

18 NCAC 07K .0101 is adopted with changes as published in 38:04 NCR 209-211 as follows:

SUBCHAPTER 07K – MISCELLANEOUS RULES

SECTION .0100 – GENERAL

18 NCAC 07K .0101 DEFINITIONS

~~(a) The definitions in this Rule apply to this Chapter.~~

~~(b)~~ For purposes of Chapter 10B of the General Statutes and the ~~rules~~ Rules in this Chapter:

~~(1)~~ "Accepted" means the Department has reviewed a filing and determined that:

~~(A)~~ the filing satisfies the applicable information requirements in Chapter 10B of the General Statutes and this Chapter; and

~~(B)~~ all required fees associated with the filing have been tendered without dishonor.

"Accepted" shall not mean that the Department has determined that the filer is qualified and will be appointed, approved, or licensed.

~~(2)~~(1) "Approved" means that an applicant has been authorized by the Department to provide services as a technology provider in compliance with Chapter 10B of the General Statutes and the ~~rules~~ Rules in this Chapter. Technology providers licensed by the Department are deemed approved.

~~(3)~~(2) "Armed Forces of the United States" means the persons described in 10 U.S.C. ~~401(4)~~ 101(a)(4) and G.S. 143B-1224(2), including their reserve components.

~~(4)~~(3) "Bank or financial institution" means a "depository institution" as defined in ~~G.S. 53-208.42~~, G.S. 53-208.42(7).

~~(5)~~(4) "Certificate of appointment" means a document issued by the Department notifying a Register of Deeds that:

~~(A)~~(a) the named appointee is authorized to take the oath of office; ~~or the office specified in the document~~; and

~~(B)~~(b) the Register of Deeds or designee shall provide the commission certificate to the notary public after:

(i) administering the oath of office to the appointee; and

(ii) signing of the certificate by both the Register of Deeds or designee, and the notary.

~~(6)~~(5) "Commission certificate" means the document confirming that an individual:

~~(A)~~(a) has complied with all requirements of Chapter 10B of the General Statutes and the ~~rules~~ Rules in this Chapter; and

~~(B)~~(b) is authorized to act as ~~the type of a~~ notary public, ~~named in the document~~.

~~(7)~~(6) "Commit" means the final step in the notarial act after which:

~~(A)~~(a) the notarial act is complete;

~~(B)~~(b) all entries are permanent; and

- ~~(C)~~(c) no changes can be made to the entries made permanent pursuant in to Part (b)(7)(B) Sub-Item (b) of this Item. Rule.
- ~~(8)~~(7) "Dishonored payment" or "payment that has been dishonored" means money tendered to the Department by any means that is refused, rejected, or failed to be paid to the ~~Department~~ Department by the bank or financial institution upon which it is drawn.
- ~~(9)~~(8) "Enter information" means to:
- ~~(A)~~(a) handwrite, type, or input data;
 - ~~(B)~~(b) confirm that pre-populated words or numbers are correct. NOTE: Note: an An example would be clicking a checkbox to select the correct date;
 - ~~(C)~~(c) select applicable options from among offered options. NOTE: Note: an An example would be selecting "oath or affirmation" from a drop-down list of the types of notarial acts; or
 - ~~(D)~~(d) include in the electronic journal acknowledged signatures of:
 - (i) principals;
 - (ii) a designee of a principal; or
 - (iii) a credible witness.
- ~~(10)~~(9) "Federal business mileage rate" ~~shall mean~~ means the business mileage rate set by the U.S. Internal Revenue Service (IRS).
- ~~(11)~~(10) "Federally recognized Indian tribe" means a tribe on the list published in the Federal Register by the U.S. Secretary of the Interior pursuant to 25 U.S.C. 5131.
- ~~(12)~~(11) "File" means the date upon which a filing submitted to the Department is deemed complete by the Department. Note: "File" shall not mean that the Department has determined that the filer is qualified and will be appointed, registered, approved, or licensed.
- ~~(13)~~(12) "Filer" means a person that submits a filing to the Department.
- ~~(14)~~(13) "Filing" means a form or other document required or permitted to be filed with the Department pursuant to Chapter 10B of the General Statutes or the ~~rules~~ Rules in this Chapter.
- ~~(15)~~(14) "Form" means a departmental data collection instrument that requires or requests information, without regard to the format.
- ~~(16)~~(15) "Form preparer" means ~~a person~~ an individual who enters information on a ~~form~~ form: as defined in Subparagraph (b)(14) of this Rule:
- ~~(A)~~(a) at the direction of another; and
 - ~~(B)~~(b) without exercising independent judgment or discretion as to the content entered.
- ~~(17)~~(16) "Information technology" or "IT" means that term as defined in G.S. 143B-1320(a)(11).
- ~~(18)~~(17) "Information technology security" or "IT security" means the tools, techniques, and strategies used to protect the confidentiality, integrity, and availability of data, information systems, and digital assets from:
- ~~(A)~~(a) internal and external threats; and
 - ~~(B)~~(b) unauthorized access, use, disclosure, disruption, modification, or destruction.

- ~~(19)~~(18) "Initial appointment" means the first issuance by the Department of a commission certificate to a notary public.
- ~~(20)~~(19) "Instructor," "certified notary public instructor," "certified instructor," "notary instructor," and "certified notary instructor" mean a notary public who has complied with:
- ~~(A)~~(a) the requirements of G.S. 10B-14; and
 - ~~(B)~~(b) the ~~rules~~ Rules in Subchapter 07E of this Chapter.
- ~~(21)~~(20) "Location" means a description establishing that a principal is present in a jurisdiction where the notarial act may take place. ~~NOTE:~~ Note: ~~a~~ A statement that the principal is then located inside the U.S. embassy in Paris, France, would suffice to establish that the principal is present in a jurisdiction where the notarial act may take place.
- ~~(22)~~(21) "Long-term" means a period of at least one year.
- ~~(23)~~(22) "Notarial transaction process" includes:
- ~~(A)~~(a) steps before the notarial act takes place. ~~NOTE:~~ Note: ~~the~~ The interactions establishing the date and location of a notarial act, obtaining advance consent to travel fees, and the steps required by G.S. 10B-134.9(a) are examples of steps before the notarial act;
 - ~~(B)~~(b) the notarial act; and
 - ~~(C)~~(c) steps following the notarial act. Note: Affixing the notary's seal and signature are examples of steps following the notarial act.
- ~~(24)~~(23) "Person" means the term as defined in G.S. 12-3(6).
- ~~(25)~~(24) "State recognized tribe" means a group listed in G.S. 143B-407(a).
- ~~(26)~~(25) "Successfully complete" and "successful completion" mean that a notarial applicant has complied with Chapter 10B and the ~~rules~~ Rules in this Chapter and has:
- ~~(A)~~(a) presented satisfactory evidence of identity;
 - ~~(B)~~(b) attended a notarial course taught by a certified notary instructor; and
 - ~~(C)~~(c) achieved a passing grade on the course examination.
- ~~(27)~~(26) "Technological failure" means a deficiency in:
- ~~(A)~~(a) any component of the electronic notarization system;
 - ~~(B)~~(b) any component of the computer systems of the notary or principals; or
 - ~~(C)~~(c) the connections linking the components described in Parts (b)(27)(A) and (b)(27)(B) Sub-Items (a) and (b) of this Rule Item.
- For purposes of this Rule, "component of the electronic notarization system" means any combination of hardware, software, a ~~notary's~~ notary public's electronic journal, and communications technology recordings.
- ~~(28)~~(27) "Technology provider" means an AVEN, platform, depository, or custodial service.
- ~~(29)~~(28) "Termination of employment" means the cessation of permanent or temporary ~~work,~~ work for another, whether compensated or not, ~~for an employer or contractor~~ for any reason, including voluntary and involuntary cessation of work.

~~(30)~~(29) "Traditional notarization" means a notarial act in which:

~~(A)~~(a) there is personal appearance as defined in G.S. 10B-3(16); and

~~(B)~~(b) ~~either; one of the following occurs:~~

(i) a document is executed and notarized with ink signatures signed by hand or facsimile stamp and affixed with the physical notary seal as defined in G.S. 10B-3(23); ~~or~~

(ii) an oath or affirmation is administered without the execution of a ~~document.~~
document; or

(iii) creating an inventory as described in G.S. 53C-6-13(a).

~~(31)~~(30) "Traditional notary public" means an individual commissioned to perform traditional notarizations.

~~(32)~~(31) "Type of notarial act" means an acknowledgement, an oath or affirmation, verification or proof, inventory of an abandoned safe deposit box, or notarization of an absentee ballot.

~~(33)~~(32) "Under the exclusive control of the notary" means accessible by and attributable solely to the notary public to the exclusion of all other persons through being:

~~(A)~~(a) in the case of a physical seal:

(i) in the direct physical custody of the notary; or

(ii) physically secured; or

~~(B)~~(b) in the case of an electronic ~~seal,~~ seal or electronic signature, secured with one or more methods of authentication in an approved electronic notarization system.

~~(34)~~(33) "United States" or "U.S." means the term as defined in G.S. 12-3(11).

History Note: Authority G.S. 10B-4; 10B-14; 10B-36; 10B-38; 10B-106; 10B-125; 10B-126; 10B-134.15; 10B-134.19; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07K .0201 is adopted with changes as published in 38:04 NCR 212 as follows:

SUBCHAPTER 07K – MISCELLANEOUS RULES

SECTION .0200 – CHARGING FEES FOR NOTARIAL ACTS

18 NCAC 07K .0201 TRAVEL FEE RATE

A notary public who charges travel fees shall refer to the IRS website for the current federal business mileage rate prior to charging the travel fee.

History Note: Authority G.S. 10B-4; ~~10B-126;~~
Eff. January 1, 2024.

18 NCAC 07K .0202 is adopted with changes as published in 38:04 NCR 212 as follows:

18 NCAC 07K .0202 ESTIMATE OF CHARGES

In addition to the publication or provision of a ~~notary's~~ notary public's schedule of fees pursuant to G.S. 10B-32, if a principal requests a fee estimate from a ~~notary public,~~ notary, the notary shall provide an estimate ~~that~~ that includes:

- (1) ~~includes~~ the estimated total ~~fee,~~ fee; and
- (2) the basis for the estimated charges.

*History Note: Authority G.S. 10B-4; ~~10B-126;~~
Eff. January 1, 2024.*

18 NCAC 07K .0203 is adopted with changes as published in 38:04 NCR 212 as follows:

18 NCAC 07K .0203 INCLUSION OF FEES IN JOURNAL

A notarial journal maintained pursuant to the ~~rules~~ Rules in Subchapter I of this Chapter shall include, with regard to a specific notarial act for which fees were charged:

- (1) how much the notary public charged for each notarial act performed; and
- (2) if travel reimbursement was charged:
 - (a) the actual reimbursement charged; and
 - (b) the fee charged per ~~mile;~~ mile. ~~and~~
 - (c) ~~a copy of the principal's advance written consent to travel fees or reference to the location of the notary's copy of the principal's advance written consent to the travel fees.~~

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15;
Eff. January 1, 2024.*

18 NCAC 07K .0204 is adopted with changes as published in 38:04 NCR 212 as follows:

18 NCAC 07K .0204 CONSENT TO TRAVEL FEES MAY BE ELECTRONIC

A notary public who charges travel fees pursuant to G.S. 10B-31(5) may obtain the advance written consent of the principal electronically.

*History Note: Authority G.S. 10B-4; ~~10B-126; 10B-134.15;~~
Eff. January 1, 2024.*

18 NCAC 07K .0205 is adopted with changes as published in 38:04 NCR 212 as follows:

