

02 NCAC 34 .0605 CONTRACTUAL AGREEMENTS FOR WOOD-DESTROYING ORGANISMS

(a) All agreements for the control or prevention of wood-destroying organisms in existing structures shall be in writing and shall include the following:

- (1) Date property was inspected and full name of the inspector;
- (2) Exact location of property inspected or treated;
- (3) Name and address of the property owner or his authorized agent;
- (4) Name and address of the company proposing or performing the treatment;
- (5) License number and phase(s) of the licensee and under whose license the work is to be performed;
- (6) Signature of licensee or his authorized agent;
- (7) A foundation diagram or, if required or recommended by the label of the pesticide used, a site plan of the structure(s) or portions of such structure(s) inspected. The diagram or site plan shall indicate:
 - (A) The location of individual water sources;
 - (B) Any visible evidence of wood-destroying organism infestation;
 - (C) Whether the infestation is active or inactive;
 - (D) The location of any visibly damaged timbers;
 - (E) Portions of the structure treated and not treated;
 - (F) The approximate number and proposed location(s) of bait or monitoring device placements, if applicable. Upon completion of the installation the property owner or agent shall be provided with a diagram or site plan showing the actual number and locations of all stations; and
 - (G) For treatment of wood-decay fungus infestations, the location and result of all moisture meter readings obtained pursuant to 02 NCAC 34 .0508;
- (8) The date upon which the written agreement is entered into and the period of time covered by the written agreement;
- (9) The wood-destroying organism(s) to be controlled or prevented and the terms of the service agreement or warranty to be issued, if any;
- (10) Whether or not reinspections are to be made and, if so, approximate time interval between, and renewal fees for same;
- (11) Conditions under which retreatments will be made;
- (12) Total price to be charged for treatment service and for repairs or excavations, where such are to be performed;
- (13) The written agreement, waiver (if applicable), and Wood-Destroying Insect Report or Wood-Destroying Organism Report, shall not show or include the address and telephone number of any licensee's representative or employee other than the address and telephone number of those specified in Subparagraphs (a)(4) and (5) of this Rule;
- (14) Any licensee or business entity advertising to be bonded shall advise each customer, in writing, in the proposal, whether or not the warranty or written agreement will be covered by a bond of any type;
- (15) If the performance of the work is guaranteed by a bond, the agreement shall set forth those performance guarantees in wording identical to that in the bond itself;
- (16) 02 NCAC 34 .0501(a) shall also be followed;
- (17) Whether the written agreement or warranty may be transferred to subsequent owners of the property and the terms of any such transfer.

(b) A structure or structures covered by a written agreement or warranty for wood-destroying organism(s) treatment shall not knowingly be placed under an additional written agreement or warranty for the same treatment while the first written agreement or warranty is still in effect without first obtaining a separate written acknowledgment of such signed by the property owner or authorized agent.

(c) When periodic reinspections or retreatments are specified in written agreements for the control or prevention of wood-destroying organisms, the licensee shall issue to the property owner or his authorized agent, after each reinspection or retreatment, a signed report of each reinspection or retreatment showing the condition of the property with respect to the presence or absence of wood-destroying organisms. A record of such reinspections and retreatments shall be kept in the file of the licensee. Such reports shall be subject to inspection by the enforcement agency or committee.

(d) All agreements for the control or prevention of wood-destroying organisms in buildings under construction shall be in writing and shall include the following:

- (1) Date of final treatment and period of time covered by the written agreement;
 - (2) Exact location of the treated property;
 - (3) Name and address of the property owner or his authorized agent;
 - (4) Name and address of the licensee;
 - (5) License number and phase(s) of the licensee and full name of company licensee represents;
 - (6) Signature of licensee or his authorized agent;
 - (7) The wood-destroying organism(s) to be controlled or prevented and the terms of the warranty to be issued, if any;
 - (8) Whether or not reinspections are to be made and, if so, approximate time interval between, and renewal fees, if any, for same;
 - (9) Conditions under which retreatments will be made;
 - (10) Total price to be charged for treatment service;
 - (11) Any licensee or business entity advertising to be bonded shall advise each customer, in writing, in the proposal, whether or not the warranty or written agreement will be covered by a bond of any type;
 - (12) If the performance of the work is guaranteed by a bond, the agreement shall set forth those performance guarantees in wording identical to that in the bond itself;
 - (13) 02 NCAC 34 .0604(a) shall also be followed;
 - (14) Whether the written agreement or warranty may be transferred to subsequent owners of the property and the terms of any such transfer;
 - (15) If a warranty is issued on a treatment for prevention of subterranean termites in new construction, the licensee shall provide to the builder (or owner, if known at time of treatment) a one-year transferable warranty, which contains, as a minimum, the following terms and conditions:
 - (A) The warranty shall cover retreatment of the structure;
 - (B) The warranty period shall begin on or after the day the pretreatment is completed;
 - (C) The PCO must offer the homeowner the opportunity to renew the warranty on the same terms and conditions the licensee offers renewals of the regular termite treatment contracts for four consecutive years;
 - (D) The warranty must be transferable to any owner within either the original one-year warranty period, or within any of the four years specified in Part (d)(15)(C) of this Rule, by notification from the new or the old owner to the licensee or his agent. Failure of the homeowner to renew any one year relieves the PCO of any future responsibility for renewal based upon Parts (d)(15)(C) and (D) of this Rule. The renewal warranty must, as a minimum, extend retreatment, but may by mutual agreement, be extended or enlarged; and
 - (E) Neither the licensee's original warranty nor any extension thereof shall extend to:
 - (i) Violations of the Standard Builder's Code by the owner/builder which occur after the completion of the pretreatment;
 - (ii) Additions not treated by the licensee or his representative;
 - (iii) Infestations originating or thriving as a result of remodeling, landscaping or other alteration which occurs after pretreatment is complete and which entails considerable disturbance of the treated soil area or would otherwise enable termites to avoid or circumvent the treatment; and
 - (iv) Infestations originating or thriving as a result of building defects, including but not limited to water leaks, excessive moisture or structural defects, of which the property has been notified and given the opportunity to correct.
- (e) If the licensee provides preventive treatment(s) for subterranean termites to a structure(s) for someone such as a builder or construction company who is constructing the building(s) for someone else or with the purpose of offering the building(s) for sale, the licensee may enter into a single master agreement with the builder to provide the preventive treatment(s) for subterranean termites. This single master agreement shall include the following:
- (1) Name and address of the builder or his authorized agent;
 - (2) That information required in Subparagraphs (d)(4) through (15) of this Rule.
- (f) When a structure is treated under an agreement with a builder, the licensee shall:
- (1) Following completion of the treatment and upon notification by the builder or buyer, issue a written agreement to the initial buyer. The written agreement issued to the buyer shall include the following:

- (A) Name and address of the builder or his authorized agent as it appears on the builder's agreement;
 - (B) That information required in Subparagraphs (d)(1) through (9), (11), (14), and (15) of this Rule. The builder shall be issued a copy of any written agreement issued the buyer.
- (2) Maintain a record of each treatment performed on each structure to include the following information:
- (A) Location of the structure treated;
 - (B) Date each treatment was performed;
 - (C) The portion(s) of the structure treated.

History Note: Authority G.S. 106-65.29;
Eff. July 1, 1976;
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Temporary Amendment Eff. January 10, 1997;
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Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.