

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 39 ENGINEERING AND SURVEYING PRACTITIONERS
PART 4 INCIDENTAL PRACTICE

16.39.4.1 ISSUING AGENCY: State Board of Licensure for Professional Engineers and Professional Surveyors, 2550 Cerrillos Road, Santa Fe, NM 87505, telephone no. (505) 476-4565.
[16.39.4.1 NMAC - Rp, 16 NMAC 39.4.1, 1/01/2002; A, 7/01/2006; A, 7/1/2015]

16.39.4.2 SCOPE: Provisions for Part 4 apply to any person licensed as a professional engineer.
[16.39.4.2 NMAC - Rp, 16 NMAC 39.4.2, 1/01/2002]

16.39.4.3 STATUTORY AUTHORITY: Subsection B of Section 61-23-10 NMSA 1978 prescribes that “the board shall have the power to adopt and amend all bylaws and rules of procedure consistent with the constitution and the laws of this state that may be reasonable for the proper performance of its duties and the regulation of its procedures, meeting records, examinations and the conduct thereof. The board shall adopt and promulgate rules of professional responsibility for professional engineers and professional surveyors that are not exclusive to the practice of engineering or exclusive to the practice of surveying.” Subsection C of Section 61-23-10 NMSA 1978 prescribes that “the professional engineering committee shall adopt and promulgate rules of professional responsibility exclusive to the practice of engineering. All such bylaws and rules shall be binding upon all persons licensed pursuant to the Engineering and Surveying Practice Act.” Subsection K of Section 61-23-10 NMSA 1978 states “the board, in cooperation with the board of examiners for architects and the board of landscape architects shall create a joint standing committee to be known as the 'joint practice committee'.” Subsection L of Section 61-23-10 NMSA 1978 states “as used in the Engineering and Surveying Practice Act, 'incidental practice' shall be defined by identical regulations of the board of licensure for professional engineers and professional surveyors and the board of examiners for architects.”
[16.39.4.3 NMAC - Rp 16 NMAC 39.4.3, 1/01/2002; A, 7/01/2006; A, 12/28/2017]

16.39.4.4 DURATION: Permanent.
[16.39.4.4 NMAC - Rp, 16 NMAC 39.4.4, 1/01/2002]

16.39.4.5 EFFECTIVE DATE: January 1, 2002, unless a later date is cited at the end of a section.
[16.39.4.5 NMAC - Rp, 16 NMAC 39.4.5, 1/01/2002]

16.39.4.6 OBJECTIVE: The objective of Part 4 of Chapter 39 is to define architectural work incidental to engineering and engineering work incidental to architecture as approved by the joint practice committee and as an identical rule to Subsection G of Section 16.30.1.7 NMAC (board of examiners for architects).
[16.39.4.6 NMAC - Rp, 16 NMAC 39.4.6, 1/01/2002; A, 12/28/2017]

16.39.4.7 DEFINITIONS: [RESERVED]
[16.39.4.7 NMAC - Rp, 16 NMAC 39.4.7, 1/01/2002]

16.39.4.8 INCIDENTAL PRACTICE OF ARCHITECTURE AND ENGINEERING - as defined in Subsection A of Section 61-23-22 NMSA 1978 means:

A. architectural work incidental to engineering shall be that architectural work provided on projects with a building construction value not greater than six hundred thousand dollars (\$600,000) and having a total occupant load not greater than 50;

B. engineering work incidental to architecture shall be that engineering work provided on projects with a building construction value not greater than six hundred thousand dollars (\$600,000) and having a total occupant load not greater than 50;

C. all buildings and related structures within the regulatory provisions of the New Mexico Uniform Building Code (NMUBC) will require the proper authentication of the building construction documents by all participating disciplines in accordance with their respective governing acts on projects with a building construction value greater than six hundred thousand dollars (\$600,000) or having a total occupant load greater than 50, with the exception of:

- (1) single-family dwellings not more than two stories in height;
- (2) multiple dwellings not more than two stories in height containing not more than four

dwelling units of wood-frame construction; provided this paragraph shall not be construed to allow a person who is not registered under the Architectural Act to design multiple clusters of up to four dwelling units each to form apartment or condominium complexes where the total exceeds four dwelling units on any lawfully divided lot;

(3) garages or other structures not more than two stories in height which are appurtenant to buildings described in Paragraph (1) and (2) of Subsection C of 16.39.4.8 NMAC; or

(4) nonresidential buildings, as defined in the uniform building code, or additions having a total occupant load of 10 or less and not more than two stories in height, which shall not include E-3 (Day Care), H (Hazardous), or I (Institutional) occupancies;

(5) alterations to buildings or structures which present no unusual conditions, hazards or change of occupancy.

D. the owner, user or using agency shall select the prime design professional (architect or engineer) for any project based on the requirements and nature of the project;

E. occupant load shall be defined and determined by the method set forth in Table 33-A of the Uniform Building Code (UBC).

[16.39.4.8 NMAC - Rp, 16 NMAC 39.4.8, 1/01/2002; A, 7/1/2015; A, 12/28/2017]

HISTORY OF 16.39.4 NMAC:

Pre-NMAC History: The material in this part is derived from that previously filed with the state records center & archives under: PE/PS Rule 92-1, Definitions, filed 1-30-92 and Rule No. 300.1 Regulations and Rules of Procedure - Incidental Practice of Architecture and Engineering, filed 10-28-94.

History of Repealed Material:

16 NMAC 39.4, Incidental Practice of Architecture and Engineering (filed 03-31-98) repealed 01-01-2002.

Other History:

Rule No. 300.1 Regulations and Rules of Procedure - Incidental Practice of Architecture and Engineering (filed 10-28-94) was renumbered, reformatted and replaced by 16 NMAC 39.4, Incidental Practice of Architecture and Engineering, effective 04-15-1998.

16 NMAC 39.4, Incidental Practice of Architecture and Engineering (filed 03-31-98) was renumbered, reformatted and replaced by 16.39.4 NMAC, Incidental Practice, 01-01-2002.