

**Adopted Lobbying Temporary Administrative Rules
as approved by the NC Rules Review Commission on December 14, 2006
NC Department of the Secretary of State**

TITLE 18 – DEPARTMENT OF THE SECRETARY OF STATE

CHAPTER 12 – LOBBYING

SECTION .0100 – GENERAL

18 NCAC 12 .0101 SCOPE

The rules in this Chapter implement Chapter 120C of the North Carolina General Statutes.

History Note Authority G.S. 120C-101(a),(b); 120C-200; 120C-201; 120C-206; 120C-207; 120C-401;

Temporary Adoption Eff. January 1, 2007.

18 NCAC 12 .0102 DEFINITIONS

(a) The terms and definitions applicable to the rules in this Chapter are those:

- (1) Set out in Article 1 of Chapter 120C of the North Carolina General Statutes; and
- (2) Set out in Article 1 of Chapter 138A of the North Carolina General Statutes; and
- (3) Set out in Paragraphs (b) and (c) of this Rule.

(b) As used in G.S. 120C-100(a) of the North Carolina General Statutes, the following terms and definitions shall apply:

- (1) "Adoption" means formal acceptance;
- (2) "Amendment" means proposed or actual alteration, change or modification;
- (3) "Approval" means confirmation, sanction, ratification, authorization or endorsement;
- (4) "Consideration" means a designated individual's deliberative process and may include deliberation with others;
- (5) "Defeat" means a designated individual's abolition, cancellation, reduction, limitation, or voiding of an action or course of action from present or future consideration;
- (6) "Development" means bringing into existence, creation, or evolution of any action;

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- (7) "Drafting" means composition or writing of a document whether in single or multiple versions;
- (8) "Guideline" means a code, protocol, scheme, plan, instruction or criterion;
- (9) "Ministerial" means execution of a specific non-discretionary duty arising from fixed and designated facts. NOTE: For example, calculation of prejudgment interest is a ministerial action;
- (10) "Modification" means an alteration or adjustment or a change in form, qualities or content;
- (11) "Postponement" means putting off to a later time, deferral, delay, extension of a time period, or suspension of consideration;
- (12) "Preparation" means development, creation or composition, getting ready, laying groundwork for, setting up, scheduling or preliminary actions;
- (13) "Procedure" means a regular or established method or way of taking an action or reaching a result;
- (14) "Purporting to act in an official capacity" means to convey expressly or by implication that the individual is communicating or acting because of, due to, or as authorized by law or rule with regard to the individual's position as a designated individual and in conformity with the responsibilities or duties accompanying the position as a designated individual;
- (15) "Reject" means a designated individual's refusal, denial, disallowance, ending, or elimination of an action or course of action from present or future consideration;
- (16) "Request for proposal" means a formal procedure such as an Invitation for Bids, Request for Proposals, Negotiation, or Request for Quotations;
- (17) "Research" means gathering or acquisition of data, facts, statistics, opinions or other information, including inquiry into a subject, for use by a designated individual; and
- (18) "Tabling" means to suspend consideration at that time, to reserve for future discussion, to postpone or shelve indefinitely.

(c) As used in this Chapter and Chapter 120C of the North Carolina General Statutes, the following terms and definitions shall apply:

- (1) "Act" means Chapter 120C of the North Carolina General Statutes entitled "Lobbying";
- (2) "Communication" means the action of imparting or exchanging thoughts, facts, opinions, or other information whether in person, through paper, electronic or other means;
- (3) "Department" means the Department of the Secretary of State;

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- (4) "Disclose" means to affirmatively communicate or confirm information to a designated individual. An oral declarative statement spoken in a manner heard and understood by the designated individual; in a document in bold or large typeface or other method clearly stating; or, by a visible display such as a name tag constitutes disclosure;
- (5) "Disclose the identity of the principal":
 - (A) For a lobbyist representing a single principal, means an affirmative communication of the identity of the principal. An oral and affirmative statement identifying the principal; or the act of supplying a business card with the name of the principal; or stating in correspondence the identity of the principal; or the act of placing the words "lobbyist for" and the identity of the principal in correspondence; or the visible displaying of a name tag containing the identity of the principal; or words that affirmatively convey that the person is representing a principal and the identity of the principal constitutes disclosure of the identity of the principal;
 - (B) For a lobbyist representing multiple principals, an affirmative communication of the identity of the specific principal or principals on whose behalf the lobbyist is currently communicating with the designated individual. An oral and affirmative declaration stating the identity of the specific principal or principals on whose behalf the lobbyist is currently communicating; or stating in correspondence the identity of the specific principal or principals on whose behalf the lobbyist is currently communicating; or placing the words "lobbyist for" and the identity of the specific principal or principals on whose behalf the lobbyist is currently communicating in correspondence constitutes disclosure of the identity of the principal;
- (6) "Economic development activity" means any project, initiative or business or industrial recruitment activity which satisfies the statutory requirements to withhold a public record under G.S. 132-6(d);
- (7) "Economic development designation" means a written request completed and submitted for the purpose of withholding economic development activity information;
- (8) "Filer" means a person making a filing;
- (9) "Filing," "document" and "record" mean those completed forms, attachments and information submitted in paper or electronic form;
- (10) "Form" means a form or report required or permitted to be filed;
- (11) "Identify himself or herself as a lobbyist" means to affirmatively communicate that the person is a lobbyist. Note: Examples of such identification include: orally and affirmatively stating that the person is a lobbyist; or supplying a

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business card with the word “lobbyist”; or stating in correspondence that the person is a “lobbyist”; or visibly displaying a name tag containing the word "lobbyist" or words that affirmatively convey that the individual is a lobbyist and represents a disclosed, specific principal or principals;

- (12) "Invitation" means either an oral or written request seeking a person's presence, participation or attendance. Note: Examples include requests to attend events, meetings, or conferences;
- (13) "Leaving office" means the date on which an individual no longer holds office for any reason including those reasons set forth in Chapter 128 of the North Carolina General Statutes;
- (14) "Recruitment filer" means a person who files an economic development designation form;
- (15) “Registration” means submission of a complete registration form to the Department;
- (16) "Result or outcome" means conclusion or point in a process or activity at which either a decision is made to proceed or not to proceed; and
- (17) RESERVED
- (18) "Withhold" and "withheld" mean to remove or be removed from the public record pursuant to law and Rule.

*History Note: Authority G.S. 120C-100; 120C-101(a);
Temporary Adoption Eff. January 1, 2007.*

18 NCAC 12 .0103 TIME

(a) Calculation of time periods. Time periods are calculated according to the requirements of G.S. 1A-1, Rule 6.

(b) Quarters. When calculating a deadline for any filing required on a quarterly basis or for a quarterly reporting period:

- (1) The reporting period for the first quarter ends on March 31;
- (2) The reporting period for the second quarter ends on June 30;
- (3) The reporting period for the third quarter ends on September 30; and
- (4) The reporting period for the fourth quarter ends on December 31.

(c) Months. When calculating a deadline for any filing required on a monthly basis for a monthly reporting period, the reporting period ends on the last calendar day of the month.

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History Note: Authority G.S. 1A-1, Rule 6; 120C-101(a); 120C-401, 120C-402, 120C-403, 120C-404;

Temporary Adoption Eff. January 1, 2007.

SECTION .0200 – FILING

18 NCAC 12 .0201 FILING SUBMISSION LOCATIONS AND METHODS

Each required filing shall be submitted to the Department by one of the following methods:

- (1) By United States mail at the following address: Secretary of State, P. O. Box 29622, Raleigh, N. C. 27626-0622;
- (2) In person or by a designated delivery service authorized pursuant to G.S. 1A-1, Rule 4 at the following street address: Department of the Secretary of State, 2 South Salisbury Street, Raleigh, N. C. 27601-2903;
- (3) Electronically by electronic mail via the Internet site at the following address: lobbyistfiling@sosnc.com . Any document(s) attached to the filing other than the form or report shall be compatible with or convertible to the most recently issued version of Microsoft Word®. NOTE: Until such time as the Department is authorized to accept credit card payments, payment of fees must be submitted within two business days of an electronic filing or the filing shall be rejected; or
- (4) By facsimile for filings not requiring a fee, provided the original signed document is received by the Department within five business days following the Department's receipt of the faxed transmission. A filing for which the original is not received within five business days following the Department's receipt of the faxed transmission is void.

History Note: Authority G.S. 1A-1, Rule 4; 120C-101(a);

Temporary Adoption Eff. January 1, 2007.

18 NCAC 12 .0202 FILERS MUST USE DEPARTMENT'S FORMS

Filers shall use departmental forms.

History Note: Authority G.S. 120C-101(a);

Temporary Adoption Eff. January 1, 2007.

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18 NCAC 12 .0203 FORM COMPLETION REQUIREMENTS

- (a) All information requested on a form shall be completed by the filer whether requested by means of a block to be marked or a line to be completed.
- (b) If a question or item is not applicable to the filer, the filer shall not leave the question or item blank but shall enter "not applicable" or check the "not applicable" box.
- (c) Forms may be submitted in paper or electronic format.
- (d) A form is not complete unless it complies with all applicable filing requirements in this Chapter.

History Note: Authority G.S. 120C-101(a);

Temporary Adoption Eff. January 1, 2007.

18 NCAC 12 .0204 FORM SIGNATURE REQUIRED

A form shall be legibly signed by the person required or authorized to file the form or, in the case of an entity, by an officer authorized to do so, and shall include the officer's title or indication of the officer's authority to sign the form.

History Note Authority G.S. 120C-101(a);

Temporary Adoption Eff. January 1, 2007.

18 NCAC 12 .0205 FORM PREPARATION OR COMPLETION BY ANOTHER

Any person who prepares or completes all or part of a form on behalf of a filer shall sign the form in the space provided for a preparer's signature. This Rule does not apply if information is entered on a filer's form without the exercise of independent judgment or discretion by the person entering the information. For example, an administrative assistant who enters information supplied by and at the direction of a filer would not have to sign the form in the space provided for a preparer's signature.

History Note: Authority G.S. 120C-101(a);

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18 NCAC 12 .0206 SIGNING PURSUANT TO POWER OF ATTORNEY

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A person signing a filing on behalf of another under a power of attorney granted pursuant to Chapter 32A of the General Statutes shall provide:

- (1) A legible copy of the power of attorney with each filing; and
- (2) For an entity, a legible copy with each filing of a resolution or evidence of other formal action granting the power of attorney.

History Note: Authority G.S. 120C-101(a);

Temporary Adoption Eff. January 1, 2007.

18 NCAC 12 .0207 SIGNING AND EXECUTING A FORM UNDER OATH

When the Act or this Chapter requires a report filed with the Department to be signed under oath, that report shall be signed by the filer or authorized person before a Notary Public or a person authorized to administer oaths by the state in which the report is being signed.

History Note: Authority G.S. 120C-101(a); 120C-402(a); 120C-403(a); 120C-404(a);

Temporary Adoption Eff. January 1, 2007.

18 NCAC 12 .0208 SIGNATURE VERIFIES INFORMATION IS TRUE

An individual's signature on a filing submitted to the Department constitutes that person's verification that all information entered on the report is true and complete.

History Note: Authority G.S. 120C-101(a); 120C-402; 120C-403; 120C-404;

Temporary Adoption Eff. January 1, 2007.

18 NCAC 12 .0209 SIGNATURE AND EXECUTION UNDER OATH OF AN ELECTRONIC FILING

If a form is filed electronically and is not electronically notarized pursuant to Article 2 of Chapter 10B of the General Statutes, an independent affidavit shall be delivered to the Department within seven days after the form is electronically filed. Failure to deliver the affidavit renders the filing void. The affidavit shall include the following information:

- (1) A statement that the person signing did electronically file a form required by the Act;
- (2) The date and time at which the electronic filing was transmitted;

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- (3) The email address from which the electronic filing was transmitted; and
- (4) A signature under oath pursuant to Rule .0207 of this Chapter.

History Note: Authority G.S. 120C-101(a); G.S. 10B-115; 120C-402(a); 120C-403(a); 120C-404(a);

Temporary Adoption Eff. January 1, 2007.

18 NCAC 12 .0210 FILING SUBMISSION DATE AND TIME

A filing is submitted:

- (1) By hand-delivery, when it is received by the Department before 5:00 p.m. of that day; or
- (2) By mail, when the mailing is postmarked by the United States Postal Service or an equivalent marking used by a delivery service authorized pursuant to G.S. 1A-1, Rule 4; or
- (3) By facsimile (fax), when it is received by the Department before 5:00 p.m. of that day; or
- (4) Electronically, when it is transmitted to the Department by 11:59 p.m. of that day.

History Note: Authority G.S. 120C-101(a);

Temporary Adoption Eff. January 1, 2007.

18 NCAC 12 .0211 PROOF OF SUBMISSION

A person may obtain proof of submission of a filing to the Department by:

- (1) Any means acceptable pursuant to G.S. 1A-1, Rules of Civil Procedure;
- (2) Requesting that the Department return a file stamped copy and supplying to the Department both a copy of the form and a self-addressed, stamped envelope or other prepaid delivery service envelope; or
- (3) Requesting that the Department file stamp a copy at the time of in person delivery.

History Note: Authority G.S. 120C-101(a);

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18 NCAC 12 .0212 DEPARTMENT REVIEW OF SUBMITTED FILING

- (a) The Department shall examine each filing to determine whether the filing is complete.
- (b) The Department shall reject any filing which:
 - (1) Contains any illegible information; or
 - (2) Lacks any required information; or
 - (3) Contains any blank, unfilled, or unanswered questions or data entry areas.
- (c) The Department shall reject any filing which is not signed as required by the Act or the rules in this Chapter unless corrected in compliance with Rule .0213 or .0214 of this Chapter.
- (d) The Department shall reject any filing which is not submitted together with any required fee unless corrected in compliance with Rule .0201, .0213 or .0214 of this Chapter.

*History Note: Authority G.S. 120C-101(a);
Temporary Adoption Eff. January 1, 2007.*

18 NCAC 12 .0213 OMISSIONS REQUIRING CORRECTION WITHIN ONE BUSINESS DAY

- (a) Principal's authorization statement. The absence of the signature of the principal on the principal's authorization statement shall be corrected within one business day after notification by the Department or the filing shall be rejected as incomplete.
- (b) Filing under oath. The absence of notarization of quarterly principal, lobbyist and solicitor reports shall be corrected within one business day after notification by the Department or the filing shall be rejected as incomplete.

*History Note: Authority G.S. 120C-101(a); 120C-206;
Temporary Adoption Eff. January 1, 2007.*

18 NCAC 12 .0214 OMISSIONS REQUIRING CORRECTION WITHIN SEVEN DAYS

- (a) Omissions other than those set forth in Rule .0213 of this Chapter shall be corrected within seven days after notification by the Department or the filing shall be rejected.
- (b) A filing that contained an omission corrected pursuant to subparagraph (a) of this Rule shall be deemed filed pursuant to the provisions of Rule .0210 of this Chapter.

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*History Note: Authority G.S. 120C-101(a); 120C-401;
Temporary Adoption Eff. January 1, 2007.*

18 NCAC 12 .0215 EFFECTIVE DATE OF COMPLETE FILING

After the Department reviews a filing and determines that the filing is complete, the filing shall be deemed accepted and filed on the date on which it was submitted.

*History Note: Authority G.S. 120C-101(a);
Temporary Adoption Eff. January 1, 2007.*

18 NCAC 12 .0216 REJECTED FILINGS

A filing which is reviewed by the Department and rejected as incomplete is not filed and the filer is subject to sanctions pursuant to G.S. 120C-401.

*History Note: Authority G.S. 120C-101(a); 120C-401;
Temporary Adoption Eff. January 1, 2007.*

18 NCAC 12 .0217 EFFECTIVE DATE OF LATE FILING

For a late filing, there shall be no relation back of the filing to the date on which it was due.

*History Note: Authority G.S. 120C-101(a);
Temporary Adoption Eff. January 1, 2007.*

SECTION .0300 – FEES

18 NCAC 12 .0301 GENERAL

- (a) A required fee shall be submitted together with the filing to which the fee applies.
- (b) A fee shall be paid by cash, warrant, uncertified check, certified check, money order, credit card or another instrument freely negotiable at par through the Federal Reserve System. Checks, money orders, credit cards or other instruments must be drawn on U.S. financial institutions in U.S. dollars and cents. NOTE: The Department will post a notice on its website as soon as it is authorized to accept payment by credit card.

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(c) A filing is void if a check or other instrument for a required fee is returned by the institution upon which it was issued as "insufficient funds" or for other similar reason.

(d) A fee reduction or fee waiver applies only to the specific filing for which the request was submitted.

History Note: Authority G.S. 120C-101(a); 120C-201(b); 120C-207(b); 26 U.S.C. Sec. 501(c)(3);

Temporary Adoption Eff. January 1, 2007.

18 NCAC 12 .0302 NON-PROFITS TO WHICH NO FEE REDUCTION OR WAIVER SHALL BE GRANTED

The Department shall not grant a fee reduction or waiver if a nonprofit principal had annual revenues in its most recent fiscal year of more than three hundred thousand dollars (\$300,000) or is represented by more than two lobbyists.

History Note: Authority G.S. 120C-101(a); 120C-201(b); 120C-207(b); 26 U.S.C. Sec. 501(c)(3);

Temporary Adoption Eff. January 1, 2007.

18 NCAC 12 .0303 NON-PROFIT FEE REDUCTION PROCEDURE

(a) The Department shall reduce the fee to fifty dollars (\$50.00) if a nonprofit principal:

- (1) Had annual revenues in its most recent fiscal year of three hundred thousand dollars (\$300,000) or less; and
- (2) Is represented by no more than two lobbyists.

(b) The fifty dollar (\$50.00) fee shall be submitted together with the filing to which it applies.

(c) Documentation required in Rules .0305 and .0306 of this Chapter must be submitted together with the filing to which the fee reduction applies.

(d) The reduced fee shall apply to filing fees for both lobbyist and lobbyist's principal.

(e) If the Department finds that the non-profit principal does not qualify for fee reduction, the remaining fifty dollars (\$50.00) shall be paid by the filer within 10 business days of the date on the Department's denial letter. If the full fee is not paid, the registration is void and the filer shall not lobby after the tenth business day following the date on the Department's denial letter.

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History Note: Authority G.S. 120C-101(a); 120C-201(b); 120C-207(b); 26 U.S.C. Sec. 501(c)(3);

Temporary Adoption Eff. January 1, 2007.

18 NCAC 12 .0304 NON-PROFIT FEE WAIVER PROCEDURE

(a) The Department shall waive the fee if the non-profit principal:

- (1) Was formed within 12 months of filing;
- (2) Does not possess fund balance information or net assets for the immediately preceding fiscal year; and
- (3) Is represented by no more than two lobbyists.

(b) A non-profit principal shall submit a fee of fifty dollars (\$50.00) together with the filing for which it is requesting fee waiver. If fee waiver is granted, the Department shall refund the fee of fifty dollars (\$50.00).

(c) Documentation required in Rules .0305 and .0307 of this Chapter must be submitted together with the filing to which the fee waiver applies.

(d) The waiver shall apply to filing fees for both lobbyist and lobbyist's principal.

History Note: Authority G.S. 120C-101(a); 120C-201(b); 120C-207(b); 26 U.S.C. Sec. 501(c)(3);

Temporary Adoption Eff. January 1, 2007.

18 NCAC 12 .0305 PROOF OF NON-PROFIT STATUS

(a) "Non-profit" means an entity to which tax exempt status has been granted pursuant to 26 U.S.C. Sec. 501(c)(3), including those entities granted tax exempt status which are permitted but not required to obtain a tax exempt determination letter from the United States Internal Revenue Service.

(b) For purposes of the provisions of this Chapter relating to fee reduction or waiver, an "authorized officer":

- (1) For a non-profit corporation, is any person authorized to act on behalf of the corporation pursuant to Chapter 55A of the General Statutes of North Carolina;
- (2) For a non-profit trust, is any person authorized pursuant to law to act on behalf of the trust;
- (3) For an unincorporated association, is any person to whom the association has delegated authority to act on behalf of the association.

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(c) Federal tax-exempt determination letter. A non-profit principal which is required to obtain a federal tax-exempt determination letter shall submit a copy of that letter together with a filing for which fee reduction or waiver is requested.

(d) No federal tax-exempt determination letter. A non-profit principal which is not required to obtain a tax exempt determination letter under 26 U.S.C. Sec. 501(c)(3) shall submit the following information together with the filing for which fee reduction or waiver is requested:

- (1) A statement signed by an authorized officer verifying the non-profit's federal tax exempt status under 26 U.S.C. Sec. 501(c)(3); and
- (2) A statement signed by an authorized officer setting forth the reason(s) a tax exempt determination letter is not required under 26 U.S.C. Sec. 501(c)(3).

History Note: Authority G.S. 120C-101(a); 120C-201(b); 120C-207(b); 26 U.S.C. Sec. 501(c)(3);

Temporary Adoption Eff. January 1, 2007.

18 NCAC 12 .0306 ADDITIONAL INFORMATION FOR FEE REDUCTION

(a) If the non-profit principal has non-profit status pursuant to a tax exempt determination letter under 26 U.S.C. Sec. 501(c)(3), the fee reduction request shall include:

- (1) A statement signed by an authorized officer verifying that the non-profit has no more than two lobbyists; and
- (2) A copy of the non-profit's most recent federal Form 990, Form 990-EZ or Form 990-PF.

(b) If the non-profit has non-profit status pursuant to a tax exempt determination letter under 26 U.S.C. Sec. 501(c)(3) and is not required to file a federal Form 990, Form 990-EZ or Form 990-PF, then the fee reduction request shall include:

- (1) A statement signed by an authorized officer verifying that the non-profit has no more than two lobbyists;
- (2) A statement signed by an authorized officer containing a copy of the non-profit's annual financial statement for the preceding tax year; and
- (3) A copy of the notice filed pursuant to Section 1223 of the United States Pension Protection Act of 2006 (PL 109-280) for notices and returns associated with annual periods beginning on or after January 1, 2007.

(c) If the non-profit principal has non-profit status and a tax exempt determination letter is not required under 26 U.S.C. Sec. 501(c)(3), the fee reduction request shall include:

- (1) A statement signed by an authorized officer verifying that the non-profit has no

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- more than two lobbyists;
- (2) A statement signed by an authorized officer containing a copy of the non-profit's annual financial statement for the preceding tax year.

*History Note: Authority G.S. 120C-101(a); 120C-201(b); 120C-207(b);
Temporary Adoption Eff. January 1, 2007.*

18 NCAC 12 .0307 ADDITIONAL INFORMATION FOR FEE WAIVER

If the non-profit was formed within 12 months of filing and has no net assets or fund balance information, the fee waiver request shall include the following information:

- (1) A statement signed by an authorized officer verifying that the non-profit has no more than two lobbyists;
- (2) A statement signed by an authorized officer verifying the non-profit's formation date; and
- (3) A statement signed by an authorized officer verifying that the non-profit has no fund balance information or net assets.

*History Note: Authority G.S. 120C-101(a); 120C-201(b); 120C-207(b);
Temporary Adoption Eff. January 1, 2007.*

SECTION .0400 – ECONOMIC DEVELOPMENT DESIGNATION

18 NCAC 12 .0401 WITHHOLDING PUBLIC RECORD PURSUANT TO ECONOMIC DEVELOPMENT DESIGNATION

- (a) If Economic Development Designation is requested, a lobbyist and lobbyist's principal shall attach to and incorporate in their registration an Economic Development Designation form.
- (b) Both the lobbyist and the lobbyist's principal shall file an Economic Development Designation request for an economic development activity.
- (c) A lobbyist and lobbyist principal shall file an Economic Development Designation confirmation form with each quarterly or monthly report.
- (d) All lobbying activity and expenses related to the Economic Development Designation are confidential until disclosure is required by law. Lobbying activity and expense filings unrelated to the Economic Development Designation shall be disclosed as if the Economic Development

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Designation did not exist.

*History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Temporary Adoption Eff. January 1, 2007.*

18 NCAC 12 .0402 EFFECT OF FAILURE TO REQUEST DESIGNATION

Failure to request Economic Development Designation shall result in the disclosure of information as a public record.

*History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Temporary Adoption Eff. January 1, 2007.*

18 NCAC 12 .0403 ONE DESIGNATION FORM PER ACTIVITY

An Economic Development Designation form shall cover only one economic development activity. A recruitment filer shall file a separate Economic Development Designation form for each economic development activity as if for a separate principal.

*History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Temporary Adoption Eff. January 1, 2007.*

18 NCAC 12 .0404 DESCRIPTION OF ECONOMIC DEVELOPMENT ACTIVITY

A recruitment filer shall provide on or submit with the Economic Development Designation form a description of the economic development activity sufficient to enable the Department to determine whether and to what extent a public records request is applicable.

*History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Temporary Adoption Eff. January 1, 2007.*

18 NCAC 12 .0405 IDENTIFICATION OF AUTHORIZED INDIVIDUAL

A recruitment filer shall designate and authorize at least one other individual to file a release authorizing disclosure of the economic development designation information. The recruitment filer shall provide the name, title, address, telephone number and email address of the authorized

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individual(s).

*History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Temporary Adoption Eff. January 1, 2007.*

**18 NCAC 12 .0406 IDENTIFICATION OF AUTHORIZED GOVERNMENT
EMPLOYEE, OFFICIAL OR PUBLIC SERVANT**

(a) A recruitment filer shall identify at least one government employee or official or public servant who:

- (1) Is involved in or aware of the economic development activity;
- (2) Is knowledgeable about the circumstances that give rise to the need for confidentiality and the economic development designation for the activity;
- (3) Has the authority to make a determination as to whether and when a release of records or an announcement of the activity would be appropriate and proper; and
- (4) Has authority to file a request for release of economic development activity information or to make an announcement regarding the activity.

(b) The recruitment filer shall ensure that any government employee or official or public servant who is identified pursuant to this Rule signs the Economic Development Designation form:

- (1) Agreeing to identification as a person who meets the criteria set out in Paragraph (a) of this Rule;
- (2) Confirming that the economic development activity qualifies for Economic Development Designation pursuant to G.S. 120C-101(b) and G.S. 132-6(d); and
- (3) Confirming that he or she has authority to file a request for release or make an announcement pursuant to G.S. 120C-101(b) and G.S. 132-6(d).

(c) The identification of government employees or officials or public servants pursuant to this Rule shall include the following information for each identified person: name, title, address, email address, telephone number.

(d) If the recruitment filer is himself or herself a government employee or official or public servant, an additional government employee(s) or official(s) or public servant(s) shall be identified pursuant to this Rule.

*History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Temporary Adoption Eff. January 1, 2007.*

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18 NCAC 12 .0407 DISCLOSURE AT REQUEST OF RECRUITMENT FILER

(a) For purposes of this Rule, "recruitment filer" includes the authorized person(s), government employee(s) or official(s) or public servant(s) designated pursuant to Rules .0405 and .0406 of this Chapter.

(b) The Department shall disclose economic development activity information filed with the Department one year from the date of filing unless:

- (1) Specified date. The recruitment filer specifies an earlier date on the Economic Development Designation form; or
- (2) Early Request for Release. The recruitment filer files a request for release of Economic Development Designation information before a year has elapsed; or
- (3) Request for Extension. A recruitment filer may extend an Economic Development Designation for one year by filing an Economic Development Designation confirmation form together with the recruitment filer's annual registration form; or
- (4) Change in Information. For purposes of Economic Development Designation, a change in information occurs because the circumstances no longer exist which qualified the information for Economic Development Designation. Filing of a request for release of the information within 10 days shall constitute compliance with the notice of change of information requirements in the Act. Note: For example, the circumstances which qualified the information for Economic Development Designation would cease to exist if: an economic development activity is publicly announced, and communicated to the appropriate governmental entity as having been located in another State and that North Carolina is no longer under consideration for that economic development activity. The circumstances which qualified the information for Economic Development Designation would cease to exist. The recruitment filer would be required to file the request for release of information within 10 business days after the public announcement.

(c) A request for release of Economic Development Designation information shall bear the signature of at least one of the government representatives identified pursuant to Rule .0406 of this Chapter and shall include a statement that the business has communicated to the State or local government agency involved with the project either:

- (1) A commitment to expand or locate the economic development project in this State; or
- (2) A decision not to expand or locate the economic development project in this State.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;

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Temporary Adoption Eff. January 1, 2007.

SECTION .0500 –GENERAL REGISTRATION REQUIREMENTS

18 NCAC 12 .0501 MATTERS ON WHICH THE REGISTRANT EXPECTS TO ACT AS LOBBYIST

- (a) An individual registering as a lobbyist shall specify on the registration form one or more categories in which the registrant expects to act as lobbyist.
- (b) Any changes in the matters on which the individual expects to act as a lobbyist shall be reported pursuant to G.S. 120C-200(c).

History Note: Authority G.S. 120C-101(a); 120C-200;

Temporary Adoption Eff. January 1, 2007.

SECTION .0600 – LOBBYISTS

18 NCAC 12 .0601 CALCULATION OF TIME TO DETERMINE REGISTRATION REQUIREMENTS

- (a) For purposes of determining whether an employee has engaged in lobbying within the meaning of G.S. 120C-100(a)(10).d, the employee's actual duties shall include:
- (1) Actual time communicating with designated individuals; and
 - (2) Actual time spent in goodwill lobbying as defined in 120C-100(a)(9).b, including time traveling with designated individuals.
- (b) The 30 day period within which an employee's actual duty time is calculated shall be calculated in consecutive days and not by month. NOTE: For example, based on a 40 hour work week, an employee who lobbies 8 hours on January 31 and then 8 hours on February 1 will not be exempt from classification as a lobbyist by virtue of the exception in G.S. 120C-100(a)(10).d.

History Note: Authority G.S. 120C-101(a); 120C-200;

Temporary Adoption Eff. January 1, 2007.

18 NCAC 12 .0602 QUARTERLY REPORT MAY INCLUDE LAST MONTH OF QUARTER REPORT

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Instead of filing the monthly report for the last month of the quarter, a lobbyist may incorporate by reference that monthly report within the quarterly report.

*History Note: Authority G.S. 120C-101(a); 120C-402;
Temporary Adoption Eff. January 1, 2007.*

18 NCAC 12 .0603 QUARTERLY REPORT MAY INCORPORATE SEPARATELY FILED MONTHLY REPORTS BY REFERENCE

Instead of entering separately filed monthly report information on the quarterly report form, a lobbyist may incorporate the separately filed monthly reports by reference in the applicable quarterly report form.

*History Note: Authority G.S. 120C-101(a); 120C-402;
Temporary Adoption Eff. January 1, 2007.*

18 NCAC 12 .0604 QUARTERLY REPORT VERIFICATION OF MONTHLY REPORT INFORMATION

By signing the quarterly report, a lobbyist verifies the information contained in the incorporated monthly reports for that quarter and any amendments to the monthly reports, including those previously filed and those specified in the quarterly report.

*History Note: Authority G.S. 120C-101(a); 120C-402, 120C-403, 120C-404;
Temporary Adoption Eff. January 1, 2007.*

SECTION .0700 – PRINCIPALS

18 NCAC 12 .0701 SEPARATE REPORTS

A principal shall report the compensation paid to each lobbyist separately on the quarterly report.

*History Note: Authority G.S. 120C-101(a); 120C-403;
Temporary Adoption Eff. January 1, 2007.*

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18 NCAC 12 .0702 QUARTERLY REPORT MAY INCLUDE LAST MONTH OF QUARTER REPORT

Instead of filing the monthly report for the last month of the quarter, a principal may incorporate that monthly report within the quarterly report.

*History Note: Authority G.S. 120C-101(a); 120C-403;
Temporary Adoption Eff. January 1, 2007.*

18 NCAC 12 .0703 QUARTERLY REPORT MAY INCORPORATE SEPARATELY FILED MONTHLY REPORTS BY REFERENCE

Instead of entering separately filed monthly report information on the quarterly report form, a principal may incorporate the separately filed monthly reports by reference in the applicable quarterly report form.

*History Note: Authority G.S. 120C-101(a); 120C-403;
Temporary Adoption Eff. January 1, 2007.*

18 NCAC 12 .0704 QUARTERLY REPORT VERIFICATION OF MONTHLY REPORT INFORMATION

By signing the quarterly report, a principal verifies the information contained in the incorporated monthly reports for that quarter and any amendments to the monthly reports, including those previously filed and those specified in the quarterly report.

*History Note: Authority G.S. 120C-101(a); 120C-403;
Temporary Adoption Eff. January 1, 2007.*

SECTION .0800 – SOLICITORS

18 NCAC 12 .0801 SOLICITOR REGISTRATION

When registering, solicitors shall provide the following:

- (1) The full legal name of the solicitor;
- (2) The full legal name of any firm or organization, if applicable;

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- (3) If applicable, the name and title of the solicitor's representative authorized to sign a report;
- (4) The complete mailing and physical address of the solicitor;
- (5) The telephone number at which the solicitor can be reached between 8:00 a.m. and 5:00 p.m. on weekdays; and
- (6) The electronic mail address of the solicitor.

*History Note: Authority G.S. 120C-100; 120C-101(a); 120C-215; 120C-404;
Temporary Adoption Eff. January 1, 2007.*

18 NCAC 12 .0802 REGISTRATION

- (a) A solicitor must register within 10 days after the total expense for solicitation of others exceeds three thousand dollars (\$3,000) during any 90 day period.
- (b) The 90 day period within which the triggering expenditure is calculated shall be calculated in consecutive days and not by quarter. NOTE: For example, an individual who solicits others and spends \$2900 on March 31 and \$200 on April 2 shall be required to register as a solicitor.

*History Note: Authority G.S. 120C-100; 120C-101(a); 120C-215; 120C-404;
Temporary Adoption Eff. January 1, 2007.*

18 NCAC 12 .0803 RESERVED

*History Note: Authority G.S. 120C-101(a); 120C-215; 120C-404;
Temporary Adoption Eff. January 1, 2007.*

SECTION .1100 – PROVISION OF LISTS TO DESIGNATED INDIVIDUALS

18 NCAC 12 .1101 METHOD OF FURNISHING LOBBYIST LISTS

The Department shall furnish lobbyist lists to designated individuals for whom it has no current e-mail address by electronically mailing a copy to the head of the employing entity and requesting that it be forwarded to the designated individual.

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*History Note: Authority G.S. 120C-101(a);
Temporary Adoption Eff. January 1, 2007.*

SECTION .1500 – CONFIDENTIALITY AND RECORDS

18 NCAC 12 .1501 GENERAL REQUIREMENTS

- (a) A person who requests that information be held confidential ("confidentiality request") pursuant to G.S. 120C-401 shall make the request prior to or at the time of filing.
- (b) A person who makes a "confidentiality request" pursuant to G.S. 120C-401 shall include a cover sheet marked: "Confidentiality Requested" with any documents submitted.

*History Note: Authority G.S. 120C-101(a); 120C-401(h);
Temporary Adoption Eff. January 1, 2007.*

18 NCAC 12 .1502 CONFIDENTIALITY REQUEST CONTENTS

The following information shall be included with a confidentiality request pursuant to G.S. 120C-401:

- (1) Identification of all filings which contain information to which the confidentiality request applies;
- (2) Identification of any attachments to filings which contain information to which a confidentiality request applies; and
- (3) A copy of either:
 - (a) The protective order pursuant to Chapter 50B of the General Statutes which orders that a payee's actual address be kept confidential; or
 - (b) The Address Confidentiality Program authorization card issued to the payee by the Attorney General under G.S. 15C-8.

*History Note: Authority G.S. 120C-101(a); 120C-401(h);
Temporary Adoption Eff. January 1, 2007.*

18 NCAC 12 .1503 DISCLOSURE OF CONFIDENTIAL INFORMATION

- (a) Unless the provisions of Paragraph (b) of this Rule apply, the Department shall disclose

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information for which there is not a confidentiality request presented to the Department pursuant to G.S. 120C-401 before or at the time of filing.

(b) If the Department has not already made a filing(s) public and a confidentiality request pursuant to G.S. 120C-401 is submitted, the Department shall hold the covered information confidential as requested.

(c) A payee address designated as confidential pursuant to a 50B order and pursuant to G.S. 120C-401(h) remains confidential until the Department receives:

- (1) A signed, notarized request from the payee to remove the confidentiality designation, or
- (2) A copy of a court order directing removal of confidential address status.

(d) A payee address designated as confidential pursuant to the Address Confidentiality Program under Chapter 15C of the General Statutes and pursuant to G.S. 120C-401(h) remains confidential until the Department receives:

- (1) A signed, notarized request from the payee to remove the confidentiality designation, or
- (2) A written notification from the Attorney General issued pursuant to Chapter 15C modifying the payee's address under the program or canceling the payee's participation in the program.

*History Note: Authority G.S. 120C-101(a); 120C-401(h);
Temporary Adoption Eff. January 1, 2007.*

18 NCAC 12 .1504 CONFIDENTIALITY OF INVESTIGATIVE RECORDS

Public access to investigative records shall be governed by Chapter 132 of the General Statutes and G.S. 120C-600(c).

*History Note: Authority G.S. 120C-101(a); 120C-600;
Temporary Adoption Eff. January 1, 2007.*

SECTION .1600 – PRESERVATION OF RECORDS

18 NCAC 12 .1601 GENERAL REQUIREMENTS

(a) A filer shall retain copies of all filings, forms, information and supporting documentation

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related to filings generated in response to the requirements of the Act and this Chapter for a period of three years after the date on which the record was made or the report submitted.

(b) If a filer knows or has reason to believe that an official investigation or inquiry related to a filing has been initiated for any reason, the filer shall preserve and maintain all filings and associated documents until three years from the later of:

- (1) Receipt of notice that the investigation has been closed and that no further action will be taken by the investigating authority and no other related investigation or inquiry is open, or
- (2) Termination or closure of any judicial or quasi-judicial proceeding related to the investigation or inquiry.

(c) A filer retaining information pursuant to this Rule must retain the information in the original form in which the information was created, or in any other form that accurately captures and retains information contained in the original form in which the information was created.

History Note: Authority G.S. 120C-101(a); 120C-603;

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