

## **Suggested Changes to the NCHILB Standards of Practice (SOP) related to**

- **Report Reviews**
- **Code of Ethics**
- **8 question survey email dated 7/11/21**
  - **Smoke alarms**
  - **Carbon monoxide alarms**
- **Rep. Meyer Bill Draft 2021-BG-2 4/6/21**
  - Adopt and publish a code of ethics and standard of practice for persons licensed under this Article. A code of ethics shall not prevent a licensee from providing low monetary value meals and beverages to realty agents, or other parties with a financial interest in closing or settlement of real estate transactions, as a normal and accepted part of business culture

### **Resources:**

NC State Ethics Commission

State Government Ethics Act [https://www.ncleg.gov/EnactedLegislation/Statutes/HTML/ByChapter/Chapter\\_138A.html](https://www.ncleg.gov/EnactedLegislation/Statutes/HTML/ByChapter/Chapter_138A.html)

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## **Smoke Alarms, GFCI, AFCI**

### **Potential edit:**

(d) The home inspector shall report in writing the presence or absence and location of smoke detectors, and ~~installed~~ carbon monoxide alarms in all homes ~~any homes with fireplaces, fuel fired appliances, or attached garages, and~~ operate and report operating their test function if readily accessible, except when detectors are part of a central system. If the smoke detectors are thought to be part of a central alarm system, they do not have to be tested but must still be reported as being installed.

If the above changes are made, then 1110(a)(8) could be deleted

~~(8) Smoke detectors and installed carbon monoxide alarms~~

### **.1110 ELECTRICAL**

(a) The home inspector shall **inspect**:

- (1) Electrical service entrance conductors;
- (2) Electrical service equipment, grounding equipment, main overcurrent device, and interiors of panelboard enclosures unless unsafe conditions are reported;
- (3) Amperage and voltage ratings of the electrical service;
- (4) Branch circuit conductors, their overcurrent devices, and the compatibility of their ampacities at the interiors of panelboard enclosures unless unsafe conditions are reported;
- (5) ~~The operation of~~ a representative number of installed ceiling fans, lighting fixtures, switches, and receptacles located inside the house, garage, and on the dwelling's exterior walls;
- (6) The polarity and grounding of all receptacles within six feet of interior plumbing fixtures, and all receptacles in the garage or carport, and on the exterior of inspected structures;
- (7) ~~The operation of~~ ground fault circuit interrupters; and
- (8) ~~Smoke detectors~~ alarms and installed carbon monoxide alarms.

(b) The home inspector shall **describe**:

- (1) Electrical service amperage and voltage;
- (2) Electrical service entry conductor materials;
- (3) The electrical service type as being overhead or underground; and
- (4) The location of main and distribution panels.

~~(e) The home inspector shall report in writing the presence of any readily accessible single strand aluminum branch circuit wiring.~~

(c) The home inspector shall **operate**, except when part of a central system:

- (1) the test function of smoke ~~detectors~~ alarms.
- (2) the test function of installed carbon monoxide alarms ~~in any homes with fireplaces, fuel fired appliances, or attached garages.~~
- (3) the test function of ground fault circuit interrupters.
- (4) a representative number of installed ceiling fans, lighting fixtures, switches, and receptacles located inside the house, garage, and on the dwelling's exterior walls

~~(d) The home inspector shall report in writing the presence or absence of smoke detectors, and installed carbon monoxide alarms in any homes with fireplaces, fuel fired appliances, or~~

~~attached garages, and operate their test function, if readily accessible, except when detectors are part of a central system.~~

(d) The home inspector shall **report** in writing:

- (1) any readily accessible single strand aluminum branch circuit wiring.
- (2) the presence and location or absence of smoke ~~detectors~~-alarms.
- (3) the presence and location or absence of installed carbon monoxide alarms ~~in any homes with fireplaces, fuel fired appliances, or attached garages.~~
- (4) the presence and location or absence of ground fault circuit interrupters.

(e) The home inspector is **not required** to:

- (1) Insert any tool, probe, or testing device inside the panels;
- (2) Test or operate any overcurrent device except ground fault circuit interrupters;
- (3) Dismantle any electrical device or control other than to remove the covers of panelboard enclosures; or
- (4) Inspect:
  - (A) Low voltage systems;
  - (B) Security systems and heat detectors;
  - (C) Telephone, security, cable TV, intercoms, or other ancillary wiring that is not a part of the primary electrical distribution system;
  - (D) Built-in vacuum equipment;
  - (E) Back up electrical generating equipment;
  - (F) Other alternative electrical generating or renewable energy systems such as solar, wind, or hydro power;
  - (G) Battery or electrical automotive charging systems; or
  - (H) Electrical systems to swimming pools or spas, including bonding and grounding.

## **.1116 CODE OF ETHICS**

- (a) Licensees shall discharge their duties with fidelity to the public and to their clients, with fairness and impartiality to all.
- (b) Opinions expressed by licensees shall be based only on their education, experience, and honest convictions.
- (c) A licensee shall not disclose any information about the results of an inspection without the approval of the client for whom the inspection was performed, or the client's representative.
- (d) No licensee shall accept compensation or any other consideration from more than one interested party for the same service without the written consent of all interested parties.
- (e) No licensee shall compensate, either financially or through other services or benefits, realty agents or other parties with a financial interest in closing or settlement of real estate transactions for the following:
  - (1) Referral of inspections; ~~or~~
  - (2) Inclusion on a list of recommended inspectors or preferred providers, or
  - (3) Exclusive or preferential access to potential clients.
- (f) No licensee shall express, within the context of an inspection, an appraisal or opinion of the market value of the inspected property.
- (g) Before the execution of a contract to perform a home inspection, a licensee shall disclose to the client any interest he or she has in a business that may create a conflict of interest for the home inspector. No licensee shall allow his or her interest in any business to affect the quality or results of the inspection work that the licensee may be called upon to perform.
- (h) A licensee shall not solicit for repairs of systems or components found defective in the course of a home inspection performed by the licensee or that licensee's company.
- (i) Licensees shall not engage in false or misleading advertising or otherwise misrepresent any matters to the public.
- (j) Licensees shall not inspect properties under contingent arrangements whereby any compensation or future referrals are dependent on reported findings or on the sale of a property.
- (k) A licensee shall not impugn the professional reputation or practice of another home inspector, nor criticize another inspector's reports.

## **§ 143-151.45. Definitions.**

The following definitions apply in this Article:

- (1) [Repealed by Session Law 2009-509, s.3.3, effective October 1, 2013]
- (2) Board. – The North Carolina Home Inspector Licensure Board.
- (3) Compensation. – A fee or anything else of value.
- (4) Home inspection. – A written evaluation of two or more of the following components of a residential building: heating system, cooling system, plumbing system, electrical system, structural components, foundation, roof, masonry structure, exterior and interior components, or any other related residential housing component.
- (5) Home inspector. – An individual who engages in the business of performing home inspections for compensation.
- (6) Residential building. – A structure intended to be, or that is in fact, used as a residence by one or more individuals.

## **SECTION .1100 - NC HOME INSPECTOR STANDARDS OF PRACTICE AND CODE OF ETHICS**

### **.1101 DEFINITIONS**

The following definitions apply to this Section:

- (1) “Abnormal” means nontypical or unusual conditions that could cause damage to systems and components of the home.
- (2) “Automatic safety controls” means devices designed and installed to protect systems and components from excessively high or low pressures and temperatures, excessive electrical current, loss of water, loss of ignition, fuel leaks, fire, freezing, or other unsafe conditions as stated in manufacturer’s instructions.
- (3) “Central air conditioning” means a system that uses ducts to distribute cooled or dehumidified air to more than one room or uses pipes to distribute chilled water to heat exchangers in more than one room, and that is not plugged into an electrical convenience outlet.
- (4) “Component” means a readily accessible and visible aspect of a system, such as a floor, or wall, but not individual pieces such as boards or nails where many similar pieces make up the component.
- (5) “Cosmetic damage” means blemishes or defects that do not interfere with the functionality of the component or system.
- (6) “Cross connection” means any physical connection or arrangement between potable water and any source of contamination.
- (7) “Dangerous or adverse situations” means situations that pose a threat of injury to the inspector, or those situations that require the use of special protective clothing or safety equipment.
- (8) “Describe” means report in writing a system or component by its type, or other inspected characteristics, to distinguish it from other systems or components used for the same purpose.
- (9) “Dismantle” means to take apart or remove any component, device, or piece of equipment that is bolted, screwed, or fastened by other means and that would not be disassembled by a homeowner in the course of routine household maintenance
- (10) “Enter” means to go into an area to inspect all visible components.
- (11) “Functional drainage” means a drain that empties at a rate equal to or greater than the supply water flow to the fixture.
- (12) “Functional flow” means a usable flow at the highest fixture in a dwelling when another fixture is operated simultaneously.
- (13) “Habitable space” means a space in a building for living, sleeping, eating, or cooking. “Habitable space” does not mean a bathroom, toilet room, closet, or any space used or designed for storage.
- (14) “Harmful” means conditions that cause damage to systems and components of the home.
- (15) “Inspect” means the act of making a visual examination.
- (16) “Installed” means attached or connected such that an item requires tools for removal.
- (17) “Normal operating controls” means homeowner operated devices such as a thermostat, wall switch, or safety switch.
- (18) “On-site water supply quality” means water quality is based on the bacterial, chemical, mineral, and solids content of the water.

- (19) “On-site water supply quantity” means the rate of flow of on-site well water.
- (20) “Operate” means to cause systems or equipment to function.
- (21) “Readily accessible” means approachable or enterable for visual inspection without the risk of damage to any property or alteration of the accessible space, equipment, or opening.
- (22) “Readily openable access panel” means a panel provided for homeowner inspection and maintenance that has removable or operable fasteners or latch devices in order to be lifted off, swung open, or otherwise removed by one person; and its edges and fasteners are not painted in place. This definition is limited to those panels within reach standing on the floor or from a four-foot stepladder, and that are not blocked by stored items, furniture, or building components.
- (23) “Readily visible” means seen by using natural or artificial light without the use of equipment or tools other than a flashlight.
- (24) “Representative number” means, for multiple identical components such as windows and electrical outlets, one such component per room; and, for multiple identical exterior components, one such component on each side of the building.
- (25) “Roof drainage systems” means gutters, downspouts, leaders, splash blocks, and similar components used to carry water off a roof and away from a building.
- (26) “Shut down” means a piece of equipment or a system that cannot be operated by the device or control provided for homeowner operation. If its safety switch or circuit breaker is in the “off” position, or its fuse is missing or blown, the inspector is not required to reestablish the circuit for the purpose of operating the equipment or system.
- (27) “Solid fuel heating device” means any wood, coal, or other similar organic fuel burning device, including fireplaces whether masonry or factory built, fireplace inserts and stoves, wood stoves (room heaters), central furnaces, and combinations of these devices.
- (28) “Structural component” means a component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads).
- (29) “System” means a combination of interacting or interdependent components, assembled to carry out one or more functions.
- (30) “Technically exhaustive” means an inspection involving the use of measurements, instruments, testing, calculations, and other means to develop scientific or engineering findings, conclusions, and recommendations.
- (31) “Under floor crawl space” means the area within the confines of the foundation and between the ground and the underside of the lowest floor structural component.

- “Low monetary value meals and beverages”
- “Marketing, advertising and promotional expenses”
- “Direct and indirect gifts”
- “Gifts and favors”
- “Exclusive or preferential access”
- “Pay to play”
- “RESPA – Real Estate Settlement Procedures Act”
- <https://www.consumerfinance.gov/compliance/compliance-resources/mortgage-resources/real-estate-settlement-procedures-act/real-estate-settlement-procedures-act-faqs/> *Such an agreement or understanding need not be written or oral and can be established by a practice, pattern, or course of conduct. 12 CFR § 1024.14(e). An agreement or understanding for the referral of business incident to or part of a settlement service need not be written or verbalized but may be established by a practice, pattern or course of conduct. When a thing of value is received repeatedly and is connected in any way with the volume or value of the business referred, the receipt of the thing of value is evidence that it is made pursuant to an agreement or understanding for the referral of business.*

- “Any partnership, association, corporation, firm, or another group in the business of conducting home inspections shall identify an individual who has successfully passed an examination approved by the Board who, for purposes of this section, shall be known as the “qualifier” or the “qualifying party” of the entity and shall be responsible for compliance with Board Rule .08.1116, the NCHILB Code of Ethics.”
- Commonwealth of Massachusetts  
Professional Objectivity/Conflict of Interest  
4. Registrants shall not provide fees, gifts, insurance, waivers of liability, or other forms of gratuities to real-estate offices, Buyer’s Brokers, real estate brokers or salespersons (as defined in M.G.L. c. 112, § 87PP and c. 112, § 87YY½) and/or Seller’s Representatives.
- New Jersey  
13:40-15.19 Prohibited Practices (a)
  - 3. Offer or deliver any compensation, inducement, or reward to the owner of the inspected property, the broker, the agent or the client’s representative, for the referral of any business to the licensee or the licensee’s company;
  - 4. Offer or deliver any compensation, inducement, or reward to the client, the broker, the agent or the client’s representative or homeowner, on behalf of a person or business entity;
- New York  
§ 197-4.7 Conflicts of Interest
  - (e) Home inspectors shall not directly or indirectly compensate, in any way, real estate brokers, real estate salespersons, real estate brokerage companies, lending institutions or any other party or parties that expect to have a financial interest in closing the transaction, for future referrals of inspections or for inclusion on a list of recommended inspectors or preferred providers or any similar arrangement.

### **§197-4.9 Promotion and Advertising.**

(a) Home inspectors shall not advertise in a false, misleading or deceptive manner.

(b) Home inspectors shall not falsify or misrepresent their experience, education or qualifications or permit any such misrepresentation by their employees or associates.

(c) Home inspectors shall not advertise home inspection services as an engineer or architect or under the heading of engineers, engineering, architects or architecture in any form of print or electronic media unless the individual and/or firm is licensed to provide engineering or architectural services by the New York State Education Department.

(d) Home inspectors shall refrain from making any claim relating to the quality and effectiveness of services which cannot be substantiated by the home inspector.

(e) Home inspectors placing or authorizing advertisements shall maintain or cause to be maintained an exact copy of each advertisement for a period of one year following the advertisement's last publication. This copy shall be made available for inspection, upon request, by the Department or an authorized representative of the Department.

(f) Nothing herein shall prohibit a home inspector from advertising his or her services or advertising for the purpose of recruiting employees provided that no such advertisements shall be misleading or deceptive.

- Ohio  
1301:17-1-16  
(4) Licensees shall not directly or indirectly compensate real estate licensees or other parties having a financial interest in closing or settlement of real estate transactions, for the referral of inspections or for inclusion on a list of recommended inspectors, preferred providers, or similar arrangements.