



A Guide to Remediation

Nebraska Board of Engineers and Architects

Amy Habe, Compliance Officer

July 12, 2023

Roadmap

- When licensees are required
- Chapter 8 – Enforcement
- Remediation Licensee List
- Q+A



When Licensees are Required



When is a Licensee Required on a project?

The work
comprises the
practice of
engineering or
architecture



The work is
not exempt
from the
E&A
Regulation
Act



**Design
professionals
are required**

Practice Definitions

- **Engineering**

Any service or creative work that requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences.

- **Architecture**

Providing or offering to provide design services in connection with the construction, enlargement, or alteration of a building or group of buildings and the space within and surrounding the buildings.

- **Neb. Rev. Stat. §§ 81-3420 and 81-3421**



Rule 10.3

- Notwithstanding other provisions of the E&A Act, persons who are not licensed architects or professional engineers may perform planning and design services in connection with any building, structure, or work as indicated ➡
- Any structure which contains two or more occupancies is governed by the most restrictive occupancy

Occupancy Classification	Maximum Building Area (sq. ft.)
A – Assembly	Less than 1,000
B – Business	Less than 3,000
E – Educational	Less than 1,000
F – Factory	Less than 5,000
H – Hazardous	
H-1, H-2, H-3, H-4	Less than 2,000
H-5	Less than 4,000
I – Institutional	
I-1, Personal Care	Less than 3,000
I-2, Healthcare	Less than 5,000
I-3, Detention	Less than 3,000
I-4, Day Care	Less than 2,000
M – Mercantile	Less than 3,000
R – Residential	
R-1, R-2, R-4	Less than 4,000
R-3, single family through four-plex	Less than 10,000
S – Storage	Less than 5,000
U – Utility	Less than 5,000



Renovations and One-Level Additions

- Renovations and one-level additions to an existing building, structure, or work are exempt from the E&A Act if:
 - The total impacted area is less than the area set by Rule 10.3; **and**
 - The area of renovation or addition does not adversely impact the mechanical system; the electrical system; the structural integrity; the means of egress; and does not change or come into conflict with the occupancy classification of the existing or adjacent tenant space, building, structure or work.

If the renovation or addition adversely impacts other areas, these additional areas shall be included in the occupancy and building area calculations set by Section 10.3.



Exemptions – Public Works

- Any public works project with contemplated expenditures for the completed project that do not exceed **\$118,000**
- Dollar amount adjusted every five years
- Next adjustment to be made on July 1, 2024
 - N.R.S. § 81-3453 (4)



Exemptions - Farm Buildings

- 81-3449 (3) and 81-3453 (3)
 - The construction, remodeling, alteration, or renovation of farm buildings, including barns, silos, sheds, or housing for farm equipment and machinery, livestock, poultry, or storage, if the structures are designed to be occupied by no more than twenty persons;
- Farm building shall be defined as an agricultural building is defined in the state building code (Rule 10.2.5), and reads:
 - “A structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products. *This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public.*”



Rule 10.6 – Building Officials

- Notwithstanding E&A Regulation act exemptions, responsible building officials may require the involvement of a professional engineer if the official finds a hazard to life, health, safety, or welfare due to:
 - Unusual circumstances of a building or structure, or
 - An unusually large number of potential occupants in relation to square footage for a particular occupancy




Chapter 8: Enforcement



Complaints

- The Board receives complaints and notifications of projects from various entities:
 - Nebraska State Fire Marshal, DHHS, and other state agencies
 - Local jurisdiction officials
 - Licensees & Organizations
 - Members of the public

 Mail to: PO Box 95165
Phone: 402-471-2021 Lincoln, NE 68509
Fax: 402-471-0787 Delivery: 215 Centennial Mall S, Suite 400
Lincoln, NE 68508

Questions? Contact us at nbaa.office@nebraska.gov or ea.nebraska.gov

COMPLAINT FORM

1. RESPONDENT (The person against whom the complaint is being made):

Name _____ License Number (if known) _____
Company _____
Address _____
Phone _____ Fax _____
Email _____ Other Information _____

2. COMPLAINANT (The person making the complaint):

Name _____
Address _____
Phone _____ Fax _____
Email _____ Best time to contact you _____

3. Project Address: (if applicable):

Street _____
City _____ Parcel No. (if known) _____

4. Do you have design plans prepared by the Respondent? Yes No

5. Did you and the Respondent sign a written contract or letter of agreement? Yes No

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Rule 8.1

- 8.1.1 When a complaint is received by the Board in which a person or organization is alleged to have violated the Act, or if the Board becomes aware of a compliance issue that may constitute a violation of the Act, the Board may refer the complaint or compliance issue to a committee or an investigator, or may consider the complaint or compliance issue without such referral.
- 8.1.2 If applicable, the committee or investigator shall make a recommendation as to:
 - 8.1.2.1 Whether the matter should be dismissed for lack of probable cause; or
 - 8.1.2.2 Whether there is probable cause that a violation of the Act has occurred; or
 - 8.1.2.3 Whether further investigation is required in order to determine whether there is probable cause.
- 8.1.3 Upon receipt of a recommendation or upon consideration by the entire Board, the Board will determine whether there is probable cause and, if so, whether informal or formal process should be undertaken to resolve the matter. If the Board finds there is no probable cause, the complaint shall be dismissed.
 - 8.1.3.1 The Board may make a determination on probable cause with or without having requested a response from the respondent.
- 8.1.4 A complaint or compliance issue against any person or organization may be brought in the name of the Board. A complaint may be filed by the Executive Director when he or she discovers a probable violation of the Act. If a Board member discovers a probable violation of the Act, the member may bring it to the Executive Director's attention.



Rule 8.4 - Remediation

8.4 Remediation

- 8.4.1 Projects with inadequately sealed documents or work performed by an unlicensed individual may be remediated under the following circumstances:
- 8.4.1.1 Pursuant to a complaint alleging the unlicensed practice of engineering or architecture, the Board may, at its discretion, allow work not in compliance with the E&A Act or the E&A Rules to be remediated by the following method:
- 8.4.1.1.1 A licensed architect or professional engineer, as appropriate, must submit a letter to the Board bearing the architect's or professional engineer's seal, explaining their relationship to the project, and identifying deficiencies, if any, found in the improperly sealed documents, including the need for involvement of other design disciplines; and
- 8.4.1.1.2 If the project is under construction, the remediation architect or professional engineer must identify immediate concerns of public safety and, when required, notify the appropriate authority to halt construction; and
- 8.4.1.1.3 If deficiencies are identified, the remediation architect or professional engineer must recommend design solutions to correct those deficiencies; and
- 8.4.1.1.4 The letter will become a permanent part of the existing contract documents; and
- 8.4.1.1.5 Revisions made to the deficient documents by the remediation architect or professional engineer must be attributed accordingly; and
- 8.4.1.1.6 The remediation architect or professional engineer must assume responsibility for the design, and a coordinating professional must be designated if required; and
- 8.4.1.1.7 New documents, prepared by the licensed professionals involved must be sealed, signed, and dated; and
- 8.4.1.1.8 The remediation architect or professional engineer shall not seal any of the unsealed or improperly sealed documents with respect to the project.
- 8.4.1.2 The Board may take steps to issue a cease and desist order or any other remedy available to the Board under the law if, for any reason, no solutions are proposed to correct the deficiencies or the recommended solutions are not implemented.



Coordinating Professional

- 81-3408. Coordinating professional, defined.
 - Coordinating professional means a licensee who coordinates, as appropriate, the work of all licensees involved in a project.
- 81-3437.02. Coordinating professional; designation; duties.
 - (1) Projects involving more than one licensed architect or professional engineer shall have an architect or professional engineer designated as the coordinating professional for the entire project. The coordinating professional may, but need not, provide architectural or engineering services on the project. The coordinating professional shall apply his or her seal in accordance with the Engineers and Architects Regulation Act to the cover sheet of all documents and denote the seal as that of the coordinating professional.
 - (2) The coordinating professional shall be responsible for reviewing and coordinating technical documents prepared by others for compatibility with the design of the project.



Example Remediation Letter

Page 1

Licensee Name
Licensee Address
Licensee Phone Number
Licensee Email

Date

Amy Habe
Compliance Officer
State of Nebraska Board of
Engineers and Architects
215 Centennial Mall S
Ste 400
Lincoln, Nebraska 68509-5165

Re: Complaint XX.XX, Remediation Plan for:
Project Name
Project Address
City, NE, Zip Code

Amy Habe and the Board,

John Doe, owner of Project referenced above, recently engaged me as a licensed architect in the State of Nebraska to perform the remediation process in response to your letter dated, Month Day, Year. My review and this letter are in accordance with the requirements outlined in Neb. Admin. Code Title 110, Rule 8.4, which was referenced and attached in your correspondence with Mr. Doe.

The renovation of this building/structure received approval from the local jurisdiction as a residential property with a special use permit for a seasonal event center. The Nebraska State Fire Marshal performed two reviews/inspections of the renovated structure. In the first review, the Fire Marshal identified deficiencies which Mr. Doe corrected. Upon the second review of the State Fire Marshal, Mr. Doe received approval and a certificate of occupancy, issued effective Month/Day/Year, as a "New Assembly" with a maximum occupancy of 295 persons.

On Month/Day/Year, I performed a walk-through of the renovated structure and surrounding outdoor improvements to the existing structure. I reviewed the renovated structure in accordance with the 2018 International Building Code (IBC). Since Mr. Doe received approval from the Nebraska State Fire Marshal, my review did not include requirements outlined in the Life Safety Code or the Nebraska Accessibility Guidelines. My review of the renovated barn was limited to architectural elements and did not include any structural review from an engineering perspective.

In terms of the 2018 IBC, I am classifying this occupancy as Assembly, Group A-3. The primary use is a seasonal, wedding venue with non-fixed seating on the second floor of the existing barn. The inside dimensions of the assembly area are 38'-0" x 58'-8" which calculates to an area of 2,229 sf. When the area for both interior stairs is deducted, the area for assembly calculates to 2,064 sf. An occupant load factor of 7 sf/person confirms the 295 occupant load calculated by the State Fire Marshal.

One primary code deficiency was determined during my walk-through and code research. This code deficiency has two options for correction and multiple, corrective measures within the second option to achieve compliance. This deficiency and my recommended remediation are outlined on the following page.

Example Remediation Letter

Page 2

Chapter 903.2.1.3 of the IBC outlines three conditions that require an automatic sprinkler system. A sprinkler system is required if one of these conditions exist. These conditions include:

1. The fire area (assembly space) is greater than 12,000 sf. The existing assembly area totals 2,064 sf. **Not applicable.**
2. The fire area (assembly space) has an occupant load of 300 or greater. The calculated occupant load confirmed by the State Fire Marshal is 295. **Not applicable.**
3. The fire area (assembly space) is located on a floor other than the level of exit discharge serving such assembly occupancy. **Applicable considering the existing configuration of the renovated barn.**

In the current configuration, the exiting from the second floor assembly area is achieved via two interior stairways leading to the grade level (first floor) of the barn. The level of exit discharge is on the grade level and the assembly area is on the second floor of the renovated barn. This condition requires one of two corrective options:

1. Add an automatic sprinkler system throughout both stories of the existing barn. This will require additional work to the existing stairs to achieve the required 44" stair width **OR**,
2. Provide the exit discharge to the exterior of the building directly from the second floor of the barn in two locations in accordance with IBC 1028.1. This change will resolve the "level of exit discharge issue" and would eliminate the need for an automatic sprinkler system. To achieve the exit discharge to the exterior directly from the level of the area of assembly, the following corrections need to be implemented:
 - a. Secure the existing, north pair of in-swinging doors at the level of the assembly in the open position during events and ceremonies, including set up and clean up operations. The secure locking mechanism must only be accessed by the building owner. These existing doors lead to an exterior balcony, sufficient to serve as an exit discharge, leading to a public way. An exit sign will be required above these existing doors.
 - b. On the east side of the second floor assembly area, add a 48" wide, out-swinging exterior door which will provide access to a second exit discharge, directly to the exterior of the building at the level of the assembly space. This door must be located a minimum of 35 feet from the existing north exit doors (half of the diagonal of the assembly space). Relocate one of the existing, exit signs to a location above this new, exit door. Provide panic hardware at this new door. This new exit door will provide access to a new, exterior, exit stairway that is 45" in width and must provide a "direct path of egress travel to grade" in accordance with 1028.1.
 - c. The north and south existing, interior stairs may remain in place, but the existing, exit signage associated these interior stairs must be removed and replaced with signage that reads, "NOT AN EXIT". These existing stairs cannot serve as emergency exits from the assembly area on the second floor of the existing barn.

From a cost-effective perspective, I am recommending Option 2 to resolve the level of existing discharge code issue. I will review the corrective remediation and report to this board, my acceptance of the work completed by Mr. Doe. Please contact me if you have comments or questions regarding this deficiency and recommended remediation approach.

Sincerely,

Mel Smith

Licensee Name
Licensed Architect or P.E., NE
Licensee Number

c: John Doe - Project Name



Final Remediation Letter

Licensee Name,
Licensee Address, NE
Licensee Phone Number
Licensee Email@gmail.com
Month Day, 2023

Amy Habe
Compliance Officer
State of Nebraska Board of
Engineers and Architects
215 Centennial Mall S
Suite 400
Lincoln, Nebraska 68509-5165

Re: Complaint 23.XX, Remediation Plan
for: John Doe
Project Address

Amy Habe and the Board,

As a follow up to my letter dated, Month Day, Year (see attached), I have reviewed the corrective remediation that the owner of the Project Name, John Doe, has completed. Mr. Doe elected to execute Option 2 of my recommendations as outlined in the attached letter with one exception. Rather than locate the second exit on the east side of the existing barn, he located the exit on the south or front side of the barn. The installation of the door and the exterior exit stair comply with my recommendations as outlined under "Option 2". This location of the second exit provider greater distance between exits than required by code and provide greater visibility to this exit. All other recommendations outlined in Option 2 have been implemented to my satisfaction.

Please contact me if you have any comments, concerns or questions regarding the acceptance of the corrective remediation for the Project Name.

Sincerely,

Mel Smith

Licensee Name,
Licensed Architect NE
A-XXXX

c: John Doe, Owner - Project Name



Attachment: Letter to Nebraska Engineers & Architects dated, Month Day, 2023

The Remediation Licensee List



Remediation Licensee List

- Voluntary
- Volunteers must be in good standing with the Board
- When requested, list is sent to project owners to connect them with licensees willing to assist with the remediation process
- To join the list, please complete the post-webinar survey that will be sent out later this week.
 - Provide your name and license number
 - Organizations: provide name and Certificate of Authorization (CoA) number



Questions?



Contact Info & Resources

A GUIDE TO REMEDIATION

*Developed to Assist Owners
and Licensees in Bringing Non-
Compliant Projects Back Into
Compliance with the E&A Act*

- Remediation brochure available on our website, physical copies on request. Email NBEA.Marketing@Nebraska.Gov
- Questions about remediation, the licensee list, or anything else, email NBEA.Compliance@Nebraska.Gov

