

**RULES
OF
STATE BOARD OF ARCHITECTURAL AND
ENGINEERING EXAMINERS**

**CHAPTER 0120-02
RULES OF PROFESSIONAL CONDUCT**

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0120-02-.01 APPLICABILITY.

- (1) The provisions of this chapter shall apply to any person registered to practice architecture, engineering or landscape architecture in this State and to any partnership or corporation engaged in the practice of architecture, engineering or landscape architecture in this State. For the purpose of this chapter, unless the context otherwise requires, the word "registrant" includes any such person, partnership or corporation.
- (2) In addition, rule 0120-02-.09 CIVIL PENALTIES, paragraphs (2) through (4), shall apply to any person required to be registered to practice architecture, engineering or landscape architecture in this State, regardless of whether such person has actually obtained registration.

Authority: *T.C.A. §§56-1-308 and 62-2-203(c).* **Administrative History:** *Original rule was certified May 3, 1974. Amendment filed April 15, 1980; effective May 30, 1980. Amendment filed December 9, 1991; effective January 23, 1992.*

0120-02-.02 PROPER CONDUCT OF PRACTICE.

- (1) The registrant shall at all times recognize the primary obligation to protect the safety, health and welfare of the public in the performance of the registrant's professional duties.
- (2) If the registrant becomes aware of a decision taken by an employer, client, or contractor, against the registrant's advice, which violates applicable Federal, State or Local building Laws and Regulations or which may affect adversely the safety to the public, the registrant shall:
 - (a) Report the decision to the local building inspector or other public official charged with the enforcement of the applicable Federal, State or Local building Laws and Regulations;
 - (b) Refuse to consent to the decision; and
 - (c) In circumstances where the registrant reasonably believes that other such decisions will be taken notwithstanding the registrant's objections, terminate services with reference to the project.
- (3) A registrant possessing knowledge of a violation of *T.C.A. Title 62, chapter 2*, or this chapter, shall report such knowledge to the Board in writing and shall cooperate with the Board in furnishing such further information or assistance as it may require.

(Rule 0120-02-.02, continued)

- (4) The registrant shall maintain the continuing education records required by rule 0120-05-.10 RECORDS for a period of four (4) years and shall furnish such records to the Board for audit verification purposes within thirty (30) days of the Board's request.
- (5) A registrant possessing knowledge of an applicant's qualifications for registration shall respond in writing to the Board regarding those qualifications when requested to do so by the Board.

Authority: T.C.A. §§62-2-203(c) and (d) and 62-204. **Administrative History:** Original rule certified May 3, 1974. Repeal and new rule filed January 14, 1980; effective February 28, 1980. Amendment filed January 29, 1987; effective March 15, 1987. Amendment filed July 19, 2002; effective October 2, 2002. Amendment filed September 11, 2009; effective December 10, 2009.

0120-02-.03 SERVICE IN AREAS OF COMPETENCE.

- (1) The registrant shall perform his services only in areas of his competence. The registrant shall undertake to perform professional assignments only when qualified by education or experience in the specific technical field involved.
- (2) The registrant may accept an assignment requiring education or experience outside of his own field of competence, but only to the extent that his services are restricted to those phases of the project in which he is qualified. All other phases of such project shall be performed by qualified associates, consultants or employees.
- (3) The registrant shall not affix his signature and/or seal to any plan or document dealing with subject matter in which he lacks competence acquired through education or experience, nor to any plan or document not prepared by him or under his responsibility.
- (4) In the event a question as to the competence of a registrant to perform a professional assignment in a specific technical field arises and cannot be otherwise resolved to the satisfaction of the Board of Examiners for Architects and Engineers, the Board, upon request of the registrant or by its own volition, may require him to submit to whatever examination it deems appropriate.
- (5) In providing services, the registrant shall take into account all applicable Federal, State and Local building Laws and Regulations. The registrant shall not knowingly provide services resulting in violation of such laws and regulations.
- (6) Incompetence. The following acts or omissions, among others, may be deemed to be "incompetence" pursuant to T.C.A. §62-2-308(a)(1)(B), and to be cause for denial, suspension or revocation of a certificate of registration to practice architecture, engineering or landscape architecture and/or the imposition of any other lawful discipline:
 - (a) Malpractice. Incompetence includes, but is not limited to, recklessness, or excessive errors, omissions or building failures in the registrant's record of professional practice.
 - (b) Disability. Incompetence includes, but is not limited to, mental or physical disability or addiction to alcohol or drugs which leads to the impairment of the registrant's ability to exercise due skill and care in providing professional services so as to endanger the health, safety and welfare of the public.

Authority: T.C.A. §§62-2-203(c), 62-204, 62-2-308, and Public Acts of 1979, Chapter 263. **Administrative History:** Original rule certified May 3, 1974. Amendment filed July 27, 1977; effective August 26, 1977. Amendment filed April 15, 1980; effective May 30, 1980. Amendment filed January 29, 1987; effective March 15, 1987. Amendment filed February 26, 1999; May 12, 1999.

0120-02-.04 PUBLIC STATEMENTS.

- (1) The registrant shall be completely objective and truthful in all professional reports, statements or testimony. He shall include all relevant and pertinent information in such reports, statements or testimony.
- (2) The registrant, when serving as an expert or technical witness before any court, commission or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of his testimony.
- (3) The registrant will issue no statements, criticisms or arguments on professional matters connected with public policy which are inspired or paid for by an interested party or parties, unless he has prefaced his comment by explicitly identifying himself, by disclosing the identity of the party or parties on whose behalf he is speaking, and by revealing the existence of any pecuniary interest he may have in the instant matter.

Authority: T.C.A. §62-204. **Administrative History:** Original rule certified May 3, 1974. Amendment filed July 27, 1977; effective August 26, 1977. Repeal and new rule filed January 14, 1980; effective February 28, 1980. Amendment filed January 29, 1987; effective March 15, 1987.

0120-02-.05 CONFLICTS OF INTEREST.

- (1) The registrant shall conscientiously strive to avoid conflicts of interest with his employer or his client; but, when such conflict is unavoidable, the registrant shall forthwith disclose the circumstances to his employer or client in writing.
- (2) The registrant shall avoid all known conflicts of interest with his employer or client, and shall promptly inform his employer or client in writing of any business association, interests or circumstances which could influence his judgment or the quality of his services.
- (3) The registrant shall not accept compensation (financial or otherwise) from more than one (1) party for services on or pertaining to the same project unless the circumstances are agreed to in writing by all interested parties prior to the acceptance of any such compensation.
- (4) The registrant shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying their products.
- (5) A registrant may be deemed by the Board to be guilty of misconduct in his professional practice if:
 - (a) He has pleaded guilty or nolo contendere to or is convicted in a court of competent jurisdiction of a felony;
 - (b) His license or certificate of registration to practice architecture, engineering or landscape architecture in another jurisdiction is revoked, suspended or voluntarily surrendered as a result of disciplinary proceedings;
 - (c) He has been certified by the department of human services as not being in compliance with an order of support pursuant to T.C.A. §§36-5-705 – 36-5-709; or
 - (d) He has been delinquent in the payment of the professional privilege tax pursuant to T.C.A. §§67-4-1702 – 67-4-1704.

(Rule 0120-02-.05, continued)

- (6) When in public service as a member, advisor or employee of a governmental body or department, the registrant shall not participate in considerations or actions with respect to services provided by him or his organization in private professional practices.
- (7) The registrant shall not solicit or accept any contract from a governmental body on which he, or a principal or officer of his organization, serves as a member.
- (8) When acting as the interpreter of construction contract documents and the judge of construction contract performance, the registrant shall render decisions impartially, favoring neither party to the construction contract.

Authority: T.C.A. §§ 36-5-706, 62-2-203(c), 62-2-308 and 67-4-1704. **Administrative History:** Original rule certified May 3, 1974. Repeal and new rule filed January 14, 1980; effective February 28, 1980. Amendment filed January 29, 1987; effective March 15, 1987. Amendment filed March 9, 2007; effective May 23, 2007. Amendments filed September 16, 2008; effective November 30, 2008.

0120-02-.06 ACCEPTANCE OF WORK.

- (1) The registrant shall not offer to pay, either directly or indirectly, any commission, political contribution, or a gift or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies.
- (2) The registrant shall not falsify or permit misrepresentation of his or his associates' academic or professional qualifications. He shall not misrepresent or exaggerate his degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employer, employees, associates, joint ventures or his or their past accomplishments with the intent and purpose of enhancing his qualifications and his work.
- (3) The registrant shall not request, propose, or accept a professional commission on a contingent basis under circumstances in which his professional judgment may be compromised.

Authority: T.C.A. §62-204. **Administrative History:** Original rule certified May 3, 1974. Amendment filed July 27, 1977; effective August 26, 1977. Repeal and new rule filed January 14, 1980; effective February 28, 1980.

0120-02-.07 MISCONDUCT.

- (1) The registrant shall not knowingly associate with, or permit the use of his name or firm name in, a business venture by any person or firm which he knows, or has reason to believe, is engaging in business or professional practice of a fraudulent or dishonest nature.
- (2) The registrant shall not furnish limited services in such a manner as to enable unregistered persons to evade:
 - (a) Federal, State and Local building laws and regulations, including building permit requirements; or
 - (b) Registration requirements of T.C.A. Title 62, chapter 2.
- (3) The registrant may not take over, review, revise, or sign or seal drawings or revisions thereof when such plans are begun by persons not properly registered and qualified; or do any other act to enable either such persons or the project owners, directly or indirectly, to evade the registration requirements of T.C.A. Title 62, Chapter 2.

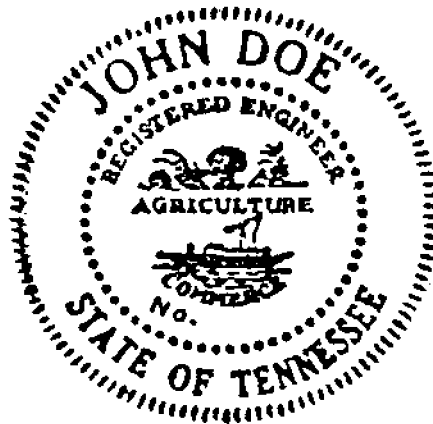
(Rule 0120-02-.07, continued)

- (4) The registrant may not make or promise to make contributions of money for the purpose of securing a commission or influencing the engagement or employment of the registrant for a project.
- (5) A registrant may be deemed by the Board to be guilty of misconduct in his professional practice if:
 - (a) He has pleaded guilty or nolo contendere to or is convicted in a court of competent jurisdiction of a felony;
 - (b) His license or certificate of registration to practice architecture, engineering or landscape architecture in another jurisdiction is revoked, suspended or voluntarily surrendered as a result of disciplinary proceedings;
 - (c) He has been certified by the department of human services as not being in compliance with an order of support pursuant to T.C.A. §§ 36-5-705 – 36-5-709; or
 - (d) He has been delinquent in the payment of the professional privilege tax pursuant to T.C.A. §§ 67-4-1702 – 67-4-1704.

Authority: T.C.A. §§62-2-203(c), 62-204, 62-212, and 62-2-308. **Administrative History:** Original rule certified May 3, 1974. Amendment filed April 15, 1980; effective May 30, 1980. Amendment filed November 18, 1983; effective December 18, 1983. Amendment filed January 29, 1987; effective March 15, 1987. Amendment filed February 26, 1999; effective May 12, 1999. Amendment filed March 9, 2007; effective May 23, 2007.

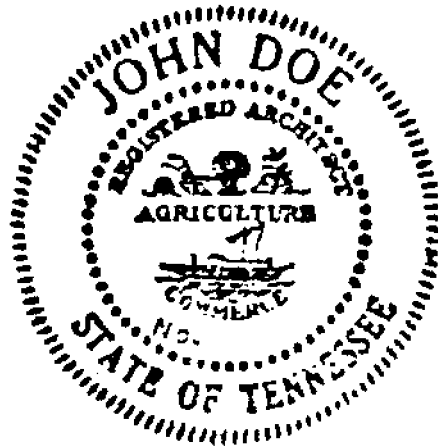
0120-02-.08 SEALS.

- (1) The design of the registrant’s seal required by T.C.A. §62-2-306, shall be as follows:
 - (a) Engineer:

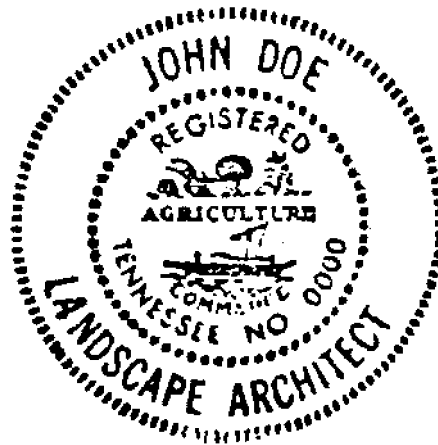


- (b) Architect:

(Rule 0120-02-.08, continued)



(c) Landscape Architect:



- (2) The registrant shall stamp with his seal the following documents:
 - (a) All original sheets of any bound or unbound set of working drawings or plans;
 - (b) The original cover or index page(s) identifying all specification pages covered; and
 - (c) Design calculations that are submitted for review.
- (3) The registrant shall superimpose his signature (not a rubber stamp) and date of signature across the face and beyond the circumference of the seal on documents listed above.
- (4) Any portions of working drawings, plans, reports or other design documents prepared by registered consultants shall bear the seal and signature of the consultant responsible therefor.
- (5) No registrant shall affix his seal or signature to sketches, working drawings, specifications or other documents developed by others not under his responsible charge and not subject to the authority of that registrant in critical professional judgments.

(Rule 0120-02-.08, continued)

- (6) (a) Responsible Charge. Plans, specifications, drawings, reports or other documents will be deemed to have been prepared under the responsible charge of a registrant only when:
1. The client requesting preparation of such plans, specifications, drawings, reports or other documents makes the request directly to the registrant, or to the registrant's employee at the time initial client contact is made, so long as the registrant has the right to control and direct the employee in the material details of how the work is to be performed;
 2. The registrant supervises and is involved in the preparation of the plans, specifications, drawings, reports or other documents and has input into and full knowledge of their preparation prior to their completion;
 3. The registrant reviews the final plans, specifications, drawings, reports or other documents; and
 4. The registrant has the authority to, and does, make any necessary and appropriate changes to the final plans, specifications, drawings, reports or other documents.
- (b) Any changes made to the final plans, specifications, drawings, reports or other documents after final revision and sealing by the registrant are prohibited by any person other than the registrant.
- (c) Mere review of work prepared by another person, even if that person is the registrant's employee, does not constitute responsible charge unless the registrant has met the criteria set out above.
- (7) No registrant shall affix his seal or signature to documents having titles or identities excluding the registrant's name unless:
- (a) Such documents were indeed developed by the registrant or under the registrant's responsible charge; and
 - (b) The registrant has exercised full authority to determine their development.
- (8) (a) Subject to the requirements of this rule, rubber-stamp, embossed, transparent self-adhesive or electronically generated seals may be used. Such stamps or seals shall not include the registrant's signature or date of signature.
- (b) Subject to the requirements of this rule, the registrant may affix an electronically generated signature and date of signature to documents; provided, however, that the registrant utilizes a secure method of affixation and provided that the registrant does not authorize any other person to so affix his signature and date.

Authority: T.C.A. §§62-2-203(c), 62-2-306, and 62-2-306(d). **Administrative History:** Original rule certified May 3, 1974. Repeal and new rule filed January 14, 1980; effective February 28, 1980. Amendment filed June 29, 1981; effective July 24, 1981. Amendment filed January 29, 1987; effective March 15, 1987. Amendment filed January 19, 1995; effective April 4, 1995. Amendment filed February 26, 1999; effective May 12, 1999. Amendment filed September 11, 2009; effective December 10, 2009.

0120-02-.09 CIVIL PENALTIES.

- (1) With respect to any registrant, the Board may, in addition to or in lieu of any other lawful disciplinary action, assess a civil penalty against such registrant for each separate violation of a statute, rule or order pertaining to the Board in accordance with the following schedule:

Violation	Penalty
(a) T.C.A. 62-2-306(b).....	\$250-1000
(b) T.C.A. 62-2-308(a)(1).....	\$250-1000
(c) Rule 0120-02-.02.....	100-1000
(d) Rule 0120-02-.03.....	500-1000
(e) Rule 0120-02-.04.....	50-1000
(f) Rule 0120-02-.05.....	500-1000
(g) Rule 0120-02-.06.....	250-1000
(h) Rule 0120-02-.07.....	500-1000
(i) Rule 0120-02-.08.....	100-1000
(j) Board Order.....	100-1000

- (2) With respect to any person required to be registered in this state as an architect, engineer or landscape architect, the Board may assess a civil penalty against such person for each separate violation of a statute in accordance with the following schedule:

Violation	Penalty
(a) T.C.A. §62-2-101.....	\$100-1000
(b) T.C.A. §62-2-105(a)(1).....	500-1000
(c) T.C.A. §62-2-105(b)(1).....	500-1000
(d) T.C.A. §62-2-602.....	500-1000

- (3) Each day of continued violation may constitute a separate violation.
- (4) In determining the amount of civil penalty to be assessed pursuant to this rule, the Board may consider such factors as the following:
 - (a) Whether the amount imposed will be a substantial economic deterrent to the violation;
 - (b) The circumstances leading to the violation;
 - (c) The severity of the violation and the risk of harm to the public;
 - (d) The economic benefits gained by the violator as a result of non-compliance; and
 - (e) The interest of the public.

Authority: T.C.A. §§56-1-308 and 62-2-203(c). **Administrative History:** Original rule filed January 29, 1987; effective March 15, 1987. Amendment filed December 9, 1991; effective January 23, 1992. Amendment filed February 26, 1999; effective May 12, 1999. Amendment filed March 9, 2007; effective May 23, 2007.