

TITLE I GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 5 PUBLIC PROPERTY MANAGEMENT
PART 24 CONDUCT ON AND USE OF STATE PROPERTY

1.5.24.1 ISSUING AGENCY: General Services Department, Property Control Division.

[1.5.24.1 NMAC - N, 1/1/09]

1.5.24.2 SCOPE: All state property under the authority of property control division. General applicability: This rule applies to all persons entering in or on such property. Each occupant agency shall be responsible for the observance of this rule. State agencies must post the notice as required by PCD at each public entrance to each state facility.

[1.5.24.2 NMAC - N, 1/1/09]

1.5.24.3 STATUTORY AUTHORITY: Section 15-3B-4(A) (2) NMSA 1978, which allows the division to regulate the use or occupancy of buildings and real property under its jurisdiction and make reasonable requirements for the continuation of that use or occupancy; and 15-3B-4(A) (7) which allows the division to make rules for the conduct of all persons in and about buildings and grounds under its jurisdiction necessary and proper for the safety, care and preservation of the buildings and grounds and for the safety and convenience of the persons while they are in and about the buildings and grounds; (1978 Comp., Section 15-3-2; 1953 Comp., Section 6-2-26; enacted by Laws 1968, Chapter 43, Section 2; amended by Laws 1971, Chapter 285, Section 2; Laws 1973, Chapter 209, Section 1; Laws 1977, Chapter 247, Section 69; Laws 1977, Chapter 385; Section 14; Laws 1978, Chapter 166, Section 14; and Laws 1980, Chapter 151, Section 16.)

[1.5.24.3 NMAC - N, 1/1/09]

1.5.24.4 DURATION: Permanent.

[1.5.24.4 NMAC - N, 1/1/09]

1.5.24.5 EFFECTIVE DATE: January 1, 2009, unless a later date is cited at the end of a section.

[1.5.24.5 NMAC - N, 1/1/09]

1.5.21.6 OBJECTIVE: The objective of this rule is to establish a fair, uniform, clear direction and effective process to govern conduct on and use of state real property under the jurisdiction of the property control division.

[1.5.24.6 NMAC - N, 1/1/09]

1.5.24.7 DEFINITIONS:

A. **“Agency”** means a state executive agency other than the state land office, state armory board, the office of cultural affairs, the state fair commission, the department of game and fish, the department of transportation, the commissioner of public lands, the state parks division of the energy, minerals and natural resources department, the state institutions of higher learning, the New Mexico school for the deaf, the New Mexico school for the visually handicapped, the judicial branch, the legislative branch, property acquired by the economic development department pursuant to the Statewide Economic Development Finance Act (6-25-1 NMSA 1978) and property acquired by the public school facilities authority pursuant to the Public School Capital Outlay Act (22-24-1 NMSA 1978).

B. **“Alterations and modifications”** means work performed to change the interior arrangements or other physical characteristics of an existing facility or installed equipment so that it can be used more effectively for its currently designated purpose or adapted to a new use. Alterations may include work referred to as improvement, conversion, remodeling, and modernization but are not maintenance. Also included is work to replace or restore damaged, worn-out building components to a normal operating condition. Such repairs are curative, while maintenance is preventative.

C. **“Authorized persons”** means a non-state employee given written authorization by the lead agency and or the PCD to enter a property when the property is closed to the public.

D. **“Charitable purpose”** means any purpose for which a charitable organization has been established to directly promote the well-being of the public at large or the benefit of an indefinite number of persons and may not result in any profit to the non-profit organization.

E. **“Director”** means the director of the property control division (PCD).

F. **"Improvements"** means all land, structures, firmly attached and integrated equipment (such as light fixtures or a well pump), anything growing on the land, and all "interests" in the property.

G. **"Lead agency"** means the agency designated by the division to occupy a state building or campus subject to the jurisdiction of PCD who is responsible for ensuring that the building(s) are maintained to standard and that all costs associated with the operation of the building(s) are paid.

H. **"Major repairs"** means work necessary to restore a facility, system or component to its intended use.

I. **"Maintenance, operations and repair"** means those activities essential for the routine use for which a facility was designed, including preventive maintenance activities and related work that is required to preserve a facility in a condition such that it can be effectively used for its intended purpose. Examples of expenses that are included are utilities, custodial services, security, pest control, trash-recycle removal, preventive maintenance, minor repairs and related administrative costs.

J. **"Preventative maintenance"** means a planned program of periodic inspections, servicing, maintenance and performance testing.

K. **"Property control division (PCD)"** means the division of the general services department established in Chapter 15, Article 3 NMSA 1978.

L. **"Smoke" or "Smoking"** means the carrying or holding of a lighted pipe, cigar or cigarette of any kind, or any other lighted smoking equipment or the lighting or emitting or exhaling the smoke of a pipe, cigar or cigarette of any kind.

M. **"Solicitation"** means any activity which may be considered or reasonably interpreted as being for the advertisement, promotion, or sale of products, or services, or for the participation in a commercial venture of any kind. The distribution or posting of handbills, leaflets, circulars, advertising or other printed materials for the purpose cited in Paragraph (2) of Subsection A and Paragraph (5) of Subsection B of 1.5.24.9 NMAC is construed as solicitation.

N. **"State property"** also referred to as property and premises, is all premises and grounds maintained by, or for the use of, a state agency, department or division under the jurisdiction of PCD.

O. **"Vendor"** means someone who promotes or exchanges goods or services for money or other valuable consideration.

[1.5.24.7 NMAC - N, 1/1/09]

1.5.24.8 ASSIGNMENT OF BUILDING: The division shall assign a lead agency in each building under its jurisdiction. The lead agency shall be responsible for compliance with, this rule and shall take all steps necessary to comply with all requirements herein. The lead agency shall be responsible for ensuring that the building(s) are maintained to standard and that all costs associated with the operation of the building(s) are paid. The lead agency for all buildings maintained by New Mexico building services division shall be the building services division.

[1.5.24.8 NMAC - N, 1/1/09]

1.5.24.9 SOLICITING, VENDING AND DEBT COLLECTION:

A. Policy.

(1) All persons entering in or on state property are prohibited from soliciting or requesting or receiving political donations.

(2) No solicitation materials may be posted except on designated bulletin boards.

(3) With the exception of bulletin boards designated for posting solicitation materials, no state materials, supplies, services or equipment may be used for solicitation purposes other than activities authorized by an agency of the state for state-connected business or state-sponsored charitable purposes.

(4) Any and all violations observed shall be reported immediately to the PCD.

B. Permissible non-employment related activities: persons or charitable organizations wishing to seek permission to use premises for an activity must submit an application to PCD, a copy of the application may be obtained from PCD. No activity as listed in Paragraphs (1) through (8) of this subsection shall commence until approval is granted.

(1) Charitable purposes.

(2) Organized employee participation in sports activities representing their state agency or a charitable organization including departmental or charity ball teams.

(3) Activities conducted at the direction of the head of a state agency.

(4) Sale of small craft items during breaks and lunch in employee lounges and break areas by employees of the state.

(5) State employees may post handbills, leaflets, circulars, advertising or other printed materials on specifically designated bulletin boards regarding the offering or sale of personal items such as free kittens or bikes for sale, or personal announcements such as wedding announcements or ride share requests. This does not apply to announcements relating to a personal business.

(6) Employee recognition events conducted by a state agency such as a national secretaries week luncheons which are approved by the supervisor of the employees affected.

(7) Labor union activities if permitted by the agreement between the union and state of New Mexico.

(8) No vending machines may be permitted except as permitted by the New Mexico commission for the blind as per Chapter 80 of Laws of 1957 (Horace De Vargas Act).

[1.5.24.9 NMAC - N, 1/1/09]

1.5.24.10 ADMISSION TO PREMISES BY LEAD AGENCIES:

A. Lead-agency may close property or the affected portion thereof, to the public during normal work hours, on a temporary basis, when needed to protect the property and or the safety of individuals on the property.

B. If the property is closed for more than 24 hours, the lead-agency will ensure that the property or the affected portion, is restricted to "authorized persons" who must register upon entry to the property and must, when requested, display government or other identifying credentials to the New Mexico state police or other authorized individuals when entering, leaving or while on the property. Failure to comply with any of the applicable provisions is a violation of these regulations.

C. The lead-agency shall notify the PCD as soon as possible, but not later than the next business day following the closure of the property.

D. The lead-agency may approve the use of the property after-normal working hours, as authorized by Subsection E of this section.

E. The lead-agency may authorize the use of the building or portions thereof for use by other state agencies and or non-profit organizations, subject to the provisions of the Property Control Act and this rule.

[1.5.24.10 NMAC - N, 1/1/09]

1.5.24.11 PRESERVATION OF PROPERTY: All persons entering in or on state property are prohibited from:

- A. improperly disposing of rubbish on property;
- B. willfully destroying or damaging property;
- C. stealing property;
- D. creating any hazard on property to persons or things;
- E. throwing articles of any kind from or at a building or the climbing upon statues, fountains or any part of the building;
- F. roller-skating;
- G. skateboarding.

[1.5.24.11 NMAC - N, 1/1/09]

1.5.24.12 CONFORMITY WITH SIGNS AND DIRECTIONS: Persons in and on property must at all times conduct themselves in accordance with the law and comply with official signs of a prohibitory, regulatory or directory nature and with the lawful direction of state police officers and other authorized individuals.

[1.5.24.12 NMAC - N, 1/1/09]

1.5.24.13 DISTURBANCES: All persons entering in or on state property are prohibited from loitering, pan handling, exhibiting disorderly conduct or exhibiting other conduct on property which:

- A. creates loud or unusual noise or a nuisance;
- B. unreasonably obstructs the usual use of entrances, foyers, lobbies, corridors, offices, elevators, stairways, or parking lots;
- C. otherwise impedes or disrupts the performance of official duties by government employees; or
- D. prevents the general public from obtaining the administrative services provided on the property in a timely manner.

[1.5.24.13 NMAC - N, 1/1/09]

1.5.24.14 NARCOTICS AND OTHER DRUGS: Except in cases where the drug is being used as prescribed for a patient by a licensed physician, all persons entering in or on state property are prohibited from:

- A. being under the influence of alcoholic beverages, narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines or other illegal substances;
 - B. using or possessing any narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines; or other illegal substance;
 - C. operating a motor vehicle on the property while under the influence of alcoholic beverages, narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines or other illegal substances.
- [1.5.24.14 NMAC - N, 1/1/09]

1.5.24.15 EXPLOSIVES: No person entering or while on state property may carry or possess explosives, or items intended to be used to fabricate an explosive or incendiary device, either openly or concealed, except for official purposes.
[1.5.24.15 NMAC - N, 1/1/09]

1.5.24.16 WEAPONS IN STATE BUILDINGS: Persons caring a concealed weapon in state buildings are required to be in compliance with the New Mexico Concealed Handgun Carry Act of 2003, Chapter 29, Article 19 and 10.8.2 NMAC.
[1.5.24.16 NMAC - N, 1/1/09]

1.5.24.17 NONDISCRIMINATION: State agencies shall not discriminate by segregation or otherwise against any person or persons because of race, creed, sex, color, or national origin in furnishing or by refusing to furnish to such person or persons the use of any facility of a public nature, including all services, privileges, accommodations, and activities provided on the property.
[1.5.24.17 NMAC - N, 1/1/09]

1.5.24.18 SMOKING: The lead agency shall be required to comply with Chapter 24 Article 16 NMSA 1978 as amended by Laws of 2007 Chapter 20 "The Dee Johnson Clean Indoor Air Act". Designate smoking areas will be established a minimum of 50 feet away from any entrance, ventilating systems or operable window in a building and the lead agency shall provide notice to all employees in the building, regarding this location.
[1.5.24.18 NMAC - N, 1/1/09]

1.5.24.19 DOGS AND OTHER ANIMALS: Except dogs used for law enforcement purposes, seeing eye dogs, other guide dogs, and animals used or being trained to guide or assist handicapped persons, persons may not bring dogs or other animals on state property for other than official purposes.
[1.5.24.19 NMAC - N, 1/1/09]

1.5.24.20 PHOTOGRAPHS FOR NEWS, ADVERTISING, OR COMMERCIAL PURPOSES: Except where security regulations apply or a state court order or rule prohibits it, persons entering in or on state property may take photographs with the permission of the state agency of:

- A. space occupied by a tenant agency but only with the permission of the occupying agency concerned;
- B. space occupied by a non-state agency for commercial purposes with written permission of an authorized official of the occupying agency concerned; and building entrances, lobbies, foyers, corridors, or auditoriums for news purposes.

[1.5.24.20 NMAC - N, 1/1/09]

1.5.24.21 PARKING: Reserved parking - the lead agency may designate reserved parking for the following purposes:

- A. visitor parking; an equal number of visitor spaces to parking for the disabled will be provided if designated;
- B. registered van or carpools;
- C. alternative fuel vehicles;
- D. cabinet secretary;
- E. deputy cabinet secretary;
- F. elected officials headquartered in the building;
- G. up to two additional spaces for elected officials to be designated for use by the elected official headquartered in the building;

- H. loading areas;
- I. state vehicles.

[1.5.24.21 NMAC - N, 1/1/09]

1.5.24.22 MAINTENANCE OF ASSIGNED BUILDINGS AND CAMPUSES:

A. The lead agency shall be responsible for securing an appropriate budget for all maintenance, operation and preventative maintenance costs as defined herein. Budget requests will consider the following if applicable:

- (1) custodial services;
- (2) custodial cleaning supplies;
- (3) landscape and grounds;
- (4) building maintenance;
- (5) routine building maintenance supplies;
- (6) heating, cooling and ventilation system equipment maintenance;
- (7) generator maintenance;
- (8) sewage system maintenance;
- (9) security services;
- (10) fire suppression systems maintenance including fire extinguisher inspection;
- (11) utilities;
- (12) recycle program: recycle program shall comply with the New Mexico Solid Waste Act;
- (13) in compliance with any facility related governor's executive orders.

B. The property control division will be responsible for alterations, modifications, and major repairs. Funding for these types of projects may require legislative appropriation.

C. Lead agency shall comply with the PCD "facility maintenance standards" (an electronic copy may be obtained from PCD). Should the lead agency fail to follow the facilities maintenance standards, thereby ensuring that the buildings are being maintained to standard, the property control division may have a budget amount necessary to maintain the facility and grounds transferred to a new lead agency the general services department, building services division so that they will be able to ensure that they have the budget to take over the maintenance of the buildings(s) or campus that the lead agency occupies thereby ensuring compliance with the "facilities maintenance standards" manual. Cost of utilities may remain with the state agency in order to more appropriately manage energy conservation directives.

D. With the assistance and approval of the property control division the lead agency shall be responsible for seeking operating funds in an amount comparable with the national average for operating costs as published by the building owners and managers association (BOMA) "annual experience and exchange report for office buildings". Non-office buildings including 24 hour use facilities, will seek operating budgets as appropriate for their facility.

E. By July 1 of each calendar year, the lead agency shall provide to the property control division a maintenance report on the form provided by the division that includes the following items:

- (1) budget for maintenance and operation for upcoming fiscal year;
- (2) list of all buildings, including square footage of buildings to be maintained;
- (3) contact name of person responsible for operation and maintenance of building(s);
- (4) number of state employees or contract workers assigned to perform building maintenance, landscape maintenance, custodial services and security;
- (5) list of critical maintenance contracts utilized for the purpose of maintaining the assigned building(s);
- (6) list of major repairs needed for each building.

[1.5.24.22 NMAC - N, 1/1/09]

1.5.24.23 Waiver: Notwithstanding any provision of this rule, a waiver of any provision thereof, may be made in writing by the director, if it determines in writing that the strict holding of the provision would be unreasonable under the circumstances and that the provision is not needed to protect the facility, grounds or the public. The applicant has the burden to establish that the waiver should be granted. The request for waiver shall be made in writing as part of the "facility use application" and must provide the necessary information and documentation to support such waiver. The decision of the director may not be appealed and is final.

[1.5.24.23 NMAC - N, 1/1/09]

HISTORY OF 1.5.24 NMAC: [RESERVED]