Either blank cartons can be used or a carton with the individual farm name can be made up.
4. **Expiration dates.** All case lots of eggs must have a placard bearing the expiration date and producer's name. The expiration date cannot exceed twenty-three days from the date of ~~candling~~washing and sanitizing.

**History:** Effective January 1, 1993; amended effective July 1, 2019.

**General Authority:** NDCC ~~19-07-024.1-19-06~~

**Law Implemented:** NDCC ~~19-07-024.1-19-06~~

### 7-11-01-05. Egg handling.

Eggs being stored before sale must be kept in an area away from objectionable odors. The storage area must be capable of maintaining a temperature of between thirty-three and forty-five degrees Fahrenheit [.55 and 7.22 degrees Celsius].

Egg packing materials must be cleaned and well constructed. Only clean, sound, dry flats and cartons must be used. Any carton or flat that is reused must be ~~washed~~made of washable material and shall be sanitized before being reused.

Transportation of all eggs to the point of sale must be done in a covered container.

**History:** Effective January 1, 1993; amended effective July 1, 2019.

**General Authority:** NDCC ~~19-07-024.1-19-06~~

**Law Implemented:** NDCC ~~19-07-024.1-19-06~~

### 7-11-01-06. Egg cleaning.

Eggs must be washed either manually or with the aid of automatic cleaning equipment. The entire shell of all eggs must be submerged. After washing the egg, it ~~should~~must be treated with a sanitizing solution and allowed to dry before packing. Clean potable water must be used in the egg-cleaning process. When manually washing eggs, a wash vat can be used with the detergent. Eggs should not be allowed to soak in water. Sanitizers formulated in compliance with 21 Code of Federal Regulations, section 178.1010 are acceptable for use in sanitizing shell eggs provided the sanitizers are registered with the federal environmental protection agency and labeled for use on shell eggs.

**History:** Effective January 1, 1993; amended effective July 1, 2019.

**General Authority:** NDCC ~~19-07-024.1-19-06~~

**Law Implemented:** NDCC ~~19-07-024.1-19-06~~

**7-11-01-08. Consumer grades.**

1. **North Dakota consumer Grade AA at origin.** Grade AA eggs at origin must consist of eggs which are at least eighty-seven percent AA quality. The thirteen percent below AA quality may be in any combination of A or B quality. Not more than five percent checks (~~seven percent for jumbo size~~) are permitted. Not more than fiftyone-half of one percent leakers, dirties, or loss due to blood or meat spots in any combination are permitted except the loss may not exceed thirtythree-tenths of one percent. Other types of loss are not permitted. Grade AA eggs at destination may not exceed seven percent checks (~~nine percent for jumbo size~~).
2. **North Dakota consumer Grade A at origin.** Grade A eggs at origin must consist of eggs which are at least eighty-seven percent A quality or better. Within the thirteen percent which may be below A quality, not more than one percent may be B quality due to blood spots or serious yolk defects. Grade A eggs must have no more than five percent checks (~~seven percent check for jumbo size~~). Not more than fiftyone-half of one percent may be leakers, dirties, or loss due to blood or meat spots in any combination, except that the loss may not exceed thirtythree-tenths of one percent. Other types of loss are not permitted. Grade A eggs at destination may not exceed seven percent checks (~~nine percent for jumbo size~~).
3. **North Dakota consumer Grade B at origin.** Grade B eggs at origin must consist of eggs which are ninety percent B quality or better. Within the maximum tolerance of ten percent which may be below B quality, not more than ten percent may be checks. Not more than fiftyone-half of one percent may be leakers, dirties, or loss due to blood or meat spots in any combination, except that the loss shall not exceed thirtythree-tenths of one percent. Other types of loss are not permitted. Grade B eggs at destination cannot exceed quality factors set at the place of origin.

**History:** Effective January 1, 1993; amended effective July 1, 2019.

**General Authority:** NDCC ~~19-07-024.1-19-06~~

**Law Implemented:** NDCC ~~19-07-024.1-19-06~~

**CHAPTER 7-13-01  
GENERAL INFORMATION**

Section	
7-13-01-01	History
7-13-01-02	Inquiries
7-13-01-03	Federal Law <a href="#">[Repealed]</a>
7-13-01-04	Definitions
7-13-01-05	Access Authorization

**7-13-01-03. Federal law.**

[Repealed effective July 1, 2019.](#)

~~—All federal meat and poultry inspection regulations effective as of December 1, 2012, as provided under title 9, Code of Federal Regulations, parts 301-320, 325, 329, 381, 391, 416-417, 418, 424, 430, 441, 442, and 500, but excluding parts 307.5 and 381.38, are incorporated by reference and made a part of this title.~~

**History:** Effective August 1, 2000; amended effective January 1, 2004; July 1, 2009; April 1, 2013.

**General Authority:** NDCC 4.1-31-24

**Law Implemented:** NDCC 4.1-31-18, 4.1-31-24

**TITLE 10**  
**ATTORNEY GENERAL**





**JULY 2019**

**CHAPTER 10-16-01**

**10-16-01-01. Definitions.**

As used in this article:

1. "Applicant's agent" means a general manager, sole proprietor, partner of a partnership, or, for a corporation, an officer or director who is primarily responsible for financial affairs or a shareholder who owns ten percent or more of the common stock, of a business that is applying for or renewing a license. A general manager is ~~a person~~ **an individual** who regularly is onsite and primarily responsible and accountable for managing and controlling the day-to-day operation of the business.
2. "Cash voucher" means a voucher generated by the lottery's player-activated terminal that can be validated for cash at the retailer's lottery terminal.
3. "Draw" means the formal process of randomly selecting winning numbers, letters, or symbols that determine the number of winning plays for each prize level of a game.
4. "Deposit account" means the account to which funds are deposited and from which online play purchases are made.
5. "Game" means an on-line game authorized by the lottery.
6. "Game group" means a group of lotteries that have joined together to offer a game on a multi-state basis according to the terms of the MUSL or the game group's rules or both.
7. "Grand prize" means the top prize that can be won in a game.
8. "Group play" means two or more individuals sharing a purchase made.
9. "Lottery" means the North Dakota lottery.
10. "Multi-state lottery" means a lottery game that spans the individual borders of a state, jurisdiction, province, district, commonwealth, territory, or country.
11. "MUSL" means the multi-state lottery association.
12. "North Dakota Lottery Players Club®" means a program that players can join to earn exclusive benefits and rewards.
13. "Online gaming system" means a computer system designed to control, monitor, communicate with a terminal, and record play transactions and accounting data.

14. "Online play" means the purchase of a draw game play for drawing up to one year.
15. "Pick & Click" means the name of the online play service formerly known as subscriptions.
16. "Play" means the numbers, letters, or symbols that are on a ticket or properly and validly registered online play to be played by a player in a draw, excluding a lottery promotion.
17. "Play area" means the area of a play slip that contains one or more sets of numbered squares to be marked by a player for a game. Each set contains a certain number of numbers, letters, or symbols that correspond to the game.
18. "Play slip" means a physical or electronic means by which a player communicates their intended play selection to the retailer as defined and approved by the lottery.
19. "Player-activated terminal" means a device authorized by the lottery and operated by a player to function in an online, interactive mode with the lottery's computer system to receive and process lottery transactions, including the purchase and issuance of a ticket, the validation of a ticket, and the issuance of a cash voucher.
20. "Points for Drawings™" means a program where players can enter drawings by using points received from the submission of valid tickets.
21. "Points for Prizes®" means a rewards program where players can earn points by becoming registered members and submitting valid tickets.
22. "Quick pick" means a random selection of numbers, letters, or symbols by a computer system that are printed on a ticket or properly and validly registered online play and played by a player for a draw in a game.
23. "Retailer fraud" means an owner or employee of a licensed retailer who knowingly and intentionally:
  - a. Fails to properly validate a player's winning ticket;
  - b. Fails to pay the player the proper prize amount on a winning ticket;
  - c. Fails to provide the player the proper exchange ticket on a winning multi-draw ticket; or
  - d. Performs any other act that causes financial harm to a player in violation of the lottery law or rules.
24. "Set prize" means all prizes, except the grand prize for a game that are to be paid by a single cash payment and, except as provided by rule, will be equal to the prize amount established by the MUSL and/or the game group for the prize level of the game.
25. "Terminal" means a device authorized by the lottery and operated by a retailer or the lottery to function in an on-line, interactive mode with the lottery's computer system to issue a ticket and enter, receive, and process a lottery transaction, including a purchase, validation of a ticket, and issuance of a report.
26. "Ticket holder" means ~~a person~~ an individual who has signed a ticket or possesses an unsigned ticket.
27. "Top prize" means the first prize that can be won in a game.
28. "Validation" means the process of determining whether a ticket presented for a prize is a winning ticket.

29. "Winning account" means the account to which online play winnings are deposited and from which player withdrawals are made.
30. "Winning numbers" means the numbers, letters, or symbols randomly selected in a draw to determine a winning play contained on a ticket or properly and validly registered online play or randomly selected in a lottery promotion to determine a winning prize stated on a ticket or coupon.

**History:** Effective February 1, 2004; amended effective April 1, 2006; July 1, 2008; July 6, 2014; January 31, 2016; February 1, 2016; October 29, 2017; May 14, 2018; [July 1, 2019](#).

**General Authority:** NDCC 53-12.1-13

**Law Implemented:** NDCC 53-12.1-13

#### **10-16-01-02. Advertising.**

1. The lottery shall arrange for a retailer to be provided with:
  - a. Point-of-sale promotional material, including game brochure, promotional poster, and lottery signage; and
  - b. Problem gambling helpline telephone number.
2. Advertising and promotional material provided by the lottery must:
  - a. For a game brochure, indicate how a game is played, amount of prize offered, where and how a ticket may be bought, when a draw is held, odds on a game, and whether the grand prize is payable, at a player's option, on an annuitized basis or as a lump sum payment; and
  - b. Present the lottery as a form of entertainment.
3. Advertising material may not:
  - a. Present a game as an investment to achieve financial security;
  - b. Target a specific ethnic, racial, or religious group of people;
  - c. Use the name, signature, or picture of a current elected or serving state official to promote a game. However, the name and picture of the attorney general may appear on the lottery's web site and in the lottery's newsletter;
  - d. Indicate that ~~a person~~[an individual](#) has a better chance of winning by purchasing a ticket at a specific retailer's site;
  - e. Promise or imply that ~~a person~~[an individual](#) will win or that ~~a person~~[an individual](#) who does not play has lost anything, other than a chance to win. However, advertising may promote the opportunity available to win; or
  - f. Misrepresent a chance of winning a prize; or
  - g. Degrade ~~a person~~[an individual](#) who does not buy a ticket.

**History:** Effective February 1, 2004; amended effective April 1, 2006; July 1, 2006; [July 1, 2019](#).

**General Authority:** NDCC 53-12.1-13

**Law Implemented:** NDCC 53-12.1-02, 53-12.1-03, 53-12.1-13

#### 10-16-01-05. Restrictions, requirements, and authorizations.

1. An employee of the lottery or a member of the immediate family or ~~a person~~ an individual who regularly resides in the same household of the employee may not receive a gift, gratuity, or other thing of value, excluding food, nonalcoholic beverage, or incidental item, from an applicant for a license, licensed retailer, or online gaming system or advertising vendor.
2. The lottery may waive a rule when it is in the best interest of the state, lottery industry, or public.
3. In applying subdivision d of subsection 1 of North Dakota Century Code section 53-12.1-11, personal information on a winning player does not include an amount won or the player's city or state of residence. If the player signs a release, the lottery may disclose or publish personal information that the player authorizes to be released. Subdivision d of subsection 1 of North Dakota Century Code section 53-12.1-11 does not apply to cash, merchandise, an online play, gift certificate, or ticket that the lottery awards as a prize in a promotion.
4. If a lottery rule conflicts with an official or updated MUSL or game group rule or game rule, the official or updated MUSL or game group rule or game rule supersedes the lottery rule. The official MUSL or game group rule or game rule governs the administration of a game.
5. The lottery may conduct a promotion that includes a prize and shall prescribe promotional rules. The prize may be cash, gift certificate, ticket, online play, or merchandise.
6. The lottery may immediately withdraw a lottery terminal, equipment, and supplies from a retailer's site if the retailer's license is inactive, suspended, revoked, or the retailer's license was not renewed.

**History:** Effective February 1, 2004; amended effective April 1, 2006; July 1, 2006; April 1, 2008; May 14, 2018; July 1, 2019.

**General Authority:** NDCC 53-12.1-13

**Law Implemented:** NDCC 53-12.1-02, 53-12.1-08, 53-12.1-11, 53-12.1-13

## CHAPTER 10-16-02

### 10-16-02-02. Criteria for selecting an applicant.

The lottery shall consider criteria in selecting an applicant for licensure or relicensure as a retailer, including:

1. Geographic or strategic location of a business in a town or city, and its location in relation to population, highways, and traffic patterns;
2. Accessibility of a business to the public and an unrestricted public access policy;
3. Regular contact with a significant number of ~~persons~~individuals and the average number of customer sales transactions per day;
4. Normal business hours and days of the week that the business is open;
5. Number of years the business has been operating at its present location;
6. Historical gross sales of nonlottery products or expected gross sales of lottery tickets of a business, or both;
7. Physical security of a business, safety of the money derived from selling a ticket, and whether the business has a video surveillance or alarm system;
8. Financial condition, financial responsibility, and creditworthiness of the business;
9. Criminal history record, character, and reputation of the applicant's agent;
10. Sufficiency of an existing retailer to serve the public convenience in an applicant's town or city;
11. Anticipated or proven capability of a business to best serve the public interest by actively promoting the sale of a ticket, including displaying or providing point-of-sale promotional items to the public;
12. Initial or incremental cost of installing and maintaining a terminal and telecommunications equipment at a business or difficulty of using preferred telecommunications equipment;
13. Type of business and type of product, service, or entertainment offered at a site and whether it is acceptable to the general public and does not adversely impact the credibility, reputation, or image of the lottery. An applicant's primary retail business may not be to sell a lottery ticket. An eligible applicant may not be a pawnbroker, bank, check cashing or cash advance outlet, currency exchange business, credit union, consumer finance company, collection agency, or mortgage broker;
14. Type and volume of state government services available at a business, including fishing and hunting licenses;
15. Recommendation of the lottery's online gaming system vendor;
16. Accessibility of a business to ~~a person~~an individual who is disabled;
17. Type of building housing the business; and
18. Site inspection.

**History:** Effective February 1, 2004; amended effective April 1, 2006; April 1, 2008; July 1, 2019.

**General Authority:** NDCC 53-12.1-13

**Law Implemented:** NDCC 53-12.1-02, 53-12.1-03, 53-12.1-06, 53-12.1-07, 53-12.1-13

### 10-16-02-03. Record and credit checks.

1. An applicant for a license shall request the lottery to do a North Dakota record check on the applicant's agent. The record check is to determine whether the **personindividual** has a criminal history record that would disqualify the applicant for a license according to subdivision d of subsection 3 of North Dakota Century Code section 53-12.1-07. The lottery may require fingerprints of the **personindividual**. After the initial licensure of an applicant, the retailer shall request the lottery to do a North Dakota record check and, if necessary, an out-of-state record check, on a new applicant's agent within thirty days of when the change occurred. The lottery may periodically do a followup record check on an applicant's agent and charge a fee.
2. If the applicant's agent resides or has resided in a state other than North Dakota during the previous five years, the lottery shall do an out-of-state record check on that **personindividual** through the other state. The **personindividual** shall procure any necessary fingerprint card or special authorization form, or both, which is or are required by the other state from the lottery and return the completed card or form, or both, to the lottery within ten days after receiving it or them from the lottery.
3. An applicant shall request a record check on the applicant's agent by submitting a "lottery record/credit check" form for the applicant's agent and remit a nonrefundable fee in the amount prescribed by North Dakota Century Code section 12-60-16.9 for a North Dakota record check and, if an out-of-state record check is required, remit the nonrefundable fee that is charged by the other state, to the lottery. The applicant shall remit the fee with the license application or form. However, if the **personindividual** has had a record check done within one year of when the applicant applied for a license or renewal license and provides with the application a copy of the "lottery record/credit check" or similar form and, if applicable, a copy of the bureau of criminal investigation's criminal history record information the lottery may waive the requirement for a record check on that **personindividual**.
4. ~~A person's~~**An individual's** information on a criminal record may be disseminated only according to North Dakota Century Code chapter 12-60.
5. If an applicant's agent pleads guilty to or has been found guilty of a felony or misdemeanor offense as defined by the laws of this state, another state, or the federal government, the retailer shall immediately notify the lottery. Upon notification of a felony offense to the lottery:
  - a. If the applicant's agent is a general manager, the retailer shall terminate the general manager from employment;
  - b. If the applicant's agent is a partner of a partnership, the retailer shall terminate the partnership agreement with the affected partner;
  - c. If the applicant's agent is an officer or director who is primarily responsible for financial affairs of a corporation, the retailer shall delegate that responsibility away from the affected officer or director;
  - d. If the applicant's agent is a shareholder of a corporation, the retailer shall arrange for the shareholder to sell shares of stock to reduce the stock holding to less than ten percent of the common stock; or
  - e. The lottery shall suspend or revoke the retailer's license or take any other appropriation action.
6. The lottery shall do a credit check on an applicant that is a sole proprietorship, partnership, or corporation through a credit-reporting company or other reliable source to determine the applicant's financial condition and whether the applicant is financially responsible and credit

worthy. The lottery shall prescribe the fee for a credit check. The fee is nonrefundable. The lottery may periodically do a followup credit check on a retailer and charge the fee.

7. A retailer shall retain a copy of the "lottery record/credit check" form for three years from the date it submitted the form to the lottery.

**History:** Effective February 1, 2004; amended effective April 1, 2006; [July 1, 2019](#).

**General Authority:** NDCC 53-12.1-13

**Law Implemented:** NDCC 53-12.1-02, 53-12.1-03, 53-12.1-06, 53-12.1-07, 53-12.1-13

#### **10-16-02-06. Duties.**

A retailer shall:

1. Comply with the lottery law, rules, promotional rules, and terms of a license agreement prescribed by the lottery;
2. Display a lottery license in an area visible, but not accessible, to the public where a ticket is sold and redeemed. A retailer shall prominently display signage and promotional and point-of-sale items provided by the lottery. A retailer may advertise and use, display, or make available other appropriate promotional and point-of-sale items. On request of the lottery, a retailer shall discontinue an advertisement or promotion that the lottery determines is in noncompliance with subsections 2 and 3 of section 10-16-01-02;
3. Display a problem gambling helpline telephone number;
4. Provide a secure operating space for a terminal at a location approved by the lottery or its online gaming system vendor. A retailer may not move the terminal to a different location at a site without written authorization from the lottery. If the retailer desires to have the terminal relocated at the site, only a qualified representative of the lottery's online gaming system vendor may relocate the terminal;
5. Provide dedicated alternating current to a duplex electrical receptacle for lottery equipment, including a terminal. Only lottery equipment may be on the circuit. A retailer shall pay the installation cost of the receptacle and monthly costs of electricity to operate the lottery equipment. The lottery shall provide the retailer with a schematic of the required amperage, voltage, and wiring of the receptacle;
6. As requested by the lottery, have an employee attend a training session sponsored by the lottery, review training material, complete a terminal-based tutorial, or notify the lottery if a new employee needs training on operating a terminal;
7. Exercise care in operating a terminal and immediately notify the lottery's online gaming system vendor of a terminal malfunction, including the issuance of an invalid ticket, inability to sell or redeem a ticket, and nonissuance of a ticket. Except to clear a paper jam, the retailer may not perform mechanical or electrical maintenance on the terminal. Unless approved by the lottery, a retailer may not attach or adhere any stickers, decals, or advertisements on a terminal;
8. Replace ticket stock and clear a paper jam as necessary in a terminal;
9. Monitor the supply of game brochures, point-of-sale items, ticket stock, and play slips and notify the lottery or its online gaming system vendor when an item is in short supply;
10. Actively promote and sell a ticket and redeem a winning ticket during the retailer's core business hours on the days that the retailer is open and when a terminal is operating. If the retailer's core business hours are earlier or later, or both, than the hours that the terminal is



operating, the retailer shall post the hours during which ~~a person~~ an individual may redeem a winning ticket;

11. Prohibit ~~a person~~ an individual under age eighteen from buying a ticket or redeeming a winning ticket;
12. Not extend credit to a player or accept a credit card from a player for the purchase of a ticket or accept a food stamp or food coupon as consideration for a ticket. A player shall pay for a ticket when the ticket is bought from a retailer. If a retailer delivers a ticket to a player's residence, the player shall prepay or pay for the ticket upon delivery. A retailer may not loan money to or accept a postdated check from a player;
13. Maintain a level of ticket sales set by the lottery based on a minimum sales program;
14. Be financially responsible and personally liable to the lottery for money derived from the sale of a ticket, less money related to a sales commission and money paid on a redeemed winning ticket. The retailer shall allow money from the sale of a ticket that is deposited by the retailer in a bank account to be transferred to the lottery by electronic funds transfer on a weekly basis or other period prescribed by the lottery;
15. Store ticket stock, supplies, terminal, and related equipment in a safe place to prevent loss, theft, or damage;
16. Prominently post the winning numbers for a draw and estimated grand prize of the next draw of a game where a ticket is sold as soon as reasonably possible after the draw for the game;
17. Redeem a winning ticket and may pay a prize of up to five hundred ninety-nine dollars in cash or by business check, regardless of which retailer sold the ticket. The retailer may not charge a fee for redeeming a ticket and may not refuse to redeem a winning ticket sold by another retailer;
18. File a claim for credit for a printed defective ticket as prescribed by the lottery;
19. Permit an employee or agent of the lottery who has first shown proper identification to the retailer to review the retailer's accounting records and inspect, maintain, replace, or remove lottery equipment, supplies, ticket stock, or a record or recorded video from the site without prior notice during the retailer's normal hours of operation;
20. Notify the lottery in writing thirty days before there is a change of the bank account maintained for electronic funds transfer;
21. Make it convenient for the public to buy and redeem a ticket. A retailer may sell a ticket through a drive-up window;
22. Have a copy of the lottery law and rules at the site available near the terminal for review by any ~~person~~ individual;
23. Incur the loss from theft of a ticket or gift certificate;
24. Defend, indemnify, and hold harmless the lottery and state of North Dakota from any claim of any nature, including all costs, expenses, and attorney's fees, that may result from or arise out of an agreement with the lottery, except for a claim that results from or arises out of the state's sole negligence;
25. Upon revocation, relinquishment, or nonrenewal of a license, immediately return all lottery-related equipment and supplies, including unused ticket stock. The retailer is liable for money still owed the lottery; and



26. Maintain complete and accurate records and retain them for one year related to the sale and redemption of a lottery ticket. Records must include weekly terminal-issued reports of electronic funds transfers transactions.

**History:** Effective February 1, 2004; amended effective April 1, 2006; April 1, 2008; July 6, 2014; [July 1, 2019](#).

**General Authority:** NDCC 53-12.1-13

**Law Implemented:** NDCC 53-12.1-02, 53-12.1-03, 53-12.1-08, 53-12.1-13

**10-16-02-07. Sales commission and bonus.**

1. The lottery shall credit a retailer's account for:
  - a. A sales commission of five percent of the retail price of a ticket sold or otherwise issued by the retailer;
  - b. A sales commission of five percent of the amount of an online play sale that is transacted through the North Dakota Lottery Players Club® when a player chooses a specific retailer. The retailer must be currently licensed when the online play is purchased; and
  - c. A sales bonus for selling a ticket with a winning play, for a game as stated below. However, the retailer must be currently licensed when a draw is conducted that results in the winning play of a ticket. If the winning play for POWERBALL® has the power play option, or the winning play for MEGA MILLIONS® has the Megaplier® option, or the winning play for LOTTO ~~AMERICA~~<sup>SM</sup>AMERICA® has the All Star ~~Bonus~~<sup>SM</sup>Bonus® option, the retailer's account must also be credited for an additional bonus as stated below:

<u>Prize</u>	<u>Bonus</u>	<u>Additional Bonus</u>
POWERBALL®		
Grand prize	\$50,000	Additional \$50,000 with power play
\$1,000,000	\$5,000	Additional \$5,000 with power play
\$50,000	\$1,000	Additional \$1,000 with power play
MEGA MILLIONS®		
Grand prize	\$50,000	Additional \$50,000 with Megaplier®
\$1,000,000	\$5,000	Additional \$5,000 with Megaplier®
\$10,000	\$500	Additional \$500 with Megaplier®
LUCKY FOR LIFE®		
\$7,000/week for life	\$25,000	
\$25,000/year for life	\$2,500	
\$5,000	\$250	
2BY2®		
Grand prize		
\$22,000	\$500	
\$44,000*	\$1,000	

\*Tuesday draw double grand prize winning play on a qualifying multi-draw ticket.

LOTTO  
~~AMERICA~~<sup>SM</sup>AMERICA®

Grand prize	\$5,000 Additional \$5,000 with All Star <del>Bonus<sup>SM</sup></del> Bonus®
\$20,000	\$500 Additional \$500 with All Star <del>Bonus<sup>SM</sup></del> Bonus®

- The lottery may credit a retailer's account for a fixed or graduated sales commission or bonus for a special promotion, including power play, Megaplier®, and All Star ~~Bonus<sup>SM</sup>~~Bonus®, that the lottery conducts for a certain period of time based on parameters set by the lottery.

**History:** Effective February 1, 2004; amended effective January 1, 2006; January 3, 2008; January 31, 2010; January 15, 2012; October 19, 2013; July 6, 2014; October 4, 2015; February 25, 2016; October 29, 2017; May 14, 2018; July 1, 2019.

**General Authority:** NDCC 53-12.1-13

**Law Implemented:** NDCC 53-12.1-02, 53-12.1-03, 53-12.1-13

### **10-16-02-10. Denial, suspension, or revocation of a license.**

The lottery may deny, suspend, or revoke a license if the applicant's agent has a disqualifying criminal history record or an applicant or retailer:

- Obtained a license by failing to complete, failing to disclose information, or misrepresenting data on an application;
- Violated a lottery law, rule, or term of a license agreement;
- Failed to meet or maintain eligibility criteria for licensure;
- Failed to file a required security deposit;
- Changed the location of a retail business;
- Failed to demonstrate financial responsibility or maintain a reasonable financial condition of the business, a check issued for payment of a prize on a winning ticket or an electronic funds transfer of money from a retailer's bank account to the lottery was dishonored for any reason, or is delinquent in remitting money owed to the lottery;
- Filed for, or was involuntarily placed in, bankruptcy or receivership;
- Acted in a manner or is involved in an activity at a site that is harmful to the public confidence in the integrity, reputation, or image of the lottery;
- Experienced recurring theft or other negative incidents at the site that endangers the security of the lottery;
- Failed to produce for review a record, document, or other item required by a lottery law, rule, or term of a license agreement;
- Knowingly sold a ticket to or redeemed a winning ticket from ~~a person~~an individual under age eighteen;
- Failed to properly redeem or pay a player the proper prize for a winning play;
- Failed to actively promote sales of tickets or properly display and provided point-of-sale promotional items to the public;
- Failed to sell a minimum number of tickets as set by the lottery and another retailer adequately serves the public convenience;

15. Failed to maintain an active federal employer identification number and, if necessary, North Dakota sales tax permit number; or
16. Participated in retailer fraud.

**History:** Effective February 1, 2004; amended effective April 1, 2006; April 1, 2008; [July 1, 2019](#).

**General Authority:** NDCC 53-12.1-13

**Law Implemented:** NDCC 53-12.1-02, 53-12.1-03, 53-12.1-06, 53-12.1-07, 53-12.1-09, 53-12.1-13

## CHAPTER 10-16-03 CONDUCT AND PLAY

### Section

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### 10-16-03-01. Games authorized.

The lottery may conduct online games of POWERBALL®, MEGA MILLIONS®, LOTTO ~~AMERICA~~<sup>SM</sup>AMERICA®, 2BY2®, and LUCKY FOR LIFE®.

**History:** Effective February 1, 2004; amended effective November 8, 2005; July 1, 2008; January 31, 2010; January 31, 2016; February 25, 2016; October 29, 2017; July 1, 2019.

**General Authority:** NDCC 53-12.1-13

**Law Implemented:** NDCC 53-12.1-02, 53-12.1-03, 53-12.1-13

### 10-16-03-02. Ineligible player.

A ticket issued by a retailer or an online play may not be bought by, or a prize won by that ticket or online play or lottery-related promotion may not be paid or issued to:

1. An employee, officer, or director of the lottery's online gaming system vendor or the MUSL;
2. ~~A person~~An individual who regularly resides in the same household of ~~a person~~an individual described in subsection 1; or
3. A minor.

**History:** Effective February 1, 2004; amended effective November 8, 2005; April 1, 2008; January 1, 2011; May 14, 2018; July 1, 2019.

**General Authority:** NDCC 53-12.1-13

**Law Implemented:** NDCC 53-12.1-02, 53-12.1-08, 53-12.1-13

### 10-16-03-05. Sale or gift of a ticket.

1. Only a retailer may sell a ticket and only at the site listed on a license. The sales price of a ticket is exempt from sales tax. Except as authorized by the lottery or for a lottery promotion, or delivery of a ticket by a retailer, a complete sales transaction between the retailer and a player must occur at a terminal or a player-activated terminal, including the exchange of money, exchange of a play slip if the player uses it, and exchange of the ticket. The retailer shall accept cash and a lottery gift certificate and may, at its option, accept a check or debit card from a player. The retailer may not extend credit to a player or accept a food stamp or food coupon as consideration for a ticket. A player shall pay for a ticket when the ticket is bought from a retailer. A retailer may not loan money to a player or accept a postdated check from the player. A retailer is responsible for a check that is not collectible for any reason. This

subsection does not prevent ~~a person~~ an individual who may lawfully buy a ticket from giving a gift of the ticket to another ~~person~~ individual, or prevent a business or organization from purchasing a ticket and providing it as a gift or prize to ~~a person~~ an individual, except to ~~a person~~ an individual under age eighteen or an ineligible player according to section 10-16-03-02.

2. ~~A person~~ An individual may buy a ticket on behalf of another ~~person~~ individual or group of ~~people~~ individuals, provided that the ~~person~~ individual provides the ticket without charging a procurement fee and the other ~~person~~ individual is not, or the group of ~~people~~ individuals does not include, ~~a person~~ an individual under age eighteen or an ineligible player according to section 10-16-03-02.
3. A subscription, a player shall place a play through a retailer who acts as an agent for the player in entering the play. The player shall place a play by using and hand-marking a play slip provided by the retailer or requesting the retailer to place a quick pick. The retailer may assist and train a player how to complete a play slip. It is the sole responsibility of the player to verify the accuracy of a game play and other data printed on a ticket. The retailer may not use a copy of a play slip or other material in a terminal's play slip reader or permit any device to be connected to a terminal to enter a play.
4. A retailer shall use a terminal to issue a ticket containing the selected sets of numbers, letters, or symbols each set of which is a play. A retailer's sale of a ticket is final. A player may not void or cancel a ticket by returning the ticket to the retailer and the retailer may not buy back a ticket from a player. If data printed on a ticket is incorrect, a ticket is printed in error, an employee, volunteer, or agent of a retailer steals a ticket from the retailer, or if any other issued ticket can be used to claim a prize, the retailer cannot void or cancel the ticket or return the ticket to the lottery for credit. If the retailer cannot sell the ticket, the retailer owns the ticket and may redeem a winning ticket. However, the lottery may credit a retailer's account for a ticket that is illegible, mutilated, or otherwise defective as it was printed and that because of its physical condition cannot be sold. A retailer shall comply with a policy of the lottery related to criteria for sending a claim for credit of a defective ticket to the lottery. The retailer may not send a defective ticket to the lottery until after the draw for the game for which the ticket was issued.
5. A retailer shall sell a ticket only for the standard price of the ticket. However, a retailer may do a promotion for a period not to exceed ninety consecutive days in any six-month period in which a retailer offers a ticket for sale through a discount provided that the retailer accounts for the standard price of the ticket to the lottery. A discount includes, for example, selling six tickets for the price of five tickets, selling two tickets for the price of one ticket, and selling a ticket for one-half price. A retailer may buy a ticket for the standard price of the ticket and offer it, at no charge, to ~~a person~~ an individual. A recipient of a ticket in a promotion may not be under age eighteen or an ineligible player according to section 10-16-03-02. A retailer may conduct other promotions, including:
  - a. Second chance drawings of winning or nonwinning tickets or other entry forms provided that ~~a person~~ an individual may not be required to purchase anything to participate in the drawing;
  - b. Giving away a ticket with the purchase of a product or service;
  - c. Giving away or discounting a product or service with the sale of a ticket or return of a number of nonwinning tickets; and
  - d. With the purchase of a ticket, ~~a person~~ an individual may spin a wheel, for example, to select a free prize, product, or service.

6. ~~A person~~**An individual** who buys or accepts a ticket, attempts to redeem a ticket for a prize, or otherwise participates in a draw agrees to comply with and abide by the lottery law, rules, procedures, policy, MUSL or game group rule or game rule, and decision of the lottery.
7. ~~A person~~**An individual** who buys or accepts a ticket, attempts to redeem a ticket for a prize, or otherwise participates in a draw agrees to accept the decision of the lottery regarding the validity of the ticket, and any prize payment determinations relating to that ticket, and to release the state, lottery, MUSL, game group, and their officers, employees, agents, representatives, and contractors from any liability regarding that ticket or payment of that prize and are not responsible or liable for:
  - a. A lost or stolen ticket or incorrectly read play slip; or
  - b. Paying a prize related to a damaged, destroyed, erroneous, illegible, or mutilated ticket.

**History:** Effective February 1, 2004; amended effective November 8, 2005; July 1, 2008; July 6, 2014; July 1, 2019.

**General Authority:** NDCC 53-12.1-13

**Law Implemented:** NDCC 53-12.1-02, 53-12.1-03, 53-12.1-07, 53-12.1-08, 53-12.1-13, 57-39.2-04

#### **10-16-03-06. Ownership of a ticket.**

1. Until ~~a person~~**an individual**, including a group of ~~people~~**individuals**, places a signature in the designated area on the back of a ticket, the ~~person~~**individual** who is the ticket holder is the owner of the ticket. When a signature is placed in the designated area on the back of a ticket, the ~~person~~**individual** whose signature is shown is the owner of the ticket and entitled to a prize, subject to validation, regardless of who redeems or attempts to redeem the ticket. However, a player is not required to sign or complete the backside of the ticket to redeem it.
2. The lottery is not liable for nor has a responsibility to resolve a conflict between competing claimants or joint owners of a ticket or prize. The lottery may, at its discretion, address or resolve a conflict on a ticket.

**History:** Effective February 1, 2004; amended effective April 1, 2006; July 1, 2019.

**General Authority:** NDCC 53-12.1-13

**Law Implemented:** NDCC 53-12.1-02, 53-12.1-03, 53-12.1-08, 53-12.1-13

#### **10-16-03-08. Claim of a prize.**

A prize for a validated winning ticket must be claimed as follows:

1. No prize may be awarded nor is the lottery liable for a ticket not submitted for validation or for an announcement or dissemination by the lottery or any other ~~person~~**individual** of an incorrect number, letter, or symbol drawn.
2. A ticket bought or used to claim a prize in violation of federal or state law, or bought in violation of the lottery law or rules, is void and may not be used to claim a prize.
3. A ticket for a prize must be actually received or, if mailed, postmarked, within one hundred eighty days after the date of a draw for the game for which the ticket was issued. If the final day of the claim period is a Saturday, Sunday, or state holiday, the claim period is extended to the next business day. An unclaimed prize is forfeited and retained by the lottery. However, if the grand prize for the game of POWERBALL®, MEGA MILLIONS®, or LOTTO ~~AMERICA<sup>SM</sup>~~**AMERICA®** is unclaimed, then MUSL shall administer the grand prize money. If the top prize or second prize for LUCKY FOR LIFE® is unclaimed, the lottery's liability for that prize expires and no settlement of funds will be scheduled. If a lower tier prize for

LUCKY FOR LIFE® is unclaimed, the lottery's liability for that prize expires and is allocated back to the lottery in relation to the sale's percent for the specific drawing.

4. ~~A person~~An individual who owns or redeems a winning ticket:
  - a. Agrees to be bound by the lottery law, rules, procedure, policy, validation requirements, dispute resolution, and game group game rules related to the game for which the ticket was issued; and
  - b. Agrees that the state, lottery, the MUSL, game group, and their officers, employees, agents, representatives, and contractor are discharged from any liability upon payment of a prize on a ticket.
5. The owner of a winning ticket may win only one prize per play for the winning numbers, letters, or symbols drawn and is entitled only to the prize won by those numbers in the highest matching prize category.
6. A retailer may redeem a ticket only at the business address listed on the license. The retailer may pay a prize in cash or by business check, certified or cashier's check, money order, or combination of methods.
7. ~~A person~~An individual may redeem a winning ticket for a prize only during the normal business hours of a retailer provided that the lottery's online computer system is operating and a ticket may be validated. If the retailer is normally open for business before or after the hours when the lottery's on-line computer system operates, the retailer shall post the hours at the site when ~~a person~~an individual may redeem a ticket.
8. To claim a prize for an apparent winning ticket of less than six hundred dollars, a player may:
  - a. Present the ticket to a retailer, regardless of which retailer sold the ticket; or
  - b. Complete the back side of the ticket by entering the ~~person's~~individual's full name and address and signing the ticket, and present or mail the ticket to the lottery's office.
9. If a ticket has a prize value of less than six hundred dollars, is owned by one ~~person~~individual, and is presented to a retailer, the retailer may redeem the ticket and pay the prize to the ~~person~~individual who physically possesses an unsigned ticket or to the ~~person~~individual whose signature is shown on the ticket. If ~~a person~~an individual desires to redeem a winning ticket that is signed, the retailer shall request evidential proof of identity from the player before the retailer may validate or pay the prize. If the player does not provide proof of identity, the retailer may not validate the ticket or pay the player a prize and shall return the ticket to the player. For an unsigned ticket or a signed ticket in which the ticket holder is the identified owner, the retailer shall validate the ticket and, for a winning ticket, pay the prize to the player. If the retailer is unable to validate a ticket, the retailer shall provide the ticket holder with a prize claim form and instruct the ticket holder how to file a claim with the lottery.
10. If an apparent winning ticket has a total prize value of all plays of six hundred dollars or more and one ~~person~~individual signed or claims ownership of the ticket, a retailer may not redeem the ticket and shall provide the ticket holder with a prize claim form and instruct the ticket holder how to file a claim with the lottery. The ticket holder shall complete and sign the form and back side of the ticket and present or mail the form and ticket to the lottery. For a validated winning ticket, the lottery shall present or mail a check to the player for the amount of the prize, less withholding of income tax required by federal or state law and any debt setoff according to section 10-16-01-03, unless the payment is delayed according to section 10-16-03-12. The lottery shall pay the prize to the ~~person~~individual whose name is on the



ticket, notwithstanding the name on the claim form. For a nonwinning ticket, the lottery shall deny the claim, notify the claimant, and return the ticket.

11. If more than one ~~person~~individual signed or claims ownership of an apparent winning ticket, the retailer shall provide the claimant with a prize claim form and instruct the claimant how to file a claim with the lottery, as follows:
  - a. Each ~~person~~individual who claims part ownership of the ticket must complete and sign the prize claim form and designate the ~~person's~~individual's percentage of ownership and, if subdivision d applies, the one authorized payee;
  - b. At least one of the ~~people~~individuals who claim ownership must sign the ticket and that signature must be on the prize claim form;
  - c. The prize claim form and ticket must be presented or mailed to the lottery;
  - d. For a validated ticket, if the amount of the prize allocated to each claimant is six hundred dollars or more, the lottery shall present or mail a separate prize check to each claimant. The lottery shall present or mail a check to each claimant for the amount of each player's prize, less withholding of income tax required by federal or state law and any debt setoff according to section 10-16-01-03, unless the payment is delayed according to section 10-16-03-12. If the prize allocated to each claimant is less than six hundred dollars, at the claimant's request, the lottery shall issue a single prize check to the ~~person~~individual designated and authorized on the prize claim form to receive payment of the prize on behalf of all the claimants or present or mail a check to each claimant for the amount of each player's prize; and
  - e. Notwithstanding subdivision d, if the claimants desire to designate one ~~person~~individual in whose name the entire claim may be made and list the ~~persons~~individuals to whom the winnings are taxable, the claimants may file, along with a claim prize form, internal revenue service form 5754 (statement by person(s) receiving gambling winnings) with the lottery.
12. The lottery shall pay a prize to a player within a reasonable time after the player's winning ticket is validated by the lottery.
13. Except as provided by rule, if two or more plays win the grand prize, the prize money must be divided equally among the players whose tickets won. Except as provided by rule, for a set prize, each player wins the set amount of a prize regardless of whether two or more players have winning tickets for the prize.
14. The lottery is not liable for a ticket not delivered to the correct address of the lottery or a delay in delivery of a ticket or damage to a ticket while being delivered to the lottery.
15. A player who redeems a winning ticket is solely responsible for any federal or state income tax liability related to the prize.
16. ~~A person's~~An individual's right to a prize is assignable and payment of a prize may be made to ~~a person~~an individual pursuant to an appropriate judicial order.
17. A prize may not be payable to a trust until after the lottery conducts a debt setoff on the beneficiaries of the trust.
18. If a player redeems an original multi-draw ticket before the ticket's last draw and a retailer returns the original ticket, rather than an issued exchange ticket, to the player, the lottery may not pay another prize on the original ticket until after the exchange ticket expires and has not been redeemed.



19. A winning ticket with a total prize value of all plays of six hundred dollars or more may not be paid to ~~a person~~an individual who is identified as being in the United States illegally.

**History:** Effective February 1, 2004; amended effective April 1, 2006; April 1, 2008; January 31, 2010; January 1, 2011; October 19, 2013; January 31, 2016; February 25, 2016; October 29, 2017; July 1, 2019.

**General Authority:** NDCC 53-12.1-13

**Law Implemented:** NDCC 53-12.1-02, 53-12.1-03, 53-12.1-08, 53-12.1-09, 53-12.1-13

#### **10-16-03-08.1. Pick & Click online play.**

1. A player shall purchase an online play only from, and the financial transaction for that online play must be only with, the lottery through the North Dakota Lottery Players Club® website and payment processor. A player may use automated clearinghouse, debit card, or authorized credit card to pay for an online play.
2. ~~A person~~An individual must be at least eighteen years of age.
3. ~~A person~~An individual must provide the following information when registering as a player, or a member of a group, for the lottery online play service:
  - a. Name;
  - b. Address;
  - c. Date of birth;
  - d. Telephone number;
  - e. Valid email address; and
  - f. Last four digits of their social security number.
4. ~~A person~~An individual, whether individually or as a member of a group, must have a North Dakota mailing address, must be physically located within the borders of North Dakota, and must pass all verification processes used by the lottery during the player's registration process.
5. A player may purchase one or more online plays for one or more games. Each online play is limited to one play for a draw for one game. A player may purchase an online play for up to fifty-two weeks. An online play is not refundable or cancelable by a player unless the game group makes a matrix change to the game at which time, the online play would be canceled by the lottery and funds used to purchase the online play would be refunded to the player's deposit account through the lottery's online play service, based on the number of draws actually held under the former game matrix in relation to the total number of draws purchased.
6. To be valid, an online play must be properly and validly registered with the lottery on its player data base at its central computer site which meets the requirements established by the product group and MUSL security and integrity committee. All data on a player is confidential.
7. The owner of an online play is the ~~person~~individual whose name is validly and properly registered with the lottery. However, the lottery may split a prize among two or more ~~persons~~individuals who are registered members of a group play.
8. After the lottery properly and validly registers an online play, the lottery shall send a confirmation email to the player. The confirmation email is the player's evidence of an actual play in a draw and there is no actual ticket. The confirmation email must include:

- a. Name of game. For the game of POWERBALL®, indication of whether the play has the power play option. For the game of MEGA MILLIONS®, indication of whether the play has the Megaplier® option. For the game of LOTTO AMERICA<sup>SM</sup>AMERICA®, indication whether the play has the All Star Bonus<sup>SM</sup>Bonus® option;
  - b. Number of and starting and ending dates of the draws;
  - c. Numbers, letters, or symbols of the play;
  - d. The player is responsible for ensuring that all player information and game play numbers, letters, or symbols are correct; and
  - e. Explanation of how a prize will be awarded.
9. Except as provided by subsection 10, an online play is valid for only the date range of draws specified in the confirmation email. The effective date of a new online play will be valid for the present draw in the game, if it is purchased by 8:30 p.m. central time for LUCKY FOR LIFE® or by 8:58 p.m. central time for POWERBALL®, LOTTO AMERICA<sup>SM</sup>AMERICA®, MEGA MILLIONS®, and 2BY2®.
  10. If the value of a prize on a winning POWERBALL®, LOTTO AMERICA<sup>SM</sup>AMERICA®, MEGA MILLIONS®, LUCKY FOR LIFE®, or 2BY2® online play for a draw is:
    - a. Less than six hundred dollars, the lottery shall automatically deposit the funds into the player's winning account.
    - b. Equal to or more than six hundred dollars, the lottery shall contact the player by email and phone to arrange payment of the prize, less withholding of income tax required by federal or state law and any debt setoff according to North Dakota Century Code section 53-12.1-12.
  11. If the owner of an online play changes the owner's name, the owner shall provide the lottery with a notarized letter of the change. If the owner of an online play dies, the lawful representative of the owner's estate shall provide the lottery with a notarized statement of the death and the lottery shall change the ownership of the online play to "The Estate of" the owner.

**History:** Effective November 8, 2005; amended effective January 3, 2008; November 1, 2008; July 1, 2010; October 19, 2013; July 6, 2014; January 31, 2016; February 1, 2016; October 29, 2017; May 14, 2018; [July 1, 2019](#).

**General Authority:** NDCC 53-12.1-13

**Law Implemented:** NDCC 53-12.1-01, 53-12.1-02, 53-12.1-03, 53-12.1-08, 53-12.1-13

**10-16-03-09. Payment of a prize to ~~a person's~~an individual's estate.**

If a winning player dies during the annuity payment period of a prize, the game group, upon the petition of the estate of the deceased player to the lottery may accelerate the payment of the remaining prize to the estate. The lottery may rely on a certified copy of a court's appointment of a personal representative or other evidence that a certain person is entitled to the payment of the remaining prize. If the game group approves the petition, then securities, cash, or both securities and cash held for the deceased player that represents the present value of that portion of a future lottery payment to be accelerated may be distributed to the estate. The identification of the security to fund the annuitized prize and responsibility for valuing the security and determining the present value of an accelerated lottery payment are at the discretion of the game group. Payment to the estate of the prize of the deceased owner releases the MUSL, game group, lottery, and state of any additional liability for the prize.

**History:** Effective February 1, 2004; amended effective April 1, 2006; April 1, 2008; [July 1, 2019](#).

**General Authority:** NDCC 53-12.1-13

**Law Implemented:** NDCC 53-12.1-08, 53-12.1-13

**10-16-03-10. Counterfeit or theft of a ticket or gift certificate.**

1. ~~A person~~[An individual](#) may not make, alter, pass, counterfeit, or present, with intent to defraud, a ticket or gift certificate to a retailer or lottery.
2. ~~A person~~[An individual](#) may not steal a ticket or gift certificate or knowingly possess, redeem, or attempt to redeem a stolen ticket or gift certificate.

**History:** Effective February 1, 2004; amended effective April 1, 2006; [July 1, 2019](#).

**General Authority:** NDCC 53-12.1-13

**Law Implemented:** NDCC 53-12.1-08, 53-12.1-13

**10-16-03-11. Remedy for a defective ticket and dispute resolution.**

1. If a claimant and the lottery disagree on whether a ticket is a winning ticket and the lottery determines that the ticket is not valid and does not pay the prize, the lottery may replace the disputed ticket with a ticket for the next draw of the same game or refund the cost of the ticket. If ~~a person~~[an individual](#) buys a ticket that is defective, the only responsibility or liability of a retailer, vendor, or lottery is to replace the defective ticket with a ticket for the next draw of the same game or refund the cost of the ticket. This is the only remedy of the claimant.
2. The lottery shall resolve a dispute regarding the operation of the lottery, validity of a ticket, or payment of a prize, and the lottery's decision and judgment is final and binding on a participant in the lottery.

**History:** Effective February 1, 2004; [amended effective July 1, 2019](#).

**General Authority:** NDCC 53-12.1-13

**Law Implemented:** NDCC 53-12.1-08, 53-12.1-13

## CHAPTER 10-16-11

### 10-16-11-04. Prize liability limits.

There are ten prize levels in the game.

1. Except as provided in these rules, the top prize must be annuitized and based on a top prize liability that will be split equally among the number of winning game tickets. A top prize winner may request the cash option, the amount of which is to be established by the game group for a defined period of drawings. Notice of the amount of and changes to the cash option must be posted on the game's website. Under certain circumstances, as detailed below, the top prize is required to be paid in a single lump sum cash payment and no annuitized payment option is available.
  - a. One top prize winner. If there is one top prize winner, the annuitized prize value will be seven thousand dollars per week for life. As an alternative to the annuitized payment option, the top prize winner may request the top prize cash option.
  - b. Two to fourteen top prize winners. If there are between two and fourteen top prize winners, the annuitized prize option, based on an annuitized prize value of seven thousand dollars per week, will be divided by the total number of top prize winners. Any of these two to fourteen top prize winners may choose the cash option as an alternative to the annuitized payment option. The amount of the cash option for this category will be the amount of the top prize cash option divided by the total number of top prize winners.
  - c. Fifteen or more top prize winners. If there are fifteen or more top prize winners, the top prize liability will be capped at seven million one hundred twenty-five thousand dollars, must be split equally among all top prize winners, and paid in a single lump sum cash payment without an annuitized payment option.
  - d. The winner or winners of the top prize who do not request the cash option must be paid their appropriate top prize share on an annual basis for a minimum period of twenty years. The first top prize payment will be made when the prize is claimed at the lottery's office.
  - e. Measuring life. For a single wager, the measuring life of a top prize winner used to determine the duration over which the top prize is paid, shall be the natural life of the individual determined by the lottery to be the top prize winner. If the top prize under a single wager is being claimed by more than one ~~natural person~~individual or by a ~~legal entity~~trust, the measuring life for that top prize winner shall be twenty years.
  - f. If paid in a single lump sum cash payment, top prize amounts will be rounded to the nearest whole dollar.
2. Except as provided in these rules, the second prize winner will be paid twenty-five thousand dollars a year for life. A second prize winner may request the cash option, the amount of which is to be established by the game group for a defined period of drawings. Notice of the amount of and changes to the cash option must be posted on the game's website. Under certain circumstances, as detailed below, the second prize is required to be paid in a single lump sum cash payment and no annuitized payment option is available.
  - a. One to twenty second prize winners. If there are between one and twenty second prize winners, the annuitized prize value will be twenty-five thousand dollars per year for life. Any of these one to twenty second prize winners may choose the second prize cash option as an alternative to the annuitized payment option.

- b. Twenty-one or more second prize winners. If there are twenty-one or more second prize winners, the second prize liability is capped at nine million four hundred thousand dollars, must be split equally among all second prize winners, and paid in a single lump sum cash payment without an annuitized payment option.
  - c. The winner or winners of the second prize who do not request the cash option must be paid their appropriate second prize share on an annual basis for a minimum period of twenty years. The initial second prize payment will be made when the prize is claimed at the lottery's office; subsequent second prize payments will be made annually thereafter.
  - d. Measuring life. For a single wager, the measuring life of a second prize winner used to determine the duration over which the second prize is paid, is the natural life of the individual determined by the lottery to be the second prize winner. If the second prize under a single wager is being claimed by more than one ~~natural person~~individual or by a ~~legal entity~~trust, the measuring life for that second prize winner is twenty years.
  - e. If paid in a single lump sum cash payment, second prize amounts will be rounded to the nearest whole dollar.
3. Except as provided in these rules, the third prize will be paid as a five thousand dollar set prize. If there are more than one thousand winners of this prize level in a single drawing, the total prize liability of five million dollars will be split equally among the winners. Under no circumstances, however, will the value of the third prize fall below a minimum prize value of two hundred dollars per winner regardless of the number of winners. Third prizes will be rounded to the nearest whole dollar and paid in a single lump sum cash payment.

**History:** Effective January 31, 2016; amended effective February 1, 2016; [July 1, 2019](#).

**General Authority:** NDCC 53-12.1-13

**Law Implemented:** NDCC 53-12.1-13

## CHAPTER 10-16-12

### 10-16-12-01. Game description.

To play LOTTO **AMERICA<sup>SM</sup>AMERICA®**, a player selects five different red/white numbers, between one and fifty-two, and one additional blue/white number (star ball) between one and ten. The additional number may be the same as one of the first five numbers selected. The price of a play is one dollar. A grand prize is paid, at the election of a winning player or by a default election made according to these rules, either on an annuitized pari-mutuel basis or as a cash lump sum payment of the total cash held for the prize pool on a pari-mutuel basis. A set prize (cash prize of twenty thousand dollars or less) is paid on a single-payment cash basis. Draws are held every Wednesday and Saturday.

**History:** Effective November 12, 2017; [amended effective July 1, 2019.](#)

**General Authority:** NDCC 53-12.1-13

**Law Implemented:** NDCC 53-12.1-13

### 10-16-12-04. All Star Bonus option.

1. The All Star **Bonus<sup>SM</sup>Bonus®** option is a limited extension of the LOTTO **AMERICA<sup>SM</sup>AMERICA®** game and is conducted according to the game group's game rules. The option offers the owner of a qualifying play a chance to multiply or increase the amount of a set prize.
2. A qualifying play is a single LOTTO **AMERICA<sup>SM</sup>AMERICA®** play for which the player pays an extra one dollar for the All Star **Bonus<sup>SM</sup>Bonus®** option. All Star **Bonus<sup>SM</sup>Bonus®** does not apply to the grand prize.
3. A qualifying play which wins one of the eight lowest set prizes will be multiplied by the number selected, two through five, in a separate random All Star **Bonus<sup>SM</sup>Bonus®** drawing.
4. A prize awarded must be paid as a lump sum set prize. Instead of the normal set prize amount, a qualifying All Star **Bonus<sup>SM</sup>Bonus®** will pay the amounts shown below when matched with the All Star **Bonus<sup>SM</sup>Bonus®** number drawn:

#### LOTTO **AMERICA<sup>SM</sup>AMERICA®** Pays Instead

<u>Matches Per Play</u>	<u>Set Prize Amount</u>	<u>Prize Amounts With All Star <b>Bonus<sup>SM</sup>Bonus®</b> Purchase</u>			
		<u>5X</u>	<u>4X</u>	<u>3X</u>	<u>2X</u>
5 red/white + 0 blue/white	\$20,000	\$100,000	\$80,000	\$60,000	\$40,000
4 red/white + 1 blue/white	\$1,000	\$5,000	\$4,000	\$3,000	\$2,000
4 red/white + 0 blue/white	\$100	\$500	\$400	\$300	\$200
3 red/white + 1 blue/white	\$20	\$100	\$80	\$60	\$40
3 red/white + 0 blue/white	\$5	\$25	\$20	\$15	\$10
2 red/white + 1 blue/white	\$5	\$25	\$20	\$15	\$10
1 red/white + 1 blue/white	\$2	\$10	\$8	\$6	\$4
0 red/white + 1 blue/white	\$2	\$10	\$8	\$6	\$4

Rarely, under the game group's limitation of liability rules, a set prize amount may be less than the amount shown. In that case, the eight lowest All Star **Bonus<sup>SM</sup>Bonus®** prizes will be changed to an amount announced after the draw. For example, if the match 4+1 set prize amount of one thousand dollars becomes five hundred dollars under the game group's rules,

an All Star **Bonus<sup>SM</sup>Bonus®** player winning that prize amount when a "5" has been drawn would win two thousand five hundred dollars (\$500 x 5).

5. The following table reflects the probability of the All Star **Bonus<sup>SM</sup>Bonus®** numbers being drawn:

<u>All Star <b>Bonus<sup>SM</sup>Bonus®</b></u>	<u>Probability of Prize Increase</u>
5X - Prize won times 5	3 in 32
4X - Prize won times 4	4 in 32
3X - Prize won times 3	10 in 32
2X - Prize won times 2	15 in 32

All Star **Bonus<sup>SM</sup>Bonus®** does not apply to the grand prize. The game group may elect to run limited promotions that may modify the multiplier features.

**History:** Effective November 12, 2017; amended effective July 1, 2019.

**General Authority:** NDCC 53-12.1-13

**Law Implemented:** NDCC 53-12.1-13





**TITLE 38**  
**HIGHWAY PATROL**



## JULY 2019

### CHAPTER 38-06-02

#### 38-06-02-01. General rules.

1. The North Dakota highway patrol may issue annual permits for the movement of overwidth or overlength vehicles and loads and single trip permits for the movement of oversize or overweight, or both, vehicles and loads. Unless otherwise exempted by the superintendent, permits will not be issued for loads that can be reasonably made to conform to legal limits.
2. All permits must be in possession of the permittee prior to starting movement unless prior approval is obtained from the highway patrol.

**History:** Effective January 1, 1988; amended effective January 1, 1992; April 1, 2008; January 1, 2016; July 1, 2019.

**General Authority:** NDCC 39-12-02

**Law Implemented:** NDCC 39-12-02

#### 38-06-02-07. Travel restrictions.

1. Permits may not be issued for overdimensional movements between one-half hour after sunset and one-half hour before sunrise unless otherwise authorized by the superintendent.
2. Except as authorized in this section, single trip permits for overwidth exceeding sixteen feet [4.88 meters] may not be issued authorizing movements on Saturday after twelve noon, all day Sunday, and on holidays of New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. No overwidth permit exceeding sixteen feet [4.88 meters] will be valid from twelve noon the day before the holiday until sunrise the day after the holiday.
3. The superintendent may authorize a single trip permit for weekends or holidays.
4. Permits do not authorize movements when inclement weather prevails, highways are slippery, or when visibility is poor.
5. Permits do not authorize travel on shoulders of road.
6. A single trip permit is required for each movement that is overdimensional or overweight. An annual permit for overwidth or overlength vehicle and load movements ~~is required~~ can be used in lieu of the single trip permit issued for overwidth or overlength movements.
7. A minimum distance of one thousand feet [304.80 meters] is required between vehicles in a convoy of two or more vehicles.

**History:** Effective January 1, 1988; amended effective August 1, 1993; February 1, 1999; April 1, 2008; July 1, 2013; January 1, 2016; [July 1, 2019](#).

**General Authority:** NDCC 39-12-02

**Law Implemented:** NDCC 39-12-02

## CHAPTER 38-06-03

### 38-06-03-01. Permit fees.

The following fees are in addition to those found in North Dakota Century Code section 39-12-02:

1. The single trip permit fee for exceeding the federal gross vehicle weight limitation of eighty thousand pounds [36287 kilograms] on the interstate highway system is ten dollars.
2. The fee for a seasonal permit is fifty dollars per year. The seasonal permit is issued to vehicles referenced in subdivision d of subsection 1 of North Dakota Century Code section 39-12-04.
3. There is a graduated fee schedule for overweight single trip movements exceeding one hundred fifty thousand pounds [68035 kilograms] gross vehicle weight.

Gross Vehicle Weight	Permit Fee
150,001 - 160,000 lbs. [68039-72574 kilograms]	\$30
160,001 - 170,000 lbs. [72575-77110 kilograms]	\$40
170,001 - 180,000 lbs. [77111-81646 kilograms]	\$50
180,001 - 190,000 lbs. [81647-86182 kilograms]	\$60
190,001 lbs. and over [86183 kilograms and over]	\$70

4. There is an additional ton/mile [907 kilogram/1.6 kilometers] fee of \$.05 per ton per mile on all those movements that exceed two hundred thousand pounds [90718 kilograms] gross vehicle weight. The ton/mile [907 kilogram/1.6 kilometers] fee is only assessed upon that portion of gross vehicle weight exceeding two hundred thousand pounds [90718 kilograms] gross vehicle weight.
5. The superintendent shall assess a fee of fifty cents per mile [1.6 kilometers] or fifty dollars per hour, or both, per trooper, on those movements of extraordinary size or weight when an escort by the highway patrol is required or when the highway patrol is requested to weigh a vehicle with portable scales.
6. The fee for an equipment approval certificate is fifteen dollars.
7. The ton-mile [907 kilogram-1.6 kilometers] fee for a vehicle or load movement that exceeds the weight limits on highways during the spring thaw or on highways with load limits year-round is as follows:
  - a. One dollar per ton-mile [907 kilogram-1.6 kilometers] when exceeding axle weight limits.
  - b. The fees for vehicle or vehicle combinations hauling a load and in excess of the gross vehicle weight limit:
    - (1) One dollar per mile [1.6 kilometers] when the gross vehicle weight exceeds one hundred five thousand five hundred pounds [47853 kilograms] and travel is on highways restricted by legal weight or eight-ton [7257 kilograms] and seven-ton [6350 kilograms] designated state highways.
      - (a) Vehicles authorized by the director of the department of transportation to haul construction equipment to state highway construction projects are exempt from one dollar per mile [1.6 kilometers] fee.

- (b) The total number of single trip permits for a state highway construction project that may be waived from the one dollar per mile [1.6 kilometers] fee may not exceed ten single trip permits.
- (2) Five dollars per ton-mile [907 kilograms-1.6 kilometers] when the gross vehicle weight exceeds:
  - (a) One hundred thirty thousand pounds [58967 kilograms] on highways restricted by legal weight.
  - (b) One hundred twenty thousand pounds [54431 kilograms] on eight-ton [7257 kilograms] highways.
  - (c) One hundred ten thousand pounds [49895 kilograms] on seven-ton [6350 kilograms] highways.
  - (d) Eighty thousand pounds [36287 kilograms] on six-ton [5443 kilograms] highways.
- (3) The five dollar per ton-mile [907 kilograms-1.6 kilometers] fee for self-propelled special mobile equipment is assessed when the gross vehicle weight exceeds:
  - (a) One hundred five thousand five hundred pounds [47853 kilograms] on highways restricted by legal weight.
  - (b) One hundred five thousand five hundred pounds [47853 kilograms] on eight-ton [7257 kilograms] highways.
  - (c) One hundred five thousand five hundred pounds [47853 kilograms] on seven-ton [6350 kilograms] highways.
  - (d) Eighty thousand pounds [36287 kilograms] on six-ton [5443 kilograms] highways.

c. Loads permitted by the one-hundred-twenty-nine-thousand-pound [58513-kilogram] primary network permit are exempt from fees on highways restricted to legal weight.

- 8. The fee for a weight increase on a work-over service rig is nine hundred ninety dollars. The fee shall be assessed on a work-over service rig that exceeds six hundred seventy pounds [303 kilograms] per inch [2.54 centimeters] of tire width on a single or tandem axle, exceeds sixty thousand pounds [27215 kilograms] on a triple axle, and sixty-eight thousand pounds [30844 kilograms] on a four-axle group.
  - a. The weight increase is valid for a calendar year.
  - b. The weight increase can only be assessed on model year 2010 work-over service rigs and older.
- 9. All permit fees must be deposited into the state highway distribution fund.

**History:** Effective January 1, 1988; amended effective May 1, 1988; January 1, 1992; August 1, 1993; February 1, 1999; February 1, 2000; April 1, 2008, July 1, 2013; January 1, 2016; [July 1, 2019](#).

**General Authority:** NDCC 39-12-02, 39-12-03, 39-12-04, 39-12-05.3

**Law Implemented:** NDCC 39-12-02, 39-12-04, 39-12-05.3

**TITLE 67**  
**PUBLIC INSTRUCTION, SUPERINTENDENT OF**





**JULY 2019**

**ARTICLE 67-11  
EDUCATION PROFESSIONAL CREDENTIALS**

Chapter	
67-11-01	Driver Education Instructor's Credential [Repealed]
67-11-02	Elementary Principal's Credential <a href="#">[Repealed]</a>
67-11-03	Reading Credentials [Repealed]
67-11-03.1	Reading and Mathematics Credentials [Repealed]
67-11-03.2	Reading and Mathematics Credentials [Repealed]
67-11-03.3	Title I Coordinator Credential [Repealed]
67-11-04	Library Media Credential
67-11-05	School Counselor Credentials
67-11-06	Secondary Principal's Credential <a href="#">[Repealed]</a>
67-11-07	Superintendent's Credential
67-11-08	Special Education Director's Credential
67-11-09	Early Childhood Special Education Teacher Credential
67-11-10	Emotional Disturbance Teacher Credential
67-11-11	Gifted and Talented Teacher Credential
67-11-12	Physical Disabilities Teacher Credential
67-11-13	Specific Learning Disabilities Teacher Credential
67-11-14	Certificate of Completion for Paraprofessionals
67-11-15	School Psychology Intern Approval
67-11-16	Special Education Strategist Credential
67-11-17	Mental Retardation Teacher Credential
67-11-18	Credential Requirement for Teachers of the Visually Impaired
67-11-19	Credential Requirement for Teachers of Students Who Are Deaf or Hard of Hearing
67-11-20	Certificate of Completion for Speech-Language Pathology Paraprofessionals
<a href="#">67-11-21</a>	<a href="#">Principal Credentials</a>

**CHAPTER 67-11-02  
ELEMENTARY PRINCIPAL'S CREDENTIAL**

[\[Repealed effective July 1, 2019\]](#)

<b>Section</b>	
<del>67-11-02-01</del>	<del>Credentials Required</del>
<del>67-11-02-02</del>	<del>Issuing Agency</del>
<del>67-11-02-03</del>	<del>Types of Credentials</del>
<del>67-11-02-04</del>	<del>Approval for Educational Administration Programs</del>
<del>67-11-02-05</del>	<del>Credential Standards</del>

- 67-11-02-06 — Application Process
- 67-11-02-07 — Renewal Requirements
- 67-11-02-08 — Reconsideration
- 67-11-02-09 — Extension of the Elementary Principal Credential

**CHAPTER 67-11-06  
SECONDARY PRINCIPAL'S CREDENTIAL**

[Repealed effective July 1, 2019]

Section

- ~~67-11-06-01 — Credentials Required~~
- ~~67-11-06-02 — Issuing Agency~~
- ~~67-11-06-03 — Types of Credentials~~
- ~~67-11-06-04 — Approval for Educational Administration Programs~~
- ~~67-11-06-05 — Credential Standards~~
- ~~67-11-06-06 — Application Process~~
- ~~67-11-06-07 — Renewal Requirements~~
- ~~67-11-06-08 — Reconsideration~~
- ~~67-11-06-09 — Extension of the Secondary Principal Credential~~

## **CHAPTER 67-11-21 PRINCIPAL CREDENTIALS**

### Section

<u>67-11-21-01</u>	<u>Definitions</u>
<u>67-11-21-02</u>	<u>Credentials Required</u>
<u>67-11-21-03</u>	<u>Issuing Agency</u>
<u>67-11-21-04</u>	<u>Types of Credentials</u>
<u>67-11-21-05</u>	<u>Approval for Educational Administration Programs</u>
<u>67-11-21-06</u>	<u>Principal Credential Standards</u>
<u>67-11-21-07</u>	<u>Kindergarten Through Grade Twelve Principal Credential</u>
<u>67-11-21-08</u>	<u>Application Process</u>
<u>67-11-21-09</u>	<u>Renewal Requirements</u>
<u>67-11-21-10</u>	<u>Reconsideration</u>

### **67-11-21-01. Definitions.**

For the purpose of this chapter:

1. "Board" means the North Dakota education standards and practices board.
2. "Department" means the North Dakota department of public instruction.
3. "Elementary principal credential" means the credential that allows an individual to serve as a principal for any combination of grades kindergarten through eight.
4. "Secondary principal credential" means the credential that allows an individual to serve as a principal for any combination of grades five through twelve.
5. "Superintendent" means the North Dakota superintendent of public instruction.

**History:** Effective July 1, 2019.

**General Authority:** NDCC 15.1-02-04, 15.1-02-11, 28-32-02

**Law Implemented:** NDCC 15.1-02-04, 15.1-02-11

### **67-11-21-02. Credentials required.**

For purposes of school accreditation, a school may employ as an elementary principal only a person who holds an elementary principal's provisional or professional credential issued by the department. A school may employ as a secondary principal only a person who holds a secondary principal's provisional or professional credential issued by the department. The department may issue a credential under this chapter to an individual who has graduated from a program that meets the program standards approved by the department for elementary and secondary school principals as described in the North Dakota teacher education program approval standards 2000 with 2002 revisions adopted by the board effective August 1, 2002.

**History:** Effective July 1, 2019.

**General Authority:** NDCC 15.1-02-04, 15.1-02-11, 28-32-02

**Law Implemented:** NDCC 15.1-02-04, 15.1-02-11

### **67-11-21-03. Issuing agency.**

The North Dakota principal's credential issuing agency address is:

Superintendent of Public Instruction  
Department of Public Instruction

600 East Boulevard Avenue, Dept. 201  
Bismarck, ND 58505-0440

**History:** Effective July 1, 2019.

**General Authority:** NDCC 15.1-02-04, 15.1-02-11, 28-32-02

**Law Implemented:** NDCC 15.1-02-04, 15.1-02-11

#### **67-11-21-04. Types of credentials.**

1. A provisional credential is:

a. Issued to an individual who does not meet the qualifications for a level I professional credential;

b. Issued as the initial credential and is valid until the end of the third school year following the year in which the provisional credential is issued and can be renewed one time for two additional school years;

c. Issued upon satisfying the following requirements:

(1) Hold a valid teaching license issued by the board.

(2) Have a minimum of three years documented successful teaching experience, as defined by subdivision e (elementary) or subdivision f (secondary) of subsection 2 of section 67-11-21-06.

(3) Demonstrate leadership competency in an educational setting.

(4) During the provisional credential application process, submit three letters of recommendation, one from a supervisor, and two from other professionals in the field, who have knowledge of the applicant's qualifications which must contain:

(a) Verification of three years documented successful teaching experience; and

(b) Demonstrated leadership competency.

(5) Provide evidence of acceptance into an educational leadership program at an accredited higher educational institution.

(6) Applicants receiving the provisional credential who are employed as a principal are required to enroll and participate in a formal peer-to-peer principal mentoring program for a minimum of two years upon their successful hiring as a principal.

d. Renewal of the provisional credential.

(1) The provisional credential may be renewed one time for a period of two years by meeting the following requirements:

(a) Submit transcripts documenting progress in enrolled educational leadership program towards master's degree, minimum of twenty credits that are included in the master's degree plan of study.

(b) Show evidence of participation in principal mentoring program, if employed as a principal.

(2) An individual issued an initial two-year provisional principal credential between July 1, 2017, and July 1, 2019, may renew that provisional credential for two more years, provided the individual meets the requirements set forth in paragraph 1. The

individual must agree to participate in two years of a formal peer-to-peer principal mentoring program if the individual has not already completed one.

- e. Upon the expiration of the two-year renewal of the provisional credential, the applicant either must qualify for and attain the level I principal credential or the individual is no longer eligible to serve as a principal.

2. A level II professional credential is:

- a. Not issued to new applicants after July 1, 2019.
- b. Issued to coincide with the period for which the individual is licensed to teach by the board; however, an individual holding a lifetime educator's professional license must renew the individual's credential every five years;
- c. Renewal of the level II professional credential is available only for principals serving schools in the enrollment category one hundred or fewer students; and
- d. Issued upon satisfying standards identified in subsections 1, 2, and 3 of section 67-11-21-06.

3. A level I professional credential is:

- a. Issued to coincide with the period for which the individual is licensed to teach by the board and may be renewed at the end of that period; however, an individual holding a lifetime educator's professional license must renew the individual's credential every five years; and
- b. Issued upon satisfying credential standards identified in subsections 1, 2, and 4 of section 67-11-21-06.

4. The provisional credential, the level II professional credential, and the level I professional credential are valid only if the individual holding the credential also holds a valid North Dakota educator's professional license to teach during the period for which the credential has been issued. An elementary principal credential is valid only if the individual is licensed to teach at the elementary level, and a secondary credential is valid only if the individual is licensed to teach at the secondary level.

5. If a level I professional credential issued under this chapter will expire within twelve months of issuance because the educator's professional license will expire within twelve months of the issuance of the new level I professional credential, the level I professional credential will be issued for a period coinciding with the period of licensure of the succeeding educator's professional license.

**History:** Effective July 1, 2019.

**General Authority:** NDCC 15.1-02-04, 15.1-02-11, 28-32-02

**Law Implemented:** NDCC 15.1-02-04, 15.1-02-11

**67-11-21-05. Approval for educational administration programs.**

Whenever this chapter refers to "state-approved program", it refers to the process by which the board in concert with the department supervises a system of program approval at those colleges within the state of North Dakota which provide educational administration programs. Educational administration programs from other state or private colleges which meet state standards for program approval are listed in the manual on certification and preparation of education personnel in the United States and Canada published by the national association of state directors of teacher education and certification.

**History:** Effective July 1, 2019.

**General Authority:** NDCC 15.1-02-04, 15.1-02-11, 28-32-02

**Law Implemented:** NDCC 15.1-02-04, 15.1-02-11

**67-11-21-06. Principal credential standards.**

The documentation on each standard must be verified within the department before any credential will be issued.

1. An applicant must hold a valid North Dakota educator's professional license issued by the board in accordance with North Dakota Century Code sections 15.1-13-08 and 15.1-13-10 and North Dakota Administrative Code title 67.1.
2. An applicant must have at least three years of teaching or administrative experience or a combination thereof:
  - a. Equal to full-time equivalency as stated in North Dakota Century Code section 15.1-06-04.
  - b. Positions must have been stated on a professional contract.
  - c. Teaching is defined as being assigned as a regular classroom teacher, music teacher, art teacher, counselor, physical education teacher, basic skills or remedial reading teacher, special education teacher, or library media specialist, or any combination of these assignments.
  - d. Administrative experience is defined as being assigned the duties of principal that includes any combination of an approved school or as a superintendent or central office administrator of an approved kindergarten through grade twelve school.
  - e. Applicants for the elementary principal credential must fulfill the requirements of this subsection in any combination of grades kindergarten through eight.
  - f. Applicants for the secondary principal credential must fulfill the requirements of this subsection in any combination of grades five through twelve.
3. The level II credential requires twenty semester hours of graduate credit taken in a master's degree program from a state-approved program in educational administration. Course preparation for the credential is as follows:
  - a. Leadership, planning, and organizational behavior in education.
  - b. Educational law and organizational structure of education.
  - c. Personnel, supervision, and staff development.
  - d. Curriculum, instruction, and learning theory.
  - e. Policy and educational finance.
  - f. Administration of the secondary school.
  - g. Secondary school curriculum.
4. The level I credential requires one of the following:
  - a. A master's degree in educational administration from a state-approved program. Course preparation for the credential must be aligned to the standards listed below:

- (1) Mission, vision, and improvement.
- (2) Ethics and professional norms.
- (3) Equity, inclusiveness, and cultural responsiveness.
- (4) Learning and instruction.
- (5) Community and external leadership.
- (6) Operations and management.
- (7) Building professional capacity.
- (8) Internship. The internship standard must be specific to the grade level of the credential being applied for. The internship for the elementary credential is specific to the elementary school and must be completed through a field experience in grades kindergarten through eight. The internship for the secondary credential is specific to the secondary school and must be completed through a field experience in grades five through twelve. These field experiences must take place under the supervision of the university through which the individual's program is being completed. Individuals interested in obtaining the kindergarten through grade twelve principal credential must complete a separate field experience at both the elementary and secondary level.

- b. A master's degree with a major certifiable by the board in addition to twenty semester hours of credit from a state-approved program that includes courses specific to all standards listed in subdivision a.

**History:** Effective July 1, 2019.

**General Authority:** NDCC 15.1-02-04, 15.1-02-11, 28-32-02

**Law Implemented:** NDCC 15.1-02-04, 15.1-02-11

#### **67-11-21-07. Kindergarten through grade twelve principal credential.**

A kindergarten through grade twelve principal credential may be issued to any individual who meets the requirements of both the elementary principal credential and the secondary principal credential. Individuals who hold this credential may serve as a principal for any combination of kindergarten through grade twelve.

**History:** Effective July 1, 2019.

**General Authority:** NDCC 15.1-02-04, 15.1-02-11, 28-32-02

**Law Implemented:** NDCC 15.1-02-04, 15.1-02-11

#### **67-11-21-08. Application process.**

The application process to obtain a credential under this chapter requires submission of:

1. A completed application, including the applicant's name, social security number, date, address, telephone number, educator's professional license type and number, employment information, academic preparation, and references;
2. A copy of official transcripts;
3. A letter of verification must be provided for applicants attending a North Dakota college with an approved educational leadership program, attesting to the completion of the academic standard required for the level of the credential requested. Applicants providing a copy of



official transcripts from an approved college in another state must have the academic standard verification made by the department; and

4. Three letters of recommendation must be provided, one from a supervisor, and two from other professionals in the field, who have first-hand knowledge of the individual's professional work, experience, and service.

**History:** Effective July 1, 2019.

**General Authority:** NDCC 15.1-02-04, 15.1-02-11, 28-32-02

**Law Implemented:** NDCC 15.1-02-04, 15.1-02-11

#### **67-11-21-09. Renewal requirements.**

To renew the level I and level II professional credentials, an individual shall submit one of the following:

1. A copy of official transcripts of eight semester hours of graduate work in education acquired after the date of the original credentialing or last renewal, of which four semester hours are in the area of educational administration; or
2. A copy of official transcripts of six semester hours of graduate work in education acquired after the date of the original credentialing or last renewal and verification of attendance or participation in at least six educational conferences or workshops from the listing in this subsection. The verification must be a signed statement by the conference or workshop sponsors, employer, or a school district business manager. Acceptable conferences or workshops are:
  - a. North Dakota association of elementary school principals state and area conferences or workshops;
  - b. National association of elementary school principals regional and national conferences or workshops;
  - c. North Dakota association of secondary school principals state and area conferences or workshops;
  - d. National association of secondary school principals regional and national conferences or workshops;
  - e. North Dakota council of educational leaders state and area conferences or workshops;
  - f. American association of school administrators regional and national conferences or workshops;
  - g. North Dakota association of school administrators state and area conferences or workshops;
  - h. Accreditation annual or regional conferences or workshops;
  - i. Department of public instruction conferences or workshops;
  - j. North Dakota united sponsored state and area conferences or workshops;
  - k. North Dakota school boards association sponsored state and area conferences or workshops;
  - l. Other educational workshops approved by the superintendent.

**History:** Effective July 1, 2019.

**General Authority:** NDCC 15.1-02-04, 15.1-02-11, 28-32-02

**Law Implemented:** NDCC 15.1-02-04, 15.1-02-11

**67-11-21-10. Reconsideration.**

If issuance or renewal of any credential under this chapter is denied, the denial must be in writing and must state all reasons for denial and the applicant must be notified of the opportunity for reconsideration. If an application for issuance or renewal of any credential under this chapter is denied, the applicant may request a reconsideration of the decision. A request for reconsideration must be in writing and must be received by the superintendent of public instruction within three weeks of the date of mailing by the department of public instruction. Late requests may not be considered. The reconsideration request must state the following:

1. The facts, law, or rule the applicant believes was erroneously interpreted or applied; and
2. The applicant's arguments on how the facts, law, or rule should have been applied, giving specific reasons and thorough analysis. The superintendent of public instruction shall issue a final written response on the reconsideration request within three weeks after receiving a complete reconsideration request.

**History:** Effective July 1, 2019.

**General Authority:** NDCC 15.1-02-04, 15.1-02-11, 28-32-02

**Law Implemented:** NDCC 15.1-02-04, 15.1-02-11

**TITLE 69**  
**PUBLIC SERVICE COMMISSION**



JULY 2019

CHAPTER 69-06-08

69-06-08-01. Energy conversion facility siting criteria.

The following criteria must guide and govern the preparation of the inventory of exclusion and avoidance areas, and the site suitability evaluation process.

1. **Exclusion areas.** The following geographical areas must be excluded in the consideration of a site for an energy conversion facility.
  - a. Designated or registered national: parks; memorial parks; historic sites and landmarks; natural landmarks; historic districts; monuments; wilderness areas; wildlife areas; wild, scenic, or recreational rivers; wildlife refuges; and grasslands.
  - b. Designated or registered state: parks; forests; forest management lands; historic sites; monuments; historical markers; archaeological sites; grasslands; wild, scenic, or recreational rivers; game refuges; game management areas; management areas; and nature preserves.
  - c. County parks and recreational areas; municipal parks; parks owned or administered by other governmental subdivisions; hardwood draws; and enrolled woodlands.
  - d. ~~Prime farmland and unique farmland, as defined by the land inventory and monitoring division of the soil conservation service, United States department of agriculture, in 7 C.F.R. part 657; provided, however, that if the commission finds that the prime farmland and unique farmland that will be removed from use for the life of the facility is of such small acreage as to be of negligible impact on agricultural productions, this exclusion does not apply.~~
  - ~~e. Irrigated land.~~
  - ~~f. Areas critical to the life stages of threatened or endangered animal or plant species.~~
  - g.e. Areas where animal or plant species that are unique or rare to this state would be irreversibly damaged.
  - h.f. Areas within one thousand two hundred feet of the geographic center of an intercontinental ballistic missile (ICBM) launch or launch control facility.
2. **Additional exclusion areas for wind energy conversion facilities.** The following geographical areas must be excluded in the consideration of a site for a wind energy conversion facility:

- a. Areas within:
  - (1) One and one-tenth times the height of the turbine from the nearest edge of an interstate or state roadway right of way;
  - (2) One and one-tenth times the height of the turbine plus seventy-five feet from the centerline of any county or maintained township roadway;
  - (3) One and one-tenth times the height of the turbine from anythe nearest edge of railroad right of way;
  - (4) One and one-tenth times the height of the turbine from the nearest edge of a one hundred fifteen kilovolt or higher transmission line right of way; and
  - (5) One and one-tenth times the height of the turbine from the property line of a nonparticipating landowner and three times the height of the turbine from an inhabited rural residence of a nonparticipating landowner, unless a variance is granted. A variance may be granted if an authorized representative or agent of the permittee, the nonparticipating landowner, and affected parties with associated wind rights file a written agreement expressing all parties' support for a variance to reduce the setback requirement in this subsection. A nonparticipating landowner is a landowner that has not signed a wind option or an easement agreement with the permittee of the wind energy conversion facility as defined in North Dakota Century Code chapter 17-04.
  
3. **Avoidance areas.** The following geographical areas may not be approved as a site for an energy conversion facility unless the applicant shows that under the circumstances there is no reasonable alternative. In determining whether an avoidance area should be designated for a facility the commission may consider, among other things, the proposed management of adverse impacts; the orderly siting of facilities; system reliability and integrity; the efficient use of resources; and alternative sites. Economic considerations alone will not justify approval of these areas. A buffer zone of a reasonable width to protect the integrity of the area must be included. Natural screening may be considered in determining the width of the buffer zone.
  - a. Historical resources which are not designated as exclusion areas.
  - b. Areas within the city limits of a city or the boundaries of a military installation.
  - c. Areas within known floodplains as defined by the geographical boundaries of the hundred-year flood.
  - d. Areas that are geologically unstable.
  - e. Woodlands and wetlands.
  - f. Areas of recreational significance which are not designated as exclusion areas.
  
4. **Additional avoidance areas for wind energy conversion facilities.** A wind energy conversion facility site must not include a geographic area where, due to operation of the facility, the sound levels within one hundred feet of an inhabited residence or a community building will exceed fifty dBA. The sound level avoidance area criteria may be waived in writing by the owner of the occupied residence or the community building.
  
5. **Selection criteria.** A site may be approved in an area only when it is demonstrated to the commission by the applicant that any significant adverse effects resulting from the location, construction, and operation of the facility in that area as they relate to the following, will be at

an acceptable minimum, or that those effects will be managed and maintained at an acceptable minimum. The effects to be considered include:

- a. The impact upon agriculture:
  - (1) Agricultural production.
  - (2) Family farms and ranches.
  - (3) Land which the owner demonstrates has soil, topography, drainage, and an available water supply that cause the land to be economically suitable for irrigation.
  - (4) Surface drainage patterns and ground water flow patterns.
  - (5) The agricultural quality of the cropland.
- b. The impact upon the availability and adequacy of:
  - (1) Law enforcement.
  - (2) School systems and education programs.
  - (3) Governmental services and facilities.
  - (4) General and mental health care facilities.
  - (5) Recreational programs and facilities.
  - (6) Transportation facilities and networks.
  - (7) Retail service facilities.
  - (8) Utility services.
- c. The impact upon:
  - (1) Local institutions.
  - (2) Noise-sensitive land uses.
  - (3) Light-sensitive land uses.
  - (4) Rural residences and businesses.
  - (5) Aquifers.
  - (6) Human health and safety.
  - (7) Animal health and safety.
  - (8) Plant life.
  - (9) Temporary and permanent housing.
  - (10) Temporary and permanent skilled and unskilled labor.
- d. The cumulative effects of the location of the facility in relation to existing and planned facilities and other industrial development.

6. **Policy criteria.** The commission may give preference to an applicant that will maximize benefits that result from the adoption of the following policies and practices, and in a proper case may require the adoption of such policies and practices. The commission may also give preference to an applicant that will maximize interstate benefits. The benefits to be considered include:
- a. Recycling of the conversion byproducts and effluents.
  - b. Energy conservation through location, process, and design.
  - c. Training and utilization of available labor in this state for the general and specialized skills required.
  - d. Use of a primary energy source or raw material located within the state.
  - e. Not relocating residents.
  - f. The dedication of an area adjacent to the facility to land uses such as recreation, agriculture, or wildlife management.
  - g. Economies of construction and operation.
  - h. Secondary uses of appropriate associated facilities for recreation and the enhancement of wildlife.
  - i. Use of citizen coordinating committees.
  - j. A commitment of a portion of the energy produced for use in this state.
  - k. Labor relations.
  - l. The coordination of facilities.
  - m. Monitoring of impacts.
  - n. A commitment to install lighting mitigation technology for wind energy conversion facilities subject to commercial availability and federal aviation administration approval.

**History:** Amended effective August 1, 1979; July 1, 2006; April 1, 2013; July 1, 2017; July 1, 2018; [July 1, 2019](#).

**General Authority:** NDCC 28-32-02, 49-22-18

**Law Implemented:** NDCC 49-22-05.1, 49-22.1-03



**TITLE 71**  
**RETIREMENT BOARD**



**JULY 2019**

**CHAPTER 71-02-08**

**71-02-08-02. Withdrawal.**

Any political subdivision may discontinue participation in the fund if the following requirements are met:

1. The political subdivision must provide the board with a copy of a resolution adopted by the governing authority authorizing the termination of participation in the fund.
2. Upon receiving a copy of the written resolution, an actuarial study must be done by the plan's actuary to determine the accrued benefit of all vested employees minus allocated assets from the date of participation. The interest assumption used must be two hundred basis points less than the plan's interest assumption used for funding purposes. The withdrawal liability must include an administrative expense assessment of five percent.
3. Any costs incurred by the fund, resulting from a political subdivision ceasing participation, including the actuarial fee study and the withdrawal liability, must be assessed against the political subdivision and paid in full before a political subdivision terminates its participation.
4. All employees of a political subdivision that has terminated participation in the fund must not be eligible for future benefit accruals or improvements granted to employees or former employees of participating governmental units after the date the employer's participation ceases.
5. An employee who is not vested at the time an employer ceases participation has the option of taking a refund or rollover of the employee's contribution plus interest.

**History:** Effective September 1, 1982; amended effective June 1, 1996; April 1, 2019.

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 54-52-02.1

**CHAPTER 71-06-01  
RETIREE HEALTH INSURANCE CREDIT**

Section

- 71-06-01-01 Eligibility for Retiree Health Insurance Credit Applied to Premiums for Annuitants and Surviving Spouses Under the North Dakota Public Employees Retirement System, the North Dakota Highway Patrolmen's Retirement System, the Retired Judges Under North Dakota Century Code Chapter 27-17, Annuitants of the Job Service Retirement Program, and Former Participating Members of the Defined Contribution Retirement Plan Receiving Periodic Distributions [Repealed]
- 71-06-01-02 Calculation of Retiree Health Insurance Credit
- 71-06-01-03 For Retirees Receiving More Than One Benefit Entitled to Retiree Health Insurance Credit
- 71-06-01-04 Employer Paid Health Premiums [Repealed]
- 71-06-01-05 Member Contributions
- 71-06-01-06 Erroneous Crediting of the Retiree Health Insurance Credit [Repealed]
- 71-06-01-06.1 Retroactive Payment of the Retiree Health Insurance Credit [Repealed]
- 71-06-01-07 Optional Benefits
- 71-06-01-08 Vesting in Retiree Health Credit for Members of the Defined Contribution Retirement Plan
- 71-06-01-09 Payment - Retiree Health Insurance Credit Benefits
- 71-06-01-10 Withdrawal

**71-06-01-10. Withdrawal.**

Withdrawal under this chapter is governed by section 71-02-08-02.

**History:** Effective April 1, 2019.

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 54-52-02

**TITLE 101**  
**REAL ESTATE APPRAISER QUALIFICATIONS AND ETHICS BOARD**



JULY 2019

CHAPTER 101-01-01

101-01-01-01. Organization and history of the board.

1. **History and functions.** The 1991 legislative assembly passed real estate appraiser legislation codified as North Dakota Century Code chapter 43-23.3. This legislation requires the governor to appoint a board identified as the North Dakota real estate appraiser qualifications and ethics board. The board is responsible for licensing and certifying applicants based on specific minimum requirements. The board must specifically define the minimum levels of experience, education, and testing which an applicant must meet prior to being an apprentice, licensed, or certified. The appraiser qualifications board of the appraisal foundation has identified the minimum requirements for apprentices and licensed and certified appraisers needed to meet the requirements of the federal law, and the board adopts those minimums as its requirements. The board must issue ~~pocket cards and~~ permits to qualified apprentices and licensed and certified applicants, maintain a registry of names and addresses of ~~individuals~~apprenticed, licensed, and certified permittees, discipline permittees when necessary, hold meetings, hearings, and examinations in places and at times as it designates, maintain records of board activities, and adopt rules necessary to comply with federal and state laws.

The 2017 legislative assembly passed appraisal management legislation codified as North Dakota Century Code chapter 43-23.5, giving the board the responsibility to register appraisal management companies.

2. **Board membership.** The board consists of five members appointed by the governor. One member must represent the public, one member must represent the financial industry, and three members must be qualified real estate appraisers. ~~At least one, with at least two appraisers being certified appraisers.~~ One of the appraiser members must be experienced in the appraisal of agricultural property. Board members serve five year terms, with one term expiring each year.
3. **Administration - Executive director.** The board may contract for services necessary to carry out requirements imposed by state and federal law. This could include administrative affiliation with existing entities or contracting with independent individuals or entities. The executive director must be appointed by the board and is responsible for administering the activities of the board and providing other duties and services as authorized by the board.
4. **Inquiries.** Inquiries regarding the board may be addressed to the executive director at:

North Dakota Real Estate Appraiser Board  
P.O. Box 1336

Bismarck, ND 58502-1336  
[www.ndappraiserboard.org](http://www.ndappraiserboard.org)

**History:** Effective October 1, 1992; amended effective July 1, 2019.  
**General Authority:** NDCC 43-23.3-03  
**Law Implemented:** NDCC 43-23.3-07



## CHAPTER 101-02-01

### 101-02-01-01. Application to take the examination.

Any person who wishes to file an application to take the examination to qualify as a licensed or certified appraiser may ~~obtain the required form upon request from~~ contact the board office.

**History:** Effective October 1, 1992; amended effective January 1, 2008; July 1, 2019.

**General Authority:** NDCC 43-23.3-03

**Law Implemented:** NDCC 43-23.3-07

### 101-02-01-02. Application for apprenticeship, licensure, or certification.

A person who wishes to file an application for a permit to be an apprentice appraiser, a licensed appraiser, or a certified appraiser may ~~obtain the required form from~~ contact the board office.

**History:** Effective October 1, 1992; amended effective October 1, 1998; January 1, 2008; July 1, 2019.

**General Authority:** NDCC 43-23.3-03

**Law Implemented:** NDCC 43-23.3-05

### 101-02-01-03. Filing fees.

Fees will not be prorated.

1. The following application fees will be charged:

a. Apprentice appraiser permit	<del>\$100</del> <u>\$300</u>
b. Licensed appraiser permit	\$400
c. Certified residential appraiser permit	\$400
d. Certified general appraiser permit	\$400

2. The following annual renewal fees will be charged:

a. Apprentice appraiser permit	\$350
b. Licensed appraiser permit	\$350 + national registry fee
c. Certified residential permit	\$350 + national registry fee
d. Certified general permit	\$350 + national registry fee
e. Inactive status	\$100
f. Late filing fee (per month)	\$100

3. Other fees:

a. Temporary practice permit-per contract	\$250
b. <u>Education review for nonpermitted appraisers</u>	<u>\$300</u>
<del>c.</del> Approval of prelicensing or precertification educational courses	\$150
<del>e-d.</del> Approval of continuing educational courses:	
(1) Courses two to eight hours in length	\$50
(2) Courses over eight hours in length	\$150

d. Appraiser list on disk	\$25
e. Pocket card replacement	\$25
f. Wall certificate replacement	\$25
g. Change of name or address	\$25

**History:** Effective October 1, 1992; amended effective January 1, 1995; October 1, 1998; February 1, 2003; January 1, 2008; July 1, 2012; January 1, 2015; [July 1, 2019](#).

**General Authority:** NDCC 43-23.3-20

**Law Implemented:** NDCC 43-23.3-05

**101-02-01-04. Payment of permit fees.**

~~Checks given the board in payment of appraiser permit fees which are returned unpaid~~ [Unpaid fees](#) may be considered cause for denial, suspension, or revocation.

**History:** Effective October 1, 1992; amended effective January 1, 2008; [July 1, 2019](#).

**General Authority:** NDCC 43-23.3-03

**Law Implemented:** NDCC 43-23.3-03, 43-23.3-20

## CHAPTER 101-02-02

### 101-02-02-02. Appraiser permit definitions, criteria, and qualifications.

To apply for and maintain any appraiser permit an individual must meet all of the following requirements:

1. Be at least eighteen years of age.
2. Have a high school education or its equivalent.
3. Possess good character.
4. ~~Pass the appropriate examinations.~~ All applicants for permits of apprentice appraiser, licensed appraiser, certified residential appraiser, and certified general appraiser agree to follow the uniform standards of professional appraisal practice and must satisfy the qualification requirements listed in chapter 101-02-02.

**History:** Effective October 1, 1992; amended effective October 1, 1998; January 1, 2008; July 1, 2019.

**General Authority:** NDCC 43-23.3-03

**Law Implemented:** NDCC 43-23.3-08, 43-23.3-18

### 101-02-02-03. Apprentice appraiser.

1. **Definition****Permit.** An apprentice appraiser permit must be issued to an individual who successfully meets all of the ~~board~~ requirements for such a permit. An apprentice is the equivalent to a trainee under the "Real Property Appraiser Qualification Criteria and Interpretation of the Criteria", appraiser qualifications board, appraisal foundation.

Education, experience, and examination requirements for apprentice are all set by the appraisal foundation, appraiser qualifications board. The board adopts these as its requirements for apprentices. These requirements may be found in the "Real Property Appraiser Qualification Criteria and Interpretation of the Criteria, Effective May 1, 2018", appraiser qualifications board, appraisal foundation.

2. **Competency****Scope of practice.** The apprentice appraiser shall assist a certified appraiser in appraisal work, provided the ~~licensed or~~ certified appraiser accepts full responsibility for the appraisal performed. The scope of practice for the apprentice appraiser is the appraisal of those properties that the supervising appraiser is permitted and qualified to appraise. The apprentice appraiser shall be subject to the uniform standards of professional appraisal practice.
3. ~~**Background check.** An applicant for an apprentice appraiser permit must undergo background screening to ensure that the applicant does not possess a background that could call into question public trust. The applicant shall submit fingerprints and any appropriate identifying information for submission to the federal bureau of investigation or government agency or entity authorized to receive such information in connection with a state and national background check.~~
  - ~~a. All costs associated with obtaining a background check are the responsibility of the applicant.~~
  - ~~b. An applicant will not be considered for an apprentice permit if:
    - (1) The applicant has had an appraiser apprentice, license, or certification revoked in any governmental jurisdiction within the five-year period immediately preceding the date of application.~~

- ~~(2) The applicant has been convicted of, or pled guilty or nolo contendere to, a felony in domestic or foreign court:
  - ~~(a) During the five-year period immediately preceding the date of the application for an apprentice permit.~~
  - ~~(b) At any time preceding the date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering.~~~~
- ~~(3) The applicant has failed to demonstrate character and general fitness, such as to command the confidence of the community and to warrant a determination that the appraiser will operate honestly, fairly, and efficiently within the purposes of these criteria.~~
- ~~c. The following additional background issues will be evaluated and considered prior to issuing an apprentice permit:
  - ~~(1) Convictions of any criminal offense involving dishonesty, breach of trust, or money laundering against the applicant or organizations controlled by the applicant, or agreements to enter into a pretrial diversion or similar program in connection with the prosecution for such an offense.~~
  - ~~(2) Civil judicial actions against the individual in connection with financial services-related activities, dismissals with settlements, or judicial findings that the individual violated financial services-related statutes or regulations, except for actions dismissed without a settlement agreement.~~
  - ~~(3) Actions or orders by a state or federal regulatory agency or foreign financial regulatory authority that:
    - ~~(a) Found the applicant to have made a false statement or omission or been dishonest, unfair, or unethical; to have been involved in a violation of a financial services-related regulation or statute; or to have been a cause of a financial services-related business having its authorization to do business denied, suspended, revoked, or restricted.~~
    - ~~(b) Are entered against the applicant in connection with a financial services-related activity.~~
    - ~~(c) Denied, suspended, or revoked the applicant's apprentice, license, or certification permit to engage in a financial services-related business or restricted the applicant activities.~~
    - ~~(d) Barred the applicant from association with an entity or its officers regulated by the agency or authority of from engaging in a financial services-related business.~~~~
  - ~~(4) Final orders issued by a state or federal regulatory agency or foreign financial regulatory authority based on violations of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct.~~
  - ~~(5) Revocation or suspension of the applicant's authorization to act as an attorney, accountant, or state or federal contractor.~~
  - ~~(6) Customer initiated financial services-related arbitration or civil action against the applicant that required action, including settlements, or which resulted in a judgment.~~~~

~~4. Examination.~~ An applicant for an apprentice permit shall pass an open-book examination covering North Dakota Century Code chapter 43-23.3 and North Dakota Administrative Code title 101.

~~5.4. Education.~~ An applicant for the apprentice appraiser permit shall meet all of the ~~following~~ education requirements: set by the appraiser qualifications board of the appraisal foundation.

~~a. Seventy-five class hours in subjects related to real estate appraisal which cover the required core curriculum as established by the appraisal qualifications board of the appraisal foundation and approved as such, by the board.~~

~~(1) Coverage must include a minimum of all of the following:~~

~~(a) Thirty hours of basic appraisal principles.~~

~~(b) Thirty hours of basic appraisal procedures.~~

~~(c) The fifteen-hour national uniform standards of appraisal practice course or its equivalent.~~

~~(2) Class hours will be credited only for educational offerings with content that follows the required core curriculum.~~

~~(3) A class hour is defined as sixty minutes, of which at least fifty minutes are instruction attended by the student.~~

~~(4) Credit toward the class hour requirement may only be granted when the length of the educational offering is at least fifteen hours, and the individual successfully completes a closed-book examination pertinent to that educational offering.~~

~~(5) The prescribed number of class hours includes time for examinations.~~

~~(6) Uniform standards of professional appraisal practice qualifying education credit shall only be awarded when the class is instructed by at least one appraisal qualifications board-certified instructor who is state-certified.~~

~~(7) Credit for the class requirement may be obtained from the following:~~

~~(a) Colleges or universities.~~

~~(b) Community or junior colleges.~~

~~(c) Real estate appraisal or real estate-related organizations.~~

~~(d) State or federal agencies or commissions.~~

~~(e) Proprietary schools.~~

~~(f) Providers approved by the board.~~

~~(g) The appraisal foundation or its boards.~~

~~(8) Credit toward qualifying education requirements may also be obtained by the completion of a degree in real estate from an accredited degree-granting college or university approved by the association to advance collegiate schools of business, or a regional or national accreditation agency recognized by the United States secretary of education, provided that the college or university has had its curriculum reviewed and approved by the appraisal qualifications board.~~

~~(9) Applicants for the apprentice level who are awarded degrees from approved institutions are required to complete all additional education required for the permit in which the approved degree is judged to be deficient by the appraisal qualifications board.~~

~~(10.) All hours may be by distance education. Distance education is an educational process in which the student and instructor are geographically separated. Distance education includes online learning, internet-based instruction, CD-ROM instruction, correspondence courses, and videoconferencing. An acceptable distance education course must meet all of the following requirements:~~

~~(a) Provide interaction between the student and the instructor. Interaction is a reciprocal environment in which the student has verbal or written communication with the instructor.~~

~~(b) Be approved for content by the board, the appraisal qualifications board of the appraisal foundation, or an accredited college, community college, or university, that offers distance education programs and is approved or accredited by the commission on colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the United States secretary of education. Nonacademic credit college courses provided by a college shall be approved by the appraisal qualifications board of the appraisal foundation or the board.~~

~~(c) Obtain course delivery mechanism approval from one of the following sources:~~

~~[1] Appraisal qualifications board approved organizations providing approval of course design and delivery.~~

~~[2] A college that qualifies for content approval in subparagraph b and that awards academic credit for the distance education course.~~

~~[3] A qualifying college or university for content approval with a distance education delivery program that approves the course design and delivery that incorporates interactivity.~~

~~(d) Require the student to successfully complete a written examination proctored by an official approved by the presenting college or university, or sponsoring organization. Written examination refers to an examination written on paper or administered electronically on a computer workstation or other device.~~

~~(e) Meet the requirements for qualifying education established by the appraisal qualifications board of the appraisal foundation.~~

~~(f) Be equivalent to at least fifteen class hours.~~

~~(11) Courses that have received approval by the appraiser qualifications board of the appraisal foundation through the appraiser qualifications course approval program may be acceptable to the board without additional state review.~~

~~(12) Courses taken to satisfy the qualifying education requirements must not be repetitive. Uniform standards of professional appraisal practice courses taken in different years are not repetitive. Courses shall foster problem-solving skills in the education process by utilizing case studies as a major teaching method when applicable.~~

~~(13) Courses taken to meet the seventy-five hour apprentice requirement can be creditable toward the licensure and certification education requirement.~~

~~(14) Courses taken for the class hour requirement when an individual seeks a different classification than that held may also be counted for the continuing education requirement of the classification held.~~

~~(15) The~~In addition to the requirements set by the appraiser qualifications board of the appraisal foundation, an applicant for the apprentice appraiser permit must be familiar with North Dakota Century Code chapter 43-23.3 and North Dakota Administrative Code title 101.

~~(16) All qualifying education must be completed within the five-year period prior to the date of submission of an apprentice application.~~

~~b. The apprentice shall be required to complete a course that complies with the specifications for course content established by the appraisal qualifications board, which is specifically oriented to the requirements and responsibilities of supervisory appraisers and apprentice appraisers.~~

~~(1) The course must be completed by the apprentice prior to obtaining an apprentice permit.~~

~~(2) The course is not eligible towards the required seventy-five hours of qualifying education.~~

~~6. **Experience.** No experience is required for the apprentice appraiser.~~

7.5. **Apprentice appraiser responsibilities.** The apprentice appraiser must be subject to direct supervision by a supervising appraiser who must be state certified in good standing.

~~a. Prior to issuance of an apprentice appraiser permit the applicant for the apprentice level is required to register the name, office, and address of each supervising appraiser with the board on a form prescribed by the board. Registration of a supervising appraiser is effective the day the registration forms from both the supervising appraiser and apprentice appraiser are received and approved. These forms can be obtained by contacting the board office.~~

~~(1) The apprentice and supervising appraiser shall notify the board in writing within ten days of terminating supervision.~~

~~(2) The apprentice appraiser is permitted to have more than one supervising appraiser.~~

~~b. The scope of practice for the apprentice appraiser is the appraisal of those properties that the supervising appraiser is permitted by the supervising appraiser's current permit and that the supervising appraiser is qualified to appraise.~~

~~c. To obtain experience credit for appraisals, the apprentice must sign the report, sign the certification, or be given credit in the certification as having provided significant professional assistance.~~

~~d. The apprentice appraiser and supervising appraiser shall jointly maintain a log of all appraisals for which the apprentice completed seventy-five percent or more of the assignment. It is the responsibility of both the supervisory appraiser and apprentice to ensure the experience log is accurate and current. The log, at a minimum, must include the following for each appraisal:-~~



~~(1) Type of property.~~

~~(2) Date of report.~~

~~(3) Address of appraised property.~~

~~(4) Description of work performed by the apprentice and scope of the review and supervision of the supervising appraiser.~~

~~(5) Number of actual hours by the apprentice on the assignment.~~

~~(6) Signature and state license or certification number of the supervising appraiser.~~

~~e. Separate appraisal logs must be maintained for each supervising appraiser.~~

~~f. The apprentice appraiser is entitled to obtain copies of appraisal reports the apprentice appraiser prepared.~~

**8.6. Supervisor responsibilities.** A certified appraiser who wishes to supervise an apprentice must register with the board on a form prescribed by the board. Registration of a supervising appraiser is effective the day the registration forms from both the supervising appraiser and from the apprentice appraiser are received and approved. These forms can be obtained by contacting the board office.

a. The apprentice and supervising appraiser shall notify the board in writing within ten days of terminating supervision.

~~b. The apprentice appraiser is permitted to have more than one supervising appraiser.~~

~~c. The supervising appraiser shall be required to complete a course that complies with the specifications for course content established by the appraisal qualifications board, which is specifically oriented to the requirements and responsibilities of supervisory appraisers and apprentice appraisers. The course must be completed by the supervisory appraiser prior to supervising an apprentice appraiser.~~

~~d. The supervising appraiser must either have or must complete an open-book examination covering North Dakota Century Code chapter 43-23.3 and North Dakota Administrative Code title 101.~~

~~e. The supervising appraiser is responsible for the training, guidance, and direct supervision of the apprentice appraiser. Training, guidance, and direct supervision means:~~

~~(1) Each supervising appraiser must accept responsibility for the appraisal report by signing and certifying that the report complies with generally accepted appraisal procedures and is in compliance with the uniform standards of professional appraisal practice.~~

~~(2) Each supervising appraiser must review and sign the apprentice appraisal reports.~~

~~(3) Each supervising appraiser must personally inspect each appraised property interior and exterior with the apprentice appraiser on at least the first twenty-five appraisal assignments requiring inspection and until the supervising appraiser determines the apprentice appraiser is competent in accordance with the competency provision of the uniform standards of professional appraisal practice for the property type. A separate log must be maintained for these twenty-five appraisals.~~

~~f. A supervising appraiser may be disciplined if the board determines that the supervisor has failed to directly supervise an apprentice appraiser.~~



- ~~g. A supervising appraiser shall be certified and in good standing in the jurisdiction in which the apprentice appraiser practices for a period of at least three years.~~
- ~~h. A supervising appraiser must have a certified permit in good standing and not subject to any disciplinary action within the last three years that affects the supervising appraiser's legal eligibility to engage in appraisal practice.~~
- ~~i. A supervisory appraiser subject to disciplinary action would be considered to be in good standing three years after the successful completion or termination of the sanction imposed against the appraiser.~~
- ~~j. A supervising appraiser must comply with the competency rule of the uniform standards of professional appraisal practice for the property type and geographic location the apprentice is being supervised.~~
- ~~k. A supervising appraiser is limited to supervising no more than three apprentice appraisers at one time.~~
- ~~l. A supervising appraiser shall keep copies of appraisal reports for a period of five years or at least two years after final disposition of any judicial proceedings in which testimony was given, whichever period expires last.~~

**History:** Effective October 1, 1992; amended effective October 1, 1998; February 1, 2003; January 1, 2008; July 1, 2012; January 1, 2015; [July 1, 2019](#).

**General Authority:** NDCC 43-23.3-03

**Law Implemented:** NDCC 43-23.3-03, 43-23.3-06, 43-23.3-08, 43-23.3-09, 43-23.3-17, 43-23.3-18

#### **101-02-02-05. Licensed appraiser.**

1. **Definitions****Permit.** A licensed appraiser permit must be issued to an individual who successfully meets all of the ~~board~~ requirements for such a permit.

Education, experience, and examination requirements for licensure are all set by the appraiser qualifications board. The board adopts these as its requirements for licensure. These requirements may be found in the "Real Property Appraiser Qualification Criteria and Interpretation of the Criteria, Effective May 1, 2018", appraiser qualifications board, appraisal foundation.

2. **Competency****Scope of practice.** The licensed appraiser is allowed to appraise noncomplex, one-to-four family residential properties that have a transaction value of up to one million dollars and complex one-to-four family residential properties that have a transaction value of up to two hundred fifty thousand dollars. In addition, a licensed appraiser is allowed to appraise noncomplex, nonresidential properties, that have a transaction value of up to two hundred fifty thousand dollars. The licensed appraiser is bound by the competency provisions of the uniform standards of professional appraisal practice.
3. **Background check.** ~~An applicant for a licensed appraiser permit must undergo background screening to ensure that the applicant does not possess a background that could call into question public trust. The applicant shall submit fingerprints and any appropriate identifying information for submission to the federal bureau of investigation or government agency or entity authorized to receive such information in connection with a state and national background check.~~

- ~~a. All costs associated with obtaining a background check are the responsibility of the applicant.~~

- ~~b. An applicant will not be considered for a licensed permit if:~~

- ~~(1) The applicant has had an appraiser apprentice, license, or certification permit revoked in any governmental jurisdiction within the five-year period immediately preceding the date of application.~~
- ~~(2) The applicant has been convicted of, or pled guilty or nolo contendere to, a felony in domestic or foreign court:
  - ~~(a) During the five-year period immediately preceding the date of the application for licensure.~~
  - ~~(b) At any time preceding the date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering.~~~~
- ~~(3) The applicant has failed to demonstrate character and general fitness, such as to command the confidence of the community and to warrant a determination that the appraiser will operate honestly, fairly, and efficiently within the purposes of these criteria.~~
- ~~c. The following additional background issues will be evaluated and considered prior to issuing a licensed permit:
  - ~~(1) Convictions of any criminal offense involving dishonesty, breach of trust, or money laundering against the applicant or organizations controlled by the applicant, or agreements to enter into a pretrial diversion or similar program in connection with the prosecution for such an offense.~~
  - ~~(2) Civil judicial actions against the individual in connection with financial services-related activities, dismissals with settlements, or judicial findings that the individual violated financial services-related statutes or regulations, except for actions dismissed without a settlement agreement.~~
  - ~~(3) Actions or orders by a state or federal regulatory agency or foreign financial regulatory authority that:
    - ~~(a) Found the applicant to have made a false statement or omission or been dishonest, unfair, or unethical; to have been involved in a violation of a financial services-related regulation or statute; or to have been a cause of a financial services-related business having its authorization to do business denied, suspended, revoked, or restricted.~~
    - ~~(b) Are entered against the applicant in connection with a financial services-related activity.~~
    - ~~(c) Denied, suspended, or revoked the applicant's apprentice, license, or certification permit to engage in a financial services-related business or restricted the applicant activities.~~
    - ~~(d) Barred the applicant from association with an entity or its officers regulated by the agency or authority of from engaging in a financial services-related business.~~~~
  - ~~(4) Final orders issued by a state or federal regulatory agency or foreign financial regulatory authority based on violations of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct.~~
  - ~~(5) Revocation or suspension of the applicant's authorization to act as an attorney, accountant, or state or federal contractor.~~~~

- ~~(6) Customer-initiated financial services-related arbitration or civil action against the applicant that required action, including settlements, or which resulted in a judgment.~~
- ~~4. **Examination.** An applicant for a licensed appraiser permit must have successfully completed the board-approved uniform licensing examination or its equivalent. The only alternative to the licensure examination is successful completion of the certified residential examination or certified general examination. Successful completion of the examination is valid for a period of twenty-four months. The licensure permit must be obtained within twenty-four months of successful completion of the examination or the examination must be retaken. An applicant for the uniform licensure examination shall furnish proof to the board that the applicant has:~~
- ~~a. Successfully completed the applicable education required by subsection 5.~~
  - ~~b. Met the applicable experience, in hours and years, as required by subsection 6.~~
- ~~5. **Education.** An applicant for a licensed appraiser permit shall meet all of the following education requirements: set by the appraiser qualifications board of the appraisal foundation.~~
- ~~a. Thirty semester hours of college-level education or higher from an accredited college, junior college, community college, or university:
    - ~~(1) The college or university must be a degree-granting institution accredited by the commission on colleges, a regional or national accreditation association, or an accrediting agency that is recognized by the United States secretary of education. If the college or university accepts the college-level examination program and examinations and issues a transcript for the examinations, showing its approval, it will be considered as credit for the college course. For college-level courses taken in a quarterly system, one-quarter credit-hour is equivalent to two-thirds semester credit-hour.~~
    - ~~(2) College-level education completed at a foreign college or university will be acceptable provided the education has been evaluated and deemed equivalent by one of the following:
      - ~~(a) An accredited degree-granting domestic college or university.~~
      - ~~(b) The American association of collegiate registrars and admissions officers.~~
      - ~~(c) A foreign degree credential evaluation service company that is a member of the national association of credential evaluation services.~~
      - ~~(d) A foreign degree credential evaluation service company that provides equivalency evaluation reports accepted by an accredited degree-granting domestic college or university or by a state licensing board that issues a credential in another discipline.~~~~~~
  - ~~b. In addition to thirty hours of college-level education, an applicant for licensure must complete one hundred fifty class hours in subjects related to real estate appraisal which cover the required core curriculum as established by the appraisal qualifications board of the appraisal foundation and approved as such, by the board.
    - ~~(1) Coverage must include a minimum of all of the following:
      - ~~(a) Thirty hours of basic appraisal principles.~~
      - ~~(b) Thirty hours of basic appraisal procedures.~~~~~~

- ~~(c) The fifteen-hour national uniform standards of appraisal practice course or its equivalent.~~
- ~~(d) Fifteen hours of residential market analysis and highest and best use.~~
- ~~(e) Fifteen hours of residential appraiser site valuation and cost approach.~~
- ~~(f) Thirty hours of residential sales comparison and income approaches.~~
- ~~(g) Fifteen hours of residential report writing and case studies.~~
- ~~(2) An apprentice appraiser may satisfy the educational requirements for the licensed level by completing the following additional educational hours:~~
  - ~~(a) Fifteen hours of residential market analysis and highest and best use.~~
  - ~~(b) Fifteen hours of residential appraiser site valuation and cost approach.~~
  - ~~(c) Thirty hours of residential sales comparison and income approaches.~~
  - ~~(d) Fifteen hours of residential report writing and case studies.~~
- ~~(3) Class hours will be credited only for educational offerings with content that follows the required core curriculum.~~
- ~~(4) A class hour is defined as sixty minutes, of which at least fifty minutes are instruction attended by the student.~~
- ~~(5) Credit toward the class hour requirement may only be granted when the length of the educational offering is at least fifteen hours, and the individual successfully completes a closed-book examination pertinent to that educational offering.~~
- ~~(6) The prescribed number of class hours includes time for examinations.~~
- ~~(7) Uniform standards of professional appraisal practice education credit shall only be awarded when the class is instructed by at least one appraisal qualifications board-certified instructor who is state-certified.~~
- ~~(8) Credit for the class hour requirement may be obtained from the following:~~
  - ~~(a) Colleges or universities.~~
  - ~~(b) Community or junior colleges.~~
  - ~~(c) Real estate appraisal or real estate-related organizations.~~
  - ~~(d) State or federal agencies or commissions.~~
  - ~~(e) Proprietary schools.~~
  - ~~(f) Providers approved by the board.~~
  - ~~(g) The appraisal foundation or its boards.~~
- ~~(9) There is no time limit regarding when qualifying education credit must have been obtained.~~
- ~~(10) All hours may be by distance education. Distance education is an educational process in which the student and instructor are geographically separated. Distance~~

~~education includes online learning, internet-based instruction, CD-ROM instruction, correspondence courses, and videoconferencing. An acceptable distance education course must meet all of the following requirements:~~

~~(a) Provide interaction between the student and the instructor. Interaction is a reciprocal environment when the student has verbal or written communication with the instructor.~~

~~(b) Be approved for content by the board, the appraisal qualifications board of the appraisal foundation, or an accredited college, community college, or university, that offers distance education programs and is approved or accredited by the commission on colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the United States secretary of education. Nonacademic credit college courses provided by a college shall be approved by the appraisal qualifications board of the appraisal foundation, or the board.~~

~~(c) Obtain course delivery mechanism approval from one of the following sources:~~

~~[1] Appraisal qualifications board-approved organizations providing approval of course design and delivery.~~

~~[2] A college that qualifies for content approval in paragraph 2 that awards academic credit for the distance education course.~~

~~[3] A qualifying college or university for content approval with a distance education delivery program that approves the course design and delivery that incorporate interactivity.~~

~~(d) Require the student to successfully complete a written examination proctored by an official approved by the presenting college, university, or sponsoring organization. Written examination refers to an examination written on paper or administered electronically on a computer workstation or other device.~~

~~(e) Meet the requirements for qualifying education established by the appraisal qualifications board of the appraisal foundation.~~

~~(f) Be equivalent to at least fifteen class hours.~~

~~(11) Courses that have received approval by the appraiser qualifications board of the appraisal foundation through the appraiser qualifications course approval program may be acceptable to the board without additional state review.~~

~~(12) Courses taken to satisfy the qualifying education requirements must not be repetitive. Uniform standards of professional appraisal practice courses taken in different years are not repetitive. Courses shall foster problem-solving skills in the education process by utilizing case studies as a major teaching method when applicable.~~

~~(13) Courses taken for the class hour requirement when an individual seeks a different classification than that held may also be counted for the continuing education requirement of the classification held.~~

~~(14) Credit toward qualifying education requirements may also be obtained by the completion of a degree in real estate from an accredited degree-granting college or university approved by the association to advance collegiate schools of business, or a regional or national accreditation agency recognized by the United States~~

~~secretary of education, provided that the college or university has had its curriculum reviewed and approved by the appraisal qualifications board.~~

~~(15) Applicants for the licensed level who are awarded degrees from approved institutions are required to complete all additional education required for the permit in which the approved degree is judged to be deficient by the appraisal qualifications board.~~

(16) TheIn addition to the requirements set by the appraiser qualifications board of the appraisal foundation, an applicant for a licensed appraiser permit must be familiar with North Dakota Century Code chapter 43-23.3 and North Dakota Administrative Code title 101.

~~(17) Experience may not be substituted for education.~~

**6.4. Experience.** ~~A licensed appraiser must have the equivalent of two thousand hours of credible appraisal experience prior to obtaining the licensing permit. The experience requirements must be satisfied by time spent on the appraisal process. The appraisal process consists of analyzing factors that affect value, defining the problem, gathering and analyzing data, applying the appropriate analysis and methodology, and arriving at an opinion and correctly reporting the data, analysis, and opinion in compliance with the uniform standards of professional appraisal practice. The applicant for licensure must submit a log from which the board will select for review a minimum of three residential appraisal~~ a selection of reports. ~~All three of the~~ will be reviewed. The reports must meet the current uniform standards of professional appraisal practice as of the effective date of the appraisal and must reflect that the applicant has an acceptable level of competency and understanding of the principles, practices, and procedures consistent with the body of knowledge for the licensed level.

a. Adequate experience will be determined by the actual hours spent on an assignment, subject to a maximum established by the board.

(1) Maximum hours are based on the types of appraisals performed and the types of properties appraised.

(2) ~~Types of appraisals performed include standard appraisal, review appraisal, and condemnation appraisal.~~

~~(a) A standard appraisal is the process of developing an appraisal using those methods commonly accepted by real estate appraisers as constituting the appraisal process and preparing a written appraisal report or file memorandum describing the appraisal and reporting the estimate of value. The appraisal process consists of an analysis of factors that affect value, definition of the problem, gathering and analyzing data, applying the appropriate value approaches and methodology, arriving at an opinion of value, and correctly reporting the opinion of value in compliance with the uniform standards of professional appraisal practice.~~

~~(b) A review appraisal is the process of critically reviewing an appraisal report prepared by another appraiser and preparing a separate written report or file memorandum setting forth the results of the review process. The review appraiser reviews the report and forms an opinion as to the adequacy of the report, the appropriateness of the methods used by the appraiser, and the reasonableness of the appraiser's conclusions. A review appraiser may or may not perform a field review. A field review includes inspecting the subject and comparables to verify data, to determine the appropriateness of the comparables selected and adjustments made, and to assist in determining the~~



~~reasonableness of the value estimate. Review appraisal experience must conform to standard three of the uniform standards of professional appraisal practice. Review appraisal experience should be given credit to the extent that it demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing under applicable uniform standards of professional appraisal practice standards.~~

~~(c) A condemnation appraisal is an appraisal of real property for condemnation purposes, including situations where a partial taking is involved and the appraiser must develop both a before taking value estimate and an after taking value estimate. The appraiser uses those methods commonly accepted by real estate appraisers as constituting the appraisal process including a field inspection and preparation of a written appraisal report or file memorandum describing the appraisal and reporting the before and after value estimates.~~

~~(3) Types of property appraised may include the following:~~

~~(a) Land may include farms of one hundred acres [40.47 hectares] or more in size, undeveloped tracts, residential multifamily sites, commercial sites, industrial sites, and land in transition.~~

~~(b) Residential multifamily, five-12 units may include apartments, condominiums, townhouses, and mobile home parks.~~

~~(c) Residential multifamily, thirteen-plus units may include apartments, condominiums, townhouses, and mobile home parks.~~

~~(d) Commercial single tenant may include office building, retail store, restaurant, service station, bank, and day care center.~~

~~(e) Commercial multitenant may include office building, shopping center, and hotel.~~

~~(f) Industrial may include warehouse and manufacturing plant.~~

~~(g) Institutional may include rest home, nursing home, hospital, school, church, and government building.~~

~~(4) The number of allowable hours assigned for each appraisal type are assigned by the board and are included on the application for licensure and certification. A copy of this form can be obtained by contacting the board office as detailed in the following table:~~

<b>Licensed and Certified Residential</b>				
<b>Type of Property Appraised</b>	<b>Full Appraisals</b>	<b>Review Appraisals (With Field Review and Separate Report)</b>	<b>Review Appraisals (Without Field Review and Separate Report)</b>	<b>Condemnation Appraisals</b>
Single family	8	4	2	12
Multifamily (two to four units)	16	8	3	24
Vacant lot (one to four units)	4	2	1	6
Farm (homestead - less than one	16	8	3	24

<u>Licensed and Certified Residential</u>				
<u>hundred acres)</u>				

<u>Certified General</u>				
<u>Type of Property Appraised</u>	<u>Full Appraisals</u>	<u>Review Appraisals (With Field Review and Separate Report)</u>	<u>Review Appraisals (Without Field Review and Separate Report)</u>	<u>Condemnation Appraisals</u>
<u>Land point value may be doubled if all three approaches to value are used</u>	<u>24</u>	<u>12</u>	<u>5</u>	<u>36</u>
<u>Residential multifamily (five to twelve units)</u>	<u>48</u>	<u>24</u>	<u>10</u>	<u>72</u>
<u>Residential multifamily (add sixteen hours for proposed project)</u>	<u>64</u>	<u>32</u>	<u>13</u>	<u>96</u>
<u>Commercial - Single tenant</u>	<u>48</u>	<u>24</u>	<u>10</u>	<u>72</u>
<u>Commercial - Multitenant (add twenty-four hours for proposed project)</u>	<u>80</u>	<u>40</u>	<u>32</u>	<u>120</u>
<u>Industrial or institutional</u>	<u>64</u>	<u>32</u>	<u>13</u>	<u>96</u>

(3) The board may grant exceptions for good cause.

- ~~b. The two thousand hours of experience must be obtained using at least one year of appraisal practice gained over a period of at least twelve months.~~
- ~~c. There is no other time limit regarding when qualifying experience may be obtained.~~
- ~~d. Hours may be treated as cumulative in order to achieve the necessary two thousand hours of appraisal experience.~~
- ~~e. Acceptable appraisal experience includes, but is not limited to, the following:
 
  - ~~(1) Fee and staff appraisal, ad valorem tax appraisal, condemnation appraisal, technical review appraisal, appraisal analysis, real estate consulting (excludes related fields such as real estate lending), highest and best use analysis, and feasibility analysis or study.~~
  - ~~(a) Mass appraisal experience must conform to standard six of the uniform standards of professional appraisal practice. Mass appraisal experience claimed by the applicant should be given credit to the extent that it demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing under applicable standards of the uniform standards of professional appraisal practice.~~~~



~~(b) Review of real estate appraisals or real property consulting services, including market analysis, cash flow and investment analysis, and feasibility analysis, must conform to standards three, four, and five of the uniform standards of professional appraisal practice. Experience involving these functions should be given credit to the extent that it demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing under standard one of the uniform standards of professional appraisal practice.~~

~~(c) A market analysis typically performed by a real estate broker or sales person should be awarded experience credit when the analysis is prepared in conformity with standards one and two of the uniform standards of professional appraisal practice, the individual can demonstrate that the individual is using techniques and methods consistent with those used by appraisers to value property and the individual is effectively utilizing the appraisal process.~~

~~(d) Real property appraisal experience should be awarded for appraisals of real estate components, estates, or interests unless the appraiser has not complied with standards one, two, and six of the uniform standards of professional appraisal practice.~~

~~(2) No more than two hundred hours of the total experience credit may be in related areas. Related experience includes consulting.~~

~~f. Documentation in the form of reports, certifications, and file memoranda must be provided to support the experience claimed. If reports and file memoranda are unavailable for good cause, the board may accept other evidence of compliance with the uniform standards of professional appraisal practice.~~

~~g. The verification for the two thousand hours of experience credit claimed by an applicant shall be on forms prescribed by the board which shall include all of the following:~~

~~(1) Type of property.~~

~~(2) Date of report.~~

~~(3) Address of appraised property.~~

~~(4) Description of work performed by the applicant and scope of the review and supervision of the supervising appraiser.~~

~~(5) Number of actual work hours on the assignment.~~

~~(6) The signature and permit number of the supervising appraiser, if applicable.~~

~~h. Separate appraisal logs must be maintained for each supervising appraiser, if applicable.~~

~~i. There need not be a client in order for an appraisal to qualify for experience. Appraisals made without clients can fulfill up to fifty percent of the total experience requirement.~~

~~j. Case studies or practicum courses that are approved by the board or through the appraisal qualifications board of the appraisal foundation course approval program can satisfy the nonclient experience requirement.~~

~~(1) A practicum course must include the generally applicable methods of appraisal practice for the permit category. Content includes all of the following:~~

~~(a) Requiring the student to produce credible appraisals that utilize an actual subject property.~~

- ~~(b) Performing market research containing sales analysis.~~
- ~~(c) Applying and reporting the applicable appraisal approaches in conformity with the uniform standards of professional appraisal practice.~~
- ~~(2) Assignments must require problem-solving skills for a variety of property types for the permit category.~~
- ~~(3) Experience credit shall be granted for the actual class hours of instruction and hours of documented research and analysis as awarded from the practicum course approval process.~~
- ~~k. All experience must be obtained after January 30, 1989, and must be uniform standards of professional appraisal practice compliant, where the appraiser demonstrates proficiency in appraisal principles, methodology, procedures (development), and reporting conclusions.~~
- ~~l. After accumulating a minimum of fifty percent of the required appraisal experience, an applicant for licensure may voluntarily submit work product to the board to be reviewed by a board reviewer for educational purposes only. ~~A maximum of two reports~~ One report may be submitted for review. The board will not initiate a complaint for violations identified in this review.~~

If the board determines the reviewed report meets the minimum requirements set forth in the uniform standards of professional appraisal practice and the applicant has an acceptable level of competency and understanding of the principles, practices, and procedures consistent with the body of knowledge for the licensed level, the board may allow the applicant to use the educational review as part of the application process for licensure.

**History:** Effective October 1, 1992; amended effective January 1, 1995; October 1, 1998; February 1, 2003; January 1, 2008; July 1, 2012; January 1, 2015; July 1, 2019.

**General Authority:** NDCC 43-23.3-03, 43-23.3-09

**Law Implemented:** NDCC 43-23.3-03, 43-23.3-06, 43-23.3-07, 43-23.3-08, 43-23.3-09, 43-23.3-17, 43-23.3-18

#### **101-02-02-05.1. Certified residential appraiser.**

1. **Permit.** A certified residential appraiser permit must be issued to an individual who successfully meets all of the ~~board~~ requirements set by the appraiser qualifications board of the appraisal foundation for such a permit.

Education, experience, and examination requirements for certified residential are all set by the appraiser qualifications board. The board adopts these as its requirements for certified residential. These requirements may be found in the "Real Property Appraiser Qualification Criteria and Interpretation of the Criteria, Effective May 1, 2018", appraiser qualifications board, appraisal foundation.

2. **Competency** **Scope of practice.** The certified residential appraiser may appraise one-family to four-family family residential properties without regard to value or complexity. In addition, a certified residential appraiser may appraise noncomplex, nonresidential properties, that have a transaction value of up to two hundred fifty thousand dollars. The certified residential appraiser is bound by the competency provision of the uniform standards of professional appraisal practice.
3. ~~**Background check.** An applicant for a certified residential appraiser permit must undergo background screening to ensure that the applicant does not possess a background that could~~

~~call into question public trust. The applicant shall submit fingerprints and any appropriate identifying information for submission to the federal bureau of investigation or government agency or entity authorized to receive such information in connection with a state and national background check.~~

~~a. All costs associated with obtaining a background check are the responsibility of the applicant.~~

~~b. An applicant will not be considered for the certified residential permit if:~~

~~(1) The applicant has had an appraiser apprentice, license, or certification permit revoked in any governmental jurisdiction within the five-year period immediately preceding the date of application.~~

~~(2) The applicant has been convicted of, or pled guilty or nolo contendere to, a felony in domestic or foreign court:~~

~~(a) During the five-year period immediately preceding the date of the application for certification.~~

~~(b) At any time preceding the date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering.~~

~~(3) The applicant has failed to demonstrate character and general fitness, such as to command the confidence of the community and to warrant a determination that the appraiser will operate honestly, fairly, and efficiently within the purposes of these criteria.~~

~~c. The following additional background issues will be evaluated and considered prior to issuing a certified residential permit:~~

~~(1) Convictions of any criminal offense involving dishonesty, breach of trust, or money laundering against the applicant or organizations controlled by the applicant, or agreements to enter into a pretrial diversion or similar program in connection with the prosecution for such an offense.~~

~~(2) Civil judicial actions against the individual in connection with financial services related activities, dismissals with settlements, or judicial findings that the individual violated financial services related statutes or regulations, except for actions dismissed without a settlement agreement.~~

~~(3) Actions or orders by a state or federal regulatory agency or foreign financial regulatory authority that:~~

~~(a) Found the applicant to have made a false statement or omission or been dishonest, unfair, or unethical; to have been involved in a violation of a financial services related regulation or statute; or to have been a cause of a financial services related business having its authorization to do business denied, suspended, revoked, or restricted.~~

~~(b) Are entered against the applicant in connection with a financial services related activity.~~

~~(c) Denied, suspended, or revoked the applicant's apprentice, license, or certification permit to engage in a financial services related business or restricted the applicant activities.~~

- ~~(d) Barred the applicant from association with an entity or its officers regulated by the agency or authority of from engaging in a financial services-related business.~~
- ~~(4) Final orders issued by a state or federal regulatory agency or foreign financial regulatory authority based on violations of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct.~~
- ~~(5) Revocation or suspension of the applicant's authorization to act as an attorney, accountant, or state or federal contractor.~~
- ~~(6) Customer-initiated financial services-related arbitration or civil action against the applicant that required action, including settlements, or which resulted in a judgment.~~
- ~~4. **Examination.** An applicant for a certified residential appraiser permit must have successfully completed the board-approved uniform certified residential examination or its equivalent. The only alternative to the certified residential examination is successful completion of the certified general examination. Successful completion of the examination is valid for a period of twenty-four months. The certified residential permit must be obtained within twenty-four months of successful completion of the examination or the examination must be retaken. An applicant for the uniform certified residential examination shall furnish proof to the board that the applicant has:
  - ~~a. Successfully completed the applicable education required by subsection 5.~~
  - ~~b. Met the applicable experience, in hours and years, as required by subsection 6.~~~~
- ~~5. **Education.** An applicant for a certified residential appraiser permit shall meet all of the following education requirements: set by the appraiser qualifications board of the appraisal foundation.
  - ~~a. A bachelor's degree, or higher from an accredited college or university.
    - ~~(1) The college or university must be a degree-granting institution accredited by the commission on colleges, a regional or national accreditation association, or an accrediting agency that is recognized by the United States secretary of education. If the college or university accepts the college-level examination program and examinations, and issues a transcript for the examinations, showing its approval, it will be considered as credit for the college course. For college-level courses taken in a quarterly system, one quarter credit-hour is equivalent to two-thirds semester credit-hour.~~
    - ~~(2) College-level education completed at a foreign college or university will be acceptable provided the education has been evaluated and deemed equivalent by one of the following:
      - ~~(a) An accredited degree-granting domestic college or university.~~
      - ~~(b) The American association of collegiate registrars and admissions officers.~~
      - ~~(c) A foreign degree credential evaluation service company that is a member of the national association of credential evaluation services.~~
      - ~~(d) A foreign degree credential evaluation service company that provides equivalency evaluation reports accepted by an accredited degree-granting~~~~~~~~

~~domestic college or university or by a state licensing board that issues a credential in another discipline.~~

~~b. In addition to a bachelor's degree or higher, an applicant for certified residential must complete two hundred class hours in subjects related to real estate appraisal which cover the required core curriculum as established by the appraisal qualifications board of the appraisal foundation and approved as such by the board.~~

~~(1) Coverage must include a minimum of all of the following:~~

~~(a) Thirty hours of basic appraisal principles.~~

~~(b) Thirty hours of basic appraisal procedures.~~

~~(c) The fifteen-hour national uniform standards of appraisal practice course or its equivalent.~~

~~(d) Fifteen hours of residential market analysis and highest and best use.~~

~~(e) Fifteen hours of residential appraiser site valuation and cost approach.~~

~~(f) Thirty hours of sales comparison and income approaches.~~

~~(g) Fifteen hours of residential report writing and case studies.~~

~~(h) Fifteen hours of statistics, modeling, and finance.~~

~~(i) Fifteen hours of advanced residential applications and case studies.~~

~~(j) Twenty hours of appraisal subject matter electives.~~

~~[1] An apprentice appraiser may satisfy the educational requirements for the certified residential level by completing the following additional educational hours:~~

~~[a] Fifteen hours of residential appraiser market analysis and highest and best use.~~

~~[b] Fifteen hours of residential appraiser site valuation and cost approach.~~

~~[c] Thirty hours of residential sales comparison and income approaches.~~

~~[d] Fifteen hours of residential report writing and case studies.~~

~~[e] Fifteen hours of statistics, modeling, and finance.~~

~~[f] Fifteen hours of advanced residential applications and case studies.~~

~~[g] Twenty hours of appraisal subject matter electives.~~

~~[2] A licensed appraiser may satisfy the educational requirements for the certified residential level by completing the following additional educational hours:~~

~~[a] Fifteen hours of statistics, modeling, and finance.~~

~~[b] Fifteen hours of advanced residential applications and case studies.~~

~~[c] Twenty hours of appraisal subject matter electives.~~

~~(2) Class hours will be credited only for educational offerings with content that follows the required core curriculum.~~

~~(3) A class hour is defined as sixty minutes, of which at least fifty minutes are for instruction attended by the student.~~

~~(4) Credit toward the class hour requirement may only be granted when the length of the educational offering is at least fifteen hours, and the individual successfully completes a closed-book examination pertinent to that educational offering.~~

~~(5) The prescribed number of class hours includes time for examinations.~~

~~(6) Uniform standards of professional appraisal practice education credit shall only be awarded when the class is instructed by at least one appraisal qualifications board-certified instructor who is state-certified.~~

~~(7) Credit for the class requirement may be obtained from the following:~~

~~(a) Colleges or universities.~~

~~(b) Community or junior colleges.~~

~~(c) Real estate appraisal or real estate-related organizations.~~

~~(d) State or federal agencies or commissions.~~

~~(e) Proprietary schools.~~

~~(f) Providers approved by the board.~~

~~(g) The appraisal foundation or its boards.~~

~~(8) There is no time limit regarding when qualifying education credit must have been obtained.~~

~~(9) All hours may be by distance education. Distance education is an educational process in which the student and instructor are geographically separated. Distance education includes online learning, internet-based instruction, CD-ROM instruction, correspondence courses, and videoconferencing. An acceptable distance education course must meet all of the following requirements:~~

~~(a) Provide interaction between the student and the instructor. Interaction is a reciprocal environment where the student has verbal or written communication with the instructor.~~

~~(b) Be approved for content by the board, the appraisal qualifications board of the appraisal foundation, or an accredited college, community college, or university that offers distance education programs and is approved or accredited by the commission on colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the United States secretary of education. Nonacademic credit college courses provided by a college shall be approved by the appraisal qualifications board of the appraisal foundation or the board.~~

~~(c) Obtain course delivery mechanism approval from one of the following sources:~~



~~[1] Appraisal qualifications board approved organizations providing approval of course design and delivery.~~

~~[2] A college that qualifies for content approval in subparagraph b and that awards academic credit for the distance education course.~~

~~[3] A qualifying college or university for content approval with a distance education delivery program that approves the course design and delivery that incorporates interactivity.~~

~~(d) Require the student to successfully complete a written examination proctored by an official approved by the presenting college, university, or sponsoring organization. Written examination refers to an examination written on paper or administered electronically on a computer workstation or other device.~~

~~(e) Meet the requirements for qualifying education established by the appraisal qualifications board of the appraisal foundation.~~

~~(f) Be equivalent to at least fifteen class hours.~~

~~(10) Courses that have received approval by the appraiser qualifications board of the appraisal foundation through the appraiser qualifications course approval program may be acceptable to the board without additional state review.~~

~~(11) Courses taken to satisfy the qualifying education requirements must not be repetitive. Uniform standards of professional appraisal practice courses taken in different years are not repetitive. Courses shall foster problem-solving skills in the education process by utilizing case studies as a major teaching method when applicable.~~

~~(12) Courses taken for the class hour requirement when an individual seeks a different classification than that held may also be counted for the continuing education requirement of the classification held.~~

~~(13) Credit toward qualifying education requirements may also be obtained by the completion of a degree in real estate from an accredited degree-granting college or university approved by the association to advance collegiate schools of business or a regional or national accreditation agency recognized by the United States secretary of education, provided that the college or university has had its curriculum reviewed and approved by the appraisal qualifications board.~~

~~(14) Applicants for the certified residential level who are awarded degrees from approved institutions are required to complete all additional education required for the permit in which the approved degree is judged to be deficient by the appraisal qualifications board.~~

~~(15) The~~In addition to the requirements set by the appraiser qualifications board of the appraisal foundation, an applicant for a certified residential appraiser permit must be familiar with North Dakota Century Code chapter 43-23.3 and North Dakota Administrative Code title 101.

~~(16) Experience may not be substituted for education.~~

6.4. Experience. A certified residential appraiser must have the equivalent of two thousand five hundred hours of credible appraisal experience prior to obtaining the certified residential appraiser certification permit. The experience requirements must be satisfied by time spent on the appraisal process. The appraisal process consists of analyzing factors that affect value,

~~defining the problem, gathering and analyzing data, applying the appropriate analysis and methodology, and arriving at an opinion and correctly reporting the data, analysis, and opinion in compliance with the uniform standards of professional appraisal practice.~~ The applicant for certified residential appraiser must submit a log from which ~~the board will select for review a minimum of three appraisals~~ a selection of reports will be reviewed. Collectively the reports must include and demonstrate competence and a working knowledge of all three approaches to value. The reports submitted must meet the current uniform standards of professional appraisal practice as of the effective date of the appraisal and must reflect that the applicant has an acceptable level of competency and understanding of the principles, practices, and procedures consistent with the body of knowledge for the certified residential level.

a. Adequate experience will be determined by the actual hours spent on an assignment, subject to a maximum established by the board.

(1) Maximum hours awarded are based on the types of appraisals performed and the types of properties appraised.

(2) ~~Types of appraisals performed include standard appraisal, review appraisal, and condemnation appraisal.~~

~~(a) A standard appraisal is the process of developing an appraisal using those methods commonly accepted by real estate appraisers as constituting the appraisal process and preparing a written appraisal report or file memorandum describing the appraisal and reporting the estimate of value. The appraisal process consists of an analysis of factors that affect value, definition of the problem, gathering and analyzing data, applying the appropriate value approaches and methodology, arriving at an opinion of value, and correctly reporting the opinion of value in compliance with the uniform standards of professional appraisal practice.~~

~~(b) A review appraisal is the process of critically reviewing an appraisal report prepared by another appraiser and preparing a separate written report or file memorandum setting forth the results of the review process. The review appraiser reviews the report and forms an opinion as to the adequacy of the report, the appropriateness of the methods used by the appraiser, and the reasonableness of the appraiser's conclusions. A review appraiser may or may not perform a field review. A field review includes inspecting the subject and comparables to verify data, to determine the appropriateness of the comparables selected and adjustments made, and to assist in determining the reasonableness of the value estimate. Review appraisal experience must conform to standard three of the uniform standards of professional appraisal practice. Review appraisal experience should be given credit to the extent that it demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing under applicable uniform standards of professional appraisal practice standards.~~

~~(c) A condemnation appraisal is an appraisal of real property for condemnation purposes, including situations where a partial taking is involved and the appraiser must develop both a before taking value estimate and an after taking value estimate. The appraiser uses those methods commonly accepted by real estate appraisers as constituting the appraisal process, including a field inspection and preparation of a written appraisal report or file memorandum describing the appraisal and reporting the before and after value estimates.~~

~~(3) Types of property appraised may include the following:~~



~~(a) Land may include farms of one hundred acres [40.47 hectares] or more in size, undeveloped tracts, residential multifamily sites, commercial sites, industrial sites, and land in transition.~~

~~(b) Residential multifamily, five-12 units may include apartments, condominiums, townhouses, and mobile home parks.~~

~~(c) Residential multifamily, thirteen-plus units may include apartments, condominiums, townhouses, and mobile home parks.~~

~~(d) Commercial single-tenant may include office building, retail store, restaurant, service station, bank, and day care center.~~

~~(e) Commercial multitenant may include office building, shopping center, and hotel.~~

~~(f) Industrial may include warehouse and manufacturing plant.~~

~~(g) Institutional may include rest home, nursing home, hospital, school, church, and government building.~~

~~(4) The number of allowable hours assigned for each appraisal type are assigned by the board and are included on the application for licensure and certification. A copy of this form can be obtained by contacting the board officer [referenced in paragraph 2 of subsection a of subsection 4 of section 101-02-05](#).~~

~~b. The two thousand five hundred hours of experience must be obtained using at least two years of appraisal practice gained over a period of at least twenty-four months.~~

~~c. There is no other time limit regarding when qualifying experience may be obtained.~~

~~d. Hours may be treated as cumulative in order to achieve the necessary two thousand five hundred hours of appraisal experience.~~

~~e. Acceptable appraisal experience includes the following:~~

~~(1) Fee and staff appraisal, ad valorem tax appraisal, condemnation appraisal, technical review appraisal, appraisal analysis, real estate consulting (excludes related fields such as real estate lending), highest and best use analysis, and feasibility analysis or study.~~

~~(a) Mass appraisal experience must conform to standard six of the uniform standards of professional appraisal practice. Mass appraisal experience claimed by the applicant should be given credit to the extent that it demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing under applicable uniform standards of professional appraisal practice standards.~~

~~(b) Review of real estate appraisals or real property consulting services, including market analysis, cash flow and investment analysis, and feasibility analysis must conform to standards three, four, and five of the uniform standards of professional appraisal practice. Experience involving these functions should be given credit to the extent that it demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing under standard one of the uniform standards of professional appraisal practice.~~

- ~~(c) A market analysis typically performed by a real estate broker or salesperson should be awarded experience credit when the analysis is prepared in conformity with standards one and two of the uniform standards of professional appraisal practice, and the individual can demonstrate that the individual is using techniques and methods consistent with those used by appraisers to value property and the individual is effectively utilizing the appraisal process.~~
- ~~(d) Real property appraisal experience should be awarded for appraisals of real estate components, estates, or interests unless the appraiser has not complied with standards one, two, and six of the uniform standards of professional appraisal practice.~~
- ~~(2) No more than two hundred fifty hours of the total experience credit may be in related areas. Related experience includes consulting.~~
- ~~f. Documentation in the form of reports, certifications, and file memoranda must be provided to support the experience claimed. If reports and memoranda are unavailable for good cause, the board may accept other evidence of compliance with the uniform standards of professional appraisal practice.~~
- ~~g. The verification for the two thousand five hundred hours of experience credit claimed by an applicant shall be on forms prescribed by the board which shall include all of the following:
  - ~~(1) Type of property.~~
  - ~~(2) Date of report.~~
  - ~~(3) Address of appraised property.~~
  - ~~(4) Description of work performed by the applicant and scope of the review and supervision of the supervising appraiser.~~
  - ~~(5) Number of actual hours on the assignment.~~
  - ~~(6) The signature and permit number of the supervising appraiser, if applicable.~~~~
- ~~h. Separate appraisal logs must be maintained for each supervising appraiser, if applicable.~~
- ~~i. There need not be a client in order for an appraisal to qualify for experience. Appraisals made without clients can fulfill up to fifty percent of the total experience requirement.~~
- ~~j. Case studies or practicum courses that are approved by the board or through the appraisal qualifications board of the appraisal foundation course approval program can satisfy the nonclient experience requirement.
  - ~~(1) A practicum course must include the generally applicable methods of appraisal practice for the permit category. Content includes all of the following:
    - ~~(a) Requiring the student to produce credible appraisals that utilize an actual subject property.~~
    - ~~(b) Performing market research containing sales analysis.~~
    - ~~(c) Applying and reporting the applicable appraisal approaches in conformity with the uniform standards of professional appraisal practice.~~~~~~

~~(2) Assignments must require problem-solving skills for a variety of property types for the permit category.~~

~~(3) Experience credit shall be granted for the actual class hours of instruction and hours of documented research and analysis as awarded from the practicum course approval process.~~

~~l. All experience must be obtained after January 30, 1989, and must be uniform standards of professional appraisal practice compliant, where the appraiser demonstrates proficiency in appraisal principles, methodology, procedures (development), and reporting conclusions.~~

~~m. After accumulating a minimum of fifty percent of the required appraisal experience, an applicant for certified residential may voluntarily submit work product to the board to be reviewed by a board reviewer for educational purposes only. A maximum of two reports~~One report may be submitted for review. The board will not initiate a complaint for violations identified in this review.

If the board determines the reviewed report meets the minimum requirements set forth in the uniform standards of professional appraisal practice and the applicant has an acceptable level of competency and understanding of the principles, practices, and procedures consistent with the body of knowledge for the certified residential level, the board may allow the applicant to use the educational review as part of the application process for certified residential.

**History:** Effective January 1, 2008; amended effective July 1, 2012; January 1, 2015; July 1, 2019.

**General Authority:** NDCC 43-23.3-03

**Law Implemented:** NDCC 43-23.3-03, 43-23.3-06, 43-23.3-07, 43-23.3-08, 43.23.3-09, 43-23.3-17, 43-23.3-18

#### **101-02-02-06. Certified general appraiser.**

1. **Definitions**Permit. A certified general appraiser permit must be issued to an individual who successfully meets all of the ~~board~~ requirements for such a permit.

Education, experience, and examination requirements for certified general are all set by the appraiser qualifications board. The board adopts these as its requirements for certified general. These requirements may be found in the "Real Property Appraiser Qualification Criteria and Interpretation of the Criteria, Effective May 1, 2018", appraiser qualifications board, appraisal foundation.

2. **Competency**Scope of practice. The certified general appraiser may appraise all types of properties. The certified general appraiser is bound by the competency provision of the uniform standards of professional appraisal practice.

~~3. **Background check.** An applicant for a certified general appraiser permit must undergo background screening to ensure that the applicant does not possess a background that could call into question public trust. The applicant shall submit fingerprints and any appropriate identifying information for submission to the federal bureau of investigation or government agency or entity authorized to receive such information in connection with a state and national background check.~~

~~a. All costs associated with obtaining a background check are the responsibility of the applicant.~~

~~b. An applicant will not be considered for a certified general permit if:~~

- ~~(1) The applicant has had an appraiser apprentice, license, or certification permit revoked in any governmental jurisdiction within the five-year period immediately preceding the date of application.~~
- ~~(2) The applicant has been convicted of, or pled guilty or nolo contendere to, a felony in domestic or foreign court:
  - ~~(a) During the five-year period immediately preceding the date of the application for licensing or certification.~~
  - ~~(b) At any time preceding the date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering.~~~~
- ~~(3) The applicant has failed to demonstrate character and general fitness, such as to command the confidence of the community and to warrant a determination that the appraiser will operate honestly, fairly, and efficiently within the purposes of these criteria.~~
- ~~c. The following additional background issues will be evaluated and considered prior to issuing a certified general permit:
  - ~~(1) Convictions of any criminal offense involving dishonesty, breach of trust, or money laundering against the applicant or organizations controlled by the applicant, or agreements to enter into a pretrial diversion or similar program in connection with the prosecution for such an offense.~~
  - ~~(2) Civil judicial actions against the individual in connection with financial services-related activities, dismissals with settlements, or judicial findings that the individual violated financial services-related statutes or regulations, except for actions dismissed without a settlement agreement.~~
  - ~~(3) Actions or orders by a state or federal regulatory agency or foreign financial regulatory authority that:
    - ~~(a) Found the applicant to have made a false statement or omission or been dishonest, unfair, or unethical; to have been involved in a violation of a financial services-related regulation or statute; or to have been a cause of a financial services-related business having its authorization to do business denied, suspended, revoked, or restricted.~~
    - ~~(b) Are entered against the applicant in connection with a financial services-related activity.~~
    - ~~(c) Denied, suspended, or revoked the applicant's apprentice, license, or certification permit to engage in a financial services-related business or restricted the applicant activities.~~
    - ~~(d) Barred the applicant from association with an entity or its officers regulated by the agency or authority of from engaging in a financial services-related business.~~~~
  - ~~(4) Final orders issued by a state or federal regulatory agency or foreign financial regulatory authority based on violations of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct.~~
  - ~~(5) Revocation or suspension of the applicant's authorization to act as an attorney, accountant, or state or federal contractor.~~~~

- ~~(6) Customer-initiated financial services-related arbitration or civil action against the applicant that required action, including settlements, or which resulted in a judgment.~~
- ~~4. **Examination.** An applicant for a certified general appraiser permit must have successfully completed the board approved uniform certification examination or its equivalent. There is no alternative to successful completion of the examination. Successful completion of the examination is valid for a period of twenty-four months. The certified general permit must be obtained within twenty-four months of successful completion of the examination or the examination must be retaken. An applicant for the uniform certified general examination shall furnish proof to the board that the applicant has:~~
- ~~a. Successfully completed the applicable education required by subsection 5.~~
  - ~~b. Met the applicable experience, in hours and years, as required by subsection 6.~~
- ~~5. **Education.** An applicant for a certified general appraiser permit shall meet all of the following education requirements: set by the appraiser qualifications board of the appraisal foundation.~~
- ~~a. A bachelor's degree or higher from an accredited college or university.~~
    - ~~(1) The college or university must be a degree-granting institution accredited by the commission on colleges, a regional or national accreditation association, or an accrediting agency that is recognized by the United States secretary of education. If the college or university accepts the college-level examination program and examinations, and issues a transcript for the examinations, showing its approval, it will be considered as credit for the college course. For college-level courses taken in a quarterly system, one-quarter credit hour is equivalent to two-thirds semester credit hour.~~
    - ~~(2) College-level education completed at a foreign college or university will be acceptable provided the education has been evaluated and deemed equivalent by one of the following:~~
      - ~~(a) An accredited degree-granting domestic college or university.~~
      - ~~(b) The American association of collegiate registrars and admissions officers.~~
      - ~~(c) A foreign degree credential evaluation service company that is a member of the national association of credential evaluation services.~~
      - ~~(d) A foreign degree credential valuation service company that provides equivalency evaluation reports accepted by an accredited degree-granting domestic college or university or by a state licensing board that issues credentials in another discipline.~~
  - ~~b. In addition to a bachelor's degree or higher, an applicant for certified general must complete three hundred class hours in subjects related to real estate appraisal which cover the required core curriculum as established by the appraisal qualifications board of the appraisal foundation, and approved as such, by the board.~~
    - ~~(1) Coverage must include a minimum of all of the following:~~
      - ~~(a) Thirty hours of basic appraisal principles.~~
      - ~~(b) Thirty hours of basic appraisal procedures.~~

- ~~(c) The fifteen-hour national uniform standards of appraisal practice course or its equivalent.~~
- ~~(d) Thirty hours of general appraiser market analysis and highest and best use.~~
- ~~(e) Fifteen hours of statistics, modeling, and finance.~~
- ~~(f) Thirty hours of general appraiser sales comparison approach.~~
- ~~(g) Thirty hours general appraiser site valuation and cost approach.~~
- ~~(h) Sixty hours of general appraiser income approach.~~
- ~~(i) Thirty hours of general appraiser report writing and case studies.~~
- ~~(j) Thirty hours of appraisal subject matter electives.~~

~~[1] An apprentice appraiser may satisfy the educational requirements for the certified general level by completing the following additional educational hours:~~

- ~~[a] Thirty hours of general appraiser market analysis and highest and best use.~~
- ~~[b] Fifteen hours of statistics, modeling, and finance.~~
- ~~[c] Thirty hours of general appraiser sales comparison approach.~~
- ~~[d] Thirty hours of general appraiser site valuation and cost approach.~~
- ~~[e] Sixty hours of general appraiser income approach.~~
- ~~[f] Thirty hours of general appraiser report writing and case studies.~~
- ~~[g] Thirty hours of appraisal subject matter electives.~~

~~[2] A licensed appraiser may satisfy the educational requirements for the certified general level by completing the following additional educational hours:~~

- ~~[a] Fifteen hours of general appraiser market analysis and highest and best use.~~
- ~~[b] Fifteen hours of statistics, modeling, and finance.~~
- ~~[c] Fifteen hours of general appraiser sales comparison approach.~~
- ~~[d] Fifteen hours of general appraiser site valuation and cost approach.~~
- ~~[e] Forty-five hours of general appraiser income approach.~~
- ~~[f] Fifteen hours of general appraiser report writing and case studies.~~
- ~~[g] Thirty hours of appraisal subject matter electives.~~

~~[3] A certified residential appraiser may satisfy the educational requirements for the certified general level by completing the following additional educational hours:~~



~~[a] Fifteen hours of general appraiser market analysis and highest and best use.~~

~~[b] Fifteen hours of general appraiser sales comparison approach.~~

~~[c] Fifteen hours of general appraiser site valuation and cost approach.~~

~~[d] Forty-five hours of general appraiser income approach.~~

~~[e] Ten hours of general appraiser report writing and case studies.~~

~~(2) Class hours will be credited only for educational offerings with content that follows the required core curriculum.~~

~~(3) A class hour is defined as sixty minutes, of which at least fifty minutes are for instruction attended by the student.~~

~~(4) Credit toward the class hour requirement may only be granted when the length of the educational offering is at least fifteen hours, and the individual successfully completes a closed-book examination pertinent to that educational offering.~~

~~(5) The prescribed number of class hours includes time for examinations.~~

~~(6) Uniform standards of professional appraisal practice education credit shall only be awarded when the class is instructed by at least one appraisal qualifications board-certified instructor who is state-certified.~~

~~(7) Credit for the class requirement may be obtained from the following:~~

~~(a) Colleges or universities.~~

~~(b) Community or junior colleges.~~

~~(c) Real estate appraisal or real estate-related organizations.~~

~~(d) State or federal agencies or commissions.~~

~~(e) Proprietary schools.~~

~~(f) Providers approved by the board.~~

~~(g) The appraisal foundation or its boards.~~

~~(8) There is no time limit regarding when qualifying education credit must have been obtained.~~

~~(9) All hours may be by distance education. Distance education is an educational process in which the student and instructor are geographically separated. Distance education includes online learning, internet-based instruction, CD-ROM instruction, correspondence courses, and videoconferencing. An acceptable distance education course must meet all of the following requirements:-~~

~~(a) Provide interaction between the student and the instructor. Interaction is a reciprocal environment where the student has verbal or written communication with the instructor.~~

~~(b) Be approved for content by the board, the appraisal qualifications board of the appraisal foundation, or an accredited college, community college, or university, that offers distance education programs and is approved or~~

~~accredited by the commission on colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the United States secretary of education. Nonacademic credit college courses provided by a college shall be approved by the appraisal qualifications board of the appraisal foundation or the board.~~

~~(c) Obtain course delivery mechanism approval from one of the following sources:~~

~~[1] Appraisal qualifications board-approved organizations providing approval of course design and delivery.~~

~~[2] A college that qualifies for content approval in subparagraph b that awards academic credit for the distance education course.~~

~~[3] A qualifying college or university for content approval with a distance education delivery program that approves the course design and delivery that incorporates interactivity.~~

~~(d) Require the student to successfully complete a written examination proctored by an official approved by the presenting, college, university, or sponsoring organization. Written examination refers to an examination written on paper or administered electronically on a computer workstation or other device.~~

~~(e) Meet the requirements for qualifying education established by the appraisal qualifications board of the appraisal foundation.~~

~~(f) Be equivalent to at least fifteen class hours.~~

~~(10) Courses that have received approval by the appraiser qualifications board of the appraisal foundation through the appraiser qualifications course approval program may be acceptable to the board without additional state review.~~

~~(11) Courses taken to satisfy the qualifying education requirements must not be repetitive. Uniform standards of professional appraisal practice courses taken in different years are not repetitive. Courses shall foster problem-solving skills in the education process by utilizing case studies as a major teaching method when applicable.~~

~~(12) Courses taken for the class hour requirement when an individual seeks a different classification than that held may also be counted for the continuing education requirement of the classification held.~~

~~(13) Credit toward qualifying education requirements may also be obtained by the completion of a degree in real estate from an accredited degree-granting college or university approved by the association to advance collegiate schools of business or a regional or national accreditation agency recognized by the United States secretary of education, provided that the college or university has had its curriculum reviewed and approved by the appraisal qualifications board.~~

~~(14) Applicants for the certified general level who are awarded degrees from approved institutions are required to complete all additional education required for the permit in which the approved degree is judged to be deficient by the appraisal qualifications board.~~

~~(15) TheIn addition to the requirements set by the appraiser qualifications board of the appraisal foundation, an applicant for a certified general appraiser permit must be~~



familiar with North Dakota Century Code chapter 43-23.3 and North Dakota Administrative Code title 101.

~~(16) Experience may not be substituted for education.~~

~~6.4. Experience. A certified general appraiser must have the equivalent of three thousand hours of credible appraisal experience prior to obtaining the certified general appraiser certification permit. The experience requirements must be satisfied by time spent on the appraisal process. The appraisal process consists of analyzing factors that affect value, defining the problem, gathering and analyzing data, applying the appropriate analysis and methodology, and arriving at an opinion and correctly reporting the data, analysis, and opinion in compliance with the uniform standards of professional appraisal practice. The applicant for certification must submit a log from which the board will select for review a minimum of three nonresidential appraisals. A selection of reports will be reviewed.~~ Collectively the reports must include and demonstrate competence and a working knowledge of all three approaches to value. The reports submitted must meet the current uniform standards of professional appraisal practice as of the effective date of the appraisal and must reflect that the applicant has an acceptable level of competency and understanding of the principles, practices, and procedures consistent with the body of knowledge for the certified general level.

- a. Adequate experience will be determined by the actual hours spent on an assignment, subject to a maximum established by the board.
  - (1) Maximum hours awarded are based on the types of appraisals performed and the types of properties appraised.
  - (2) ~~Types of appraisals performed include standard appraisal, review appraisal, and condemnation appraisal.~~

~~(a) A standard appraisal is the process of developing an appraisal using those methods commonly accepted by real estate appraisers as constituting the appraisal process and preparing a written appraisal report or file memorandum describing the appraisal and reporting the estimate of value. The appraisal process consists of an analysis of factors that affect value, definition of the problem, gathering and analyzing data, applying the appropriate value approaches and methodology, arriving at an opinion of value, and correctly reporting the opinion of value in compliance with the uniform standards of professional appraisal practice.~~

~~(b) A review appraisal is the process of critically reviewing an appraisal report prepared by another appraiser and preparing a separate written report or file memorandum setting forth the results of the review process. The review appraiser reviews the report and forms an opinion as to the adequacy of the report, the appropriateness of the methods used by the appraiser, and the reasonableness of the appraiser's conclusions. A review appraiser may or may not perform a field review. A field review includes inspecting the subject and comparables to verify data, to determine the appropriateness of the comparables selected and adjustments made, and to assist in determining the reasonableness of the value estimate. Review appraisal experience must conform to standard three of the uniform standards of professional appraisal practice. Review appraisal experience should be given credit to the extent that it demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing under applicable uniform standards of professional appraisal practice standards.~~

~~(c) A condemnation appraisal is an appraisal of real property for condemnation purposes, including situations where a partial taking is involved and the appraiser must develop both a before taking value estimate and an after taking value estimate. The appraiser uses those methods commonly accepted by real estate appraisers as constituting the appraisal process including a field inspection and preparation of a written appraisal report or file memorandum describing the appraisal and reporting the before and after value estimates.~~

~~(3) Types of property appraised may include the following:~~

~~(a) Land may include farms of one hundred acres [40.47 hectares] or more in size, undeveloped tracts, residential multifamily sites, commercial sites, industrial sites, and land in transition.~~

~~(b) Residential multifamily, five-12 units may include apartments, condominiums, townhouses, and mobile home parks.~~

~~(c) Residential multifamily, thirteen-plus units may include apartments, condominiums, townhouses, and mobile home parks.~~

~~(d) Commercial single-tenant may include office building, retail store, restaurant, service station, bank, and day care center.~~

~~(e) Commercial multitenant may include office building, shopping center, and hotel.~~

~~(f) Industrial may include warehouse and manufacturing plant.~~

~~(g) Institutional may include rest home, nursing home, hospital, school, church, and government building.~~

~~(4) The number of allowable hours assigned for each appraisal type are assigned by the board and are included on the application for licensure or certification. A copy of this form can be obtained by contacting the board office [referenced in paragraph 2 of subdivision a of subsection 4 of section 101-02-02-05](#).~~

~~b. The three thousand hours of experience must be obtained using at least two and one-half years of appraisal practice gained over a period of at least thirty months.~~

~~c. There is no other time limit regarding when qualifying experience may be obtained.~~

~~d. Hours may be treated as cumulative in order to achieve the necessary three thousand hours of appraisal experience.~~

~~e. Acceptable appraisal experience includes the following:~~

~~(1) Fee and staff appraisal, ad valorem tax appraisal, condemnation appraisal, technical review appraisal, appraisal analysis, real estate consulting (excludes related fields such as real estate lending), highest and best use analysis, and feasibility analysis or study.~~

~~(a) Mass appraisal experience must conform to standard six of the uniform standards of professional appraisal practice. Mass appraisal experience claimed by the applicant should be given credit to the extent that it demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing under applicable uniform standards of professional appraisal practice standards.~~

- ~~(b) Review of real estate appraisals or real property consulting services, including market analysis, cash flow and investment analysis, and feasibility analysis must conform to standards three, four, and five of the uniform standards of professional appraisal practice. Experience involving these functions should be given credit to the extent that it demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing under standard one of the uniform standards of professional appraisal practice.~~
- ~~(c) A market analysis typically performed by a real estate broker or sales person should be awarded experience credit when the analysis is prepared in conformity with standards one and two of the uniform standards of professional appraisal practice, the individual can demonstrate that the individual is using techniques and methods consistent with those used by appraisers to value property and the individual is effectively utilizing the appraisal process.~~
- ~~(d) Real property appraisal experience should be awarded for appraisals of real estate components, estates, or interests unless the appraiser has not complied with standards one, two, and six of the uniform standards of professional appraisal practice.~~
- ~~(2) No more than three hundred hours of the total experience credit may be in related areas. Related experience includes consulting.~~
- ~~f. Documentation in the form of reports, certifications, and file memoranda must be provided to support the experience claimed. If reports and file memoranda are unavailable for good cause, the board may accept other evidence of compliance with the uniform standards of professional appraisal practice.~~
- ~~g. The verification for the three thousand hours of experience credit claimed by an applicant shall be on forms prescribed by the board which shall include all of the following:
  - ~~(1) Type of property.~~
  - ~~(2) Date of report.~~
  - ~~(3) Address of appraised property.~~
  - ~~(4) Description of work performed by the applicant and scope of the review and supervision of the supervising appraiser.~~
  - ~~(5) Number of actual work hours on the assignment.~~
  - ~~(6) The signature and permit number of the supervising appraiser, if applicable.~~~~
- ~~h. Separate appraisal logs must be maintained for each supervising appraiser, if applicable.~~
- ~~i. The applicant must have at least fifty percent of nonresidential appraisal experience. Residential is defined as one-unit to four-unit residential units.~~
- ~~j. There need not be a client in order for an appraisal to qualify for experience. Appraisals made without clients can fulfill up to fifty percent of the total experience requirement.~~
- ~~k. Case studies or practicum courses that are approved by the board or through the appraisal qualifications board of the appraisal foundation course approval program can satisfy the nonclient experience requirement.
  - ~~(1) A practicum course must include the generally applicable methods of appraisal practice for the permit category. Content includes all of the following:~~~~

- ~~(a) Requiring the student to produce credible appraisals that utilize an actual subject property.~~
- ~~(b) Performing market research containing sales analysis.~~
- ~~(c) Applying and reporting the applicable appraisal approaches in conformity with the uniform standards of professional appraisal practice.~~
- ~~(2) Assignments must require problem-solving skills for a variety of property types for the permit category.~~
- ~~(3) Experience credit shall be granted for the actual class hours of instruction and hours of documented research and analysis as awarded from the practicum course approval process.~~
- ~~i. All experience must be obtained after January 30, 1989, and must be uniform standards of professional appraisal practice compliant, where the appraiser demonstrates proficiency in appraisal principles, methodology, procedures (development), and reporting conclusions.~~
- ~~m. After accumulating a minimum of fifty percent of the required appraisal experience, an applicant for certified general may voluntarily submit work product to the board to be reviewed by a board reviewer for educational purposes only. ~~A maximum of two reports~~ One report may be submitted for review during the experience portion of the certification process. The board will not initiate a complaint for violations identified in this review.~~

If the board determines the reviewed report meets the minimum requirements set forth in the uniform standards of professional appraisal practice and the applicant has an acceptable level of competency and understanding of the principles, practices, and procedures consistent with the body of knowledge for the certified general level, the board may allow the applicant to use the educational review as part of the application process for certified general.

**History:** Effective October 1, 1992; amended effective January 1, 1995; October 1, 1998; February 1, 2003; January 1, 2008; July 1, 2012; January 1, 2015; July 1, 2019.

**General Authority:** NDCC 43-23.3-03, 43-23.3-09

**Law Implemented:** NDCC 43-23.3-03, 43-23.3-06, 43-23.3-07, 43-23.3-08, 43-23.3-09, 43-23.3-17, 43-23.3-18

## CHAPTER 101-02-04

### 101-02-04-01. Permit renewal.

1. All permits expire on December thirty-first of each year.
2. A holder of an appraiser permit desiring the renewal of such permit shall, during the month preceding the expiration date of such permit, ~~apply for same in writing upon a form approved by the board and shall forward~~ make application and pay the required fee. ~~Forms are available upon request to the board.~~
3. Permits may be renewed up to ninety days after the date of expiration, with payment of late fee. The applicant who does not file a renewal application by the ninety-day deadline is subject to all requirements governing new applicants.
4. A person who, in any way, acts as an apprentice, licensed, or certified appraiser while that individual's permit is expired will be subject to disciplinary action and penalties as described in North Dakota Century Code chapter 43-23.3.

**History:** Effective October 1, 1992; amended effective February 1, 2003; January 1, 2008; July 1, 2012; January 1, 2015; July 1, 2019.

**General Authority:** NDCC 43-23.3-03

**Law Implemented:** NDCC 43-23.3-12, 43-23.3-23

## CHAPTER 101-03-01

### 101-03-01-02. Standards of appraisal practice requirements.

The board adopts as its standards of appraisal practice requirements the standards of professional appraisal practice and ethical rules specified by the uniform standards of professional appraisal practice and all other standards and ethical requirements adopted by the appraisal foundation, effective January 1, 2018.

**History:** Effective January 1, 1995; amended effective July 1, 2019.

**General Authority:** NDCC 43-23.3-03

**Law Implemented:** NDCC 43-23.3-18

## CHAPTER 101-03.1-03

### 101-03.1-03-01. Complaint procedure.

Any person may file ~~a complaint~~an allegation with the board seeking disciplinary action against the holder of a permit issued by the board. The complainant shall submit a written statement describing the nature of the ~~complaint~~allegation and the facts supporting the ~~complaint~~allegation. The ~~complaint~~allegation must be signed and include the address or telephone number at which the complainant can be contacted. The board may initiate the allegation process and investigate ~~a complaint~~an allegation on its own motion, or may review and reject or initiate the allegation process based on an anonymous allegation.

**History:** Effective January 1, 1995; amended effective February 1, 2003; November 19, 2003; January 1, 2008; July 1, 2019.

**General Authority:** NDCC 43-23.3-03

**Law Implemented:** NDCC 43-23.3-03, 43-23.3-22

## CHAPTER 101-04-01

### 101-04-01-01. Continuing education requirements.

1. ~~**Purpose.** The purpose of continuing education is to ensure that the appraiser participates in a program that maintains and increases that individual's skill, knowledge, and competency in real estate appraising.~~

~~2. **Requirements.** All apprentice, licensed, and certified permittees must meet a minimum level of continuing education. This~~Continuing education shall be established by the "Real Property Appraiser Qualification Criteria and Interpretation of the Criteria, Effective May 1, 2018", appraiser qualifications board, appraisal foundation, with the exception that the board has set the minimum level ~~has been set~~ at twenty-eight hours over a two-year education renewal period. Of the twenty-eight hours, appraisers must complete the seven-hour national uniform standards of professional appraisal practice update course, or its equivalent, every two years. Equivalency must be determined through the appraisal qualifications board course approval program or by an alternate method approved by the appraisal qualifications board. Fourteen hours of the twenty-eight hours must include appraisal-specific education related to the valuation of real estate, and seven hours may be comprised of appraisal-related subject matter, approved as such by the board.

a. The necessary twenty-eight hours may be obtained at any time during the two-year renewal period, except for the required national uniform standards of professional appraisal practice requirement.

b. Verification of the necessary twenty-eight hours must be submitted by the end of the two-year renewal period.

~~c. Uniform standards of professional practice (USPAP) continuing education credit shall only be awarded when the class is instructed by at least one appraisal qualifications board-certified instructor who is state-certified.~~

~~d.~~ All continuing education courses taken in this state must be approved by the board.

~~e.~~d. Courses taken out of this state may be approved for credit, provided the state in which the course was taken has approved the course for appraiser education.

~~f.~~e. A course which has not had prior approval may be approved on an individual basis.

~~g.~~ All continuing education must be taken in blocks of at least two hours.

~~h.~~ A class hour is defined as fifty minutes out of each sixty-minute segment.

~~i.~~ With the exception of distance education, no examination is required for continuing education courses.

~~j.~~ Credit for the class requirement may be obtained from the following:

~~(1) Colleges or universities.~~

~~(2) Community or junior colleges.~~

~~(3) Real estate appraisal or real estate-related organizations.~~

~~(4) State or federal agencies or commissions.~~

~~(5) Proprietary schools.~~



- ~~(6) Other providers approved by the board.~~
- ~~k. Credit may be granted for education offerings which are consistent with the purpose of continuing education stated in subsection 1 and cover real estate-related appraisal topics such as:
  - ~~(1) Ad valorem taxation.~~
  - ~~(2) Arbitration and dispute resolution.~~
  - ~~(3) Courses related to practice of real estate appraisal or consulting.~~
  - ~~(4) Development cost estimating.~~
  - ~~(5) Ethics and standards of professional practice.~~
  - ~~(6) Land use planning and zoning.~~
  - ~~(7) Management, leasing, and timesharing.~~
  - ~~(8) Property development and partial interests.~~
  - ~~(9) Real estate law, easements, and legal interests.~~
  - ~~(10) Real estate litigation, damages, and condemnation.~~
  - ~~(11) Real estate financing and investment.~~
  - ~~(12) Real estate appraisal-related computer applications.~~
  - ~~(13) Real estate securities and syndications.~~
  - ~~(14) Developing opinions or real property value in appraisals that also include personal property and business value.~~
  - ~~(15) Seller concessions and impact on value.~~
  - ~~(16) Energy efficient items and green building appraisals.~~~~
- ~~l. A professional real estate appraisal organization meeting may be granted credit, provided it is a formal education program of learning which contributes to the real estate appraisal profession.~~
- m.f.** **ThreeFour** hours of continuing education credit, per continuing education cycle, may be granted for attendance at a face-to-face meeting of the board of at least **threefour** hours. The attendee must attend the meeting in its entirety.
- ~~n. Real estate appraisal-related field trips may be granted credit. However, transit time to or from the field trip location should not be included when awarding credit if instruction does not occur.~~
- ~~o. Up to one-half of an individual's continuing education credit may be granted for participation, other than as a student in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities which are determined to be equivalent to obtaining continuing education. Teaching of a course with the same, or substantially the same subject content may be claimed only once for credit within a two-year renewal cycle.~~

~~p. Continuing education credit may be granted for distance education. Distance education is defined as any educational process based on the geographical separation of instructor and student. Distance education includes CD-ROM instruction, online learning, internet-based instruction, correspondence courses, and videoconferencing. Acceptable distance education courses must meet all of the following requirements:~~

~~(1) Provide interaction between the student and the instructor. Interaction is a reciprocal environment where the student has verbal or written communication with the instructor.~~

~~(2) Be approved for content by the board, the appraisal qualifications board of the appraisal foundation, or an accredited college, community college, or university, that offers distance education programs and is approved or accredited by the commission on colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the United States secretary of education. Nonacademic credit college courses provided by a college shall be approved by the appraisal qualifications board of the appraisal foundation or the board.~~

~~(3) Be approved for delivery mechanism by one of the following sources:~~

~~(a) Appraiser qualifications board-approved organizations providing approval of course design and delivery.~~

~~(b) A college that qualifies for content approval in paragraph 2 and that awards academic credit for the distance education course.~~

~~(c) A qualifying college for content approval with a distance education delivery program that approves the course design and delivery that incorporates interactivity.~~

~~(4) Be equivalent to a minimum of two class hours in length and meet the requirements for real estate appraisal-related courses established by the appraiser qualifications board.~~

~~(5) If intended for use as continuing education, include at least one of the following:~~

~~(a) The student successfully completes a written examination proctored by an official approved by the presenting college or university or by the sponsoring organization.~~

~~(b) The student successfully completes the prescribed course mechanisms required to demonstrate knowledge of the subject matter.~~

~~q. A course with the same or substantially the same subject content may be claimed only once for credit within a two-year renewal cycle.~~

~~r. Excess hours of education earned in one renewal period cannot be carried over to the next renewal period.~~

~~s.g. Courses that have received approval by the appraiser qualifications board of the appraisal foundation through the appraiser qualifications course approval program may be accepted by the board without additional state review.~~

~~t. Courses that are taken as a result of a disciplinary action may not be credited toward continuing education.~~

- ~~u. Courses taken for the class hour requirement when an individual seeks a different classification than that held may be simultaneously counted for the continuing education requirement of the classification held.~~
- ~~v. Appraisers are required to complete continuing education for a partial year in a continuing education cycle as follows:~~
  - ~~(1) For continuing education cycle periods of one hundred eighty-five days or more, fourteen hours of continuing education are required.~~
  - ~~(2) For continuing education cycle periods of less than one hundred eighty-five days, no continuing education is required.~~

**History:** Effective October 1, 1992; amended effective October 1, 1998; February 1, 2003; January 1, 2008; July 1, 2012; January 1, 2015; [July 1, 2019](#).

**General Authority:** NDCC 43-23.3-12, 43-23.3-19

**Law Implemented:** NDCC 43-23.3