

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 44 LANDSCAPE ARCHITECTS
PART 1 GENERAL PROVISIONS

16.44.1.1 ISSUING AGENCY: New Mexico Board of Landscape Architects, P.O. Box 25101, Santa Fe, NM 87504.

[16.44.1.1 NMAC - Rp, 16.44.1.1 NMAC, 9-30-16]

16.44.1.2 SCOPE: This part applies to the board, licensees, certificate holders, applicants and the general public.

[16.44.1.2 NMAC - Rp, 16.44.1.2 NMAC, 9-30-16]

16.44.1.3 STATUTORY AUTHORITY: This part is adopted pursuant to Landscape Architects Act, Sections 61-24B-1, 61-24B-3, 61-24B-6, 61-24B-7, 61-24B-10 NMSA 1978.

[16.44.1.3 NMAC - Rp, 16.44.1.3 NMAC, 9-30-16]

16.44.1.4 DURATION: Permanent.

[16.44.1.4 NMAC - Rp, 16.44.1.4 NMAC, 9-30-16]

16.44.1.5 EFFECTIVE DATE: September 30, 2016, unless a later date is cited at the end of a section.

[16.44.1.5 NMAC - Rp, 16.44.1.5 NMAC, 9-30-16]

16.44.1.6 OBJECTIVE: The objective of 16.44.1 NMAC is to set forth the provisions which apply to all persons affected or regulated by the Landscape Architects Act, and to establish definitions, board meeting dates, and election of officers.

[16.44.1.6 NMAC - Rp, 16.44.1.6 NMAC, 9-30-16]

16.44.1.7 DEFINITIONS: As used in these regulations, the following words and phrases have the following meanings unless the context or intent clearly indicates a different meaning.

A. “Accredited” means accreditation by the landscape architectural accreditation board (LAAB) or a recognized equivalent accrediting agency.

B. “Act” means the Landscape Architects Act, Sections 61-24B-1 through 61-24B-17 NMSA 1978.

C. “Administrator” “board administrator” or “program manager” means the staff person assigned certain express or implied executive and administrative functions of the board as defined by board regulation or as required to carry out the provisions of the act.

D. “Applicant” means a person who has completed all educational requirements for licensure or certification and has filed an initial application with the board.

E. “Board” means the New Mexico board of landscape architects.

F. “Board regulation” or “regulation” means any part adopted by the board pursuant to authority under the act and includes any superseding regulation. “Rule” means board regulation.

G. “Candidate” means a person who has filed with the board a completed form for licensure or certification that is complete in all particulars and appears on the face to satisfy all minimum educational, supervision, payment and other requirements except examination requirements as required by the act and these regulations and is eligible to take the L.A.R.E.

H. “Certificate holder” or “certification” means an individual certified under the Landscape Architects Act as a landscape architect in training.

I. “CLARB” means the council of landscape architect registration boards or its successor.

J. “CLARB certification” means certification by CLARB that a landscape architect has met the minimum standards of education, examination, experience and professional conduct established by the council and is thereby recommended for licensure in all member jurisdictions.

K. “CLARB council record” means the verified documentation of an individual’s education, experience, examination, licensure and professional conduct compiled by CLARB.

L. “Client” means a person or corporate entity that is the recipient of landscape architectural services.

- M.** “**Consultant**” means a licensed landscape architect who provides professional advice or opinion to a licensee and who has no professional relationship with the client, has no authority over the project or has no responsibility for the services performed for the client.
- N.** “**Continuing professional education**” (CPE) means a board requirement of continuing education, instruction or participation as a condition of renewal of licensure.
- O.** “**Custodian**” means board administrator.
- P.** “**Electronic transmission**” means the sending of information through the internet or by telephone facsimile (FAX) or e-mail.
- Q.** “**Filed with the board**” means actual receipt during normal business hours at the board office in Santa Fe, New Mexico.
- R.** “**General administration of a construction contract**” means the interpretation of drawings and specifications, the establishment of standards of acceptable workmanship and the periodic observation of construction to facilitate consistency with the general intent of the construction documents.
- S.** “**Good cause**” means the inability to comply because of illness, undue hardship, or extenuating circumstances that are not willful and are beyond the control of the person asserting good cause. Those asserting good cause shall have the burden to demonstrate good cause.
- T.** “**Inactive status**” means a procedure of the board to affirm that a licensee is not engaged in active practice.
- U.** “**Initial application**” means the initial application for licensure or certification filed with the board by an applicant not previously or currently licensed in a jurisdiction.
- V.** “**Joint practice committee**” (JPC) means a committee statutorily comprised of two architects, two landscape architects and two engineers or land surveyors and a public member.
- W.** “**Landscape architect**” or “registered landscape architect” (RLA) means an individual registered under the Landscape Architects Act to practice landscape architecture.
- X.** “**Landscape architect in training**” (LAIT) means an individual certified under the Landscape Architects Act who is actively pursuing completion of the requirements for licensure pursuant to that act, under direct supervision of a registered landscape architect.
- Y.** “**Landscape architect registration examination**” (L.A.R.E.) means the national examination promulgated by CLARB.
- Z.** “**Landscape architecture**” means the art, profession or science of designing land improvements, including consultation, investigation, research, design, preparation of drawings and specifications and general administration of contracts to protect the health, safety and welfare of the public. Nothing contained in this definition shall be construed as authorizing a landscape architect to engage in the practice of architecture, engineering or land surveying as defined in Sections 61-15-2, 61-23-2.1 and 61-23.27.9 NMSA 1978.
- AA.** “**Licensed**” means licensed, registered or any other term when such terms identify a person whose professional behavior is subject to regulation by the board.
- BB.** “**Licensee in good standing**” means a licensee who is not the subject of a pending investigation, adjudicatory proceeding, or petition on appeal or review, or whose license is not restricted, suspended, or revoked in New Mexico or any other state or licensing jurisdiction.
- CC.** “**Licensee**” means a person licensed pursuant to the provisions of the act and board regulations.
- DD.** “**NCARB**” means the national council of architectural registration boards.
- EE.** “**Practical experience**” means experience that demonstrates an essential understanding of the practice of landscape architecture pursuant to the act. Practical experience shall begin after graduation from a degree program as set forth in the act.
- FF.** “**Professional relationship**” means a mutually agreed-upon relationship between a landscape architect and a client for the purpose of the client(s) obtaining the landscape architect’s professional services.
- GG.** “**Professional services**” means all actions of the landscape architect in the context of professional relationship with the client.
- HH.** “**Registrant,**” “registered” or “registration” means an individual registered under the Landscape Architects Act as a landscape architect.
- II.** “**Related field**” means a field having an impact on or affecting the field of landscape architecture including, but not limited to, such fields as architecture or engineering.
- JJ.** “**Renewal cycle/period**” means the time during which a licensee or certificate holder renews his/her license.
- KK.** “**Sponsor**” means an individual, organization, association, institution or other entity that provides education activity for the purpose of fulfilling the continuing education requirements.

LL. “Supervisee” means any person who functions under the authority of a registered landscape architect to provide landscape architectural services as provided in the act or board regulations.

MM. “Supervisor” means a registered landscape architect who agrees to provide adequate supervision over a student, applicant, employee or staff or other non-licensed person and who remains ultimately responsible for the professional conduct of the non-licensed person and the welfare of the client.

[16.44.1.7 NMAC - Rp, 16.44.1.7 NMAC, 9-30-16]

16.44.1.8 BOARD MEMBERSHIP:

A. Board members: The board of landscape architects consists of five members appointed by the governor who are residents of New Mexico and serve for three-year staggered terms. The landscape architect members shall have been registered as landscape architects for at least five years.

B. The members shall be appointed as follows:

(1) Three shall be professional members who are registered under the Landscape Architects Act as landscape architects. The governor shall appoint the professional members from a list of names nominated by the New Mexico chapter of the American society of landscape architects (ASLA).

(2) Two members shall be public members who are laymen and have no significant financial interest, direct or indirect, in the practice of landscape architecture.

C. Expiration dates: Each member shall hold office until the expiration of his or her appointed term or until a successor is duly appointed. When the term of each member ends, the governor shall appoint the member’s successor for a term of three years. Any vacancy occurring in the board membership other than by expiration of term shall be filled by the governor by appointment for the un-expired term of the member. The governor may remove any board member for misconduct, incompetence, or neglect of duty.

[16.44.1.8 NMAC - Rp, 16.44.1.8 NMAC, 9-30-16]

16.44.1.9 BOARD OPERATIONS:

A. Elections. At its annual meeting in July, the board shall elect a chair, vice chair, and secretary-treasurer.

B. All board officers shall exercise authority subject to the act, board regulations, and specific directions of the board. Duties of the board chair, vice chair, and secretary-treasurer are as follows:

(1) The board chair shall preside at board meetings and adjudicatory hearings unless another presiding officer is named by the board.

(2) At the direction of the board, the board chair shall respond to inquiries and correspondence, execute orders of the board in any pending adjudicatory proceeding unless a hearing officer is appointed, sign decisions of the board unless the board designates another member to sign, appoint board members to formal committees, and provide direction to the board administrator on routine matters to facilitate the efficient operation of board functions between meetings.

(3) The vice chair shall preside at board meetings and adjudicatory hearings in the absence of the chair. If the office of chair becomes vacant, the vice chair shall serve as chair until a new chair is elected.

(4) The secretary-treasurer shall preside at board meetings and adjudicatory proceedings in the absence of the chair and vice chair.

C. Vacancy. If the office of board chair becomes vacant, the board shall elect a chair at the next meeting or any subsequent meeting. If the office of vice chair or secretary-treasurer becomes vacant, the board may hold elections as it deems necessary and advisable.

D. Duties of the board administrator. The board administrator shall at all times perform assigned duties subject to the act, the Uniform Licensing Act, Sections 61-1-1 through 61-1-34 NMSA 1978, board rules and regulations, and the specific direction of the board. The board administrator shall perform duties as specified in these rules and regulations, shall supervise other personnel, and shall ensure the responsiveness and efficiency of the functions of the board.

E. Board office. The board office is located in Santa Fe, New Mexico.

F. Board meetings. The board shall conduct meetings in accordance with New Mexico Open Meetings Act, Sections 10-15-1 through 10-15-4 NMSA 1978.

(1) The board shall hold an annual meeting in July and shall hold other meetings as it deems necessary and advisable.

(2) The board shall conduct its meetings in an orderly fashion, with due regard for each board member and the public. The board may refer to Robert’s Rules of Order, revised, when necessary and advisable. The board administrator shall prepare the meeting agenda in accordance with the New Mexico Open

Meetings Act and board resolution. The board may change the order of agenda items during its meeting. The board shall transact official business only at a legally constituted meeting with a quorum present. The board is not bound in any way by any opinion, statement, or action of any board member(s), the board administrator, or other staff except when the action is pursuant to a lawful instruction or direction of the board. Except for proceedings to adopt, amend, or repeal regulations governed by Section 61-1-29 NMSA 1978, the board, in its sole discretion, may provide a reasonable opportunity for persons attending an open meeting to address the board on an agenda item. The request to speak shall be timely made and shall not cause delay or disruption of the board's meeting. Except for conferences for the purpose of settlement or simplification of the issues, no person shall be permitted to address the board on any pending or concluded application, complaint, investigation, adjudicatory proceeding, or matter in litigation. Any public comment to the board shall be brief, concise, and relevant to the agenda item. The board may limit the total time allotted for comments and the time allotted to any person. Pursuant to Subsection C of Section 10-15-1 NMSA 1978, a board member may participate in a meeting of the board by means of a conference telephone or other similar communications equipment when it is otherwise difficult or impossible for the member to attend the meeting in person.

(3) Any board member who cannot be impartial in the determination of any matter before the board and cannot judge a particular matter or controversy fairly on the basis of its own merits shall not participate in any board deliberation or vote on the matter. Any board member with a personal, social, family, financial, business, or pecuniary interest in a matter shall voluntarily recuse himself or herself and shall not participate in a hearing, consideration, deliberation, or vote on the matter, except as provided by law. Board members shall not disclose to any non-member the content of any executive session discussion or deliberation, or any other confidential matters that may be the subject of an executive session or attorney client privileged communications except as ordered by a court of competent jurisdiction or where the board knowingly and intentionally permits disclosure. Nothing herein shall preclude the board from including in executive session discussions or confidential committee meetings the board administrator or other persons the board deems necessary to assist the board in carrying out the functions of the board.

(4) License and certificate roster. The board will maintain a current roster of persons holding licenses and certificates in the state of New Mexico. Copies may be made available at a charge determined by the board.

[16.44.1.9 NMAC - Rp, 16.44.1.9 NMAC, 9-30-16]

16.44.1.10 BOARD RECORDS:

A. Public records shall be available for inspection in accordance with the provisions of the Inspection of Public Records Act, Sections 14-2-1 through 14-2-12 NMSA 1978.

B. The custodian shall charge for copying 8 1/2" by 11" paper (16.44.8.8 NMAC). The custodian may charge an additional fee for copying undersize or oversize documents or papers. The board shall not be required to create any document or compile data for an individual or private entity. Consistent with the Inspection of Public Records Act and taking into account the available staff, space, and the needs of other legitimate public business, the custodian may determine the reasonable time, place, and conditions for access to public records. Public records shall not be removed from the board office except by board members, board staff, or agents of the board for official public business.

[16.44.1.10 NMAC - Rp, 16.44.1.10 NMAC, 9-30-16]

16.44.1.11 SEAL:

A. The official seal of the board shall be as follows: an embossed circular seal two inches in diameter, consisting of two concentric circles. The annular space between the two circles shall contain the seal of the state of New Mexico.

B. The board may also authorize a seal/stamp for use by registered landscape architects. Said seal/stamp will bear the registrant's name and registration number and the legend "registered landscape architect state of New Mexico." All plans, specifications, and reports issued by a registrant shall have the registrant's signature placed across the seal/stamp.

[16.44.1.11 NMAC - Rp, 16.44.1.11 NMAC, 9-30-16]

16.44.1.12 ADVERTISEMENT: In accordance with the joint practice committee of the state of New Mexico, the following procedure shall apply to advertising:

A. When individuals representing other disciplines, professions, or skills are listed they must be identified by the particular skill area.

B. When advertising in a discipline area there must be a New Mexico registrant in that field who can legally bind by contract the company, corporation or business.

C. If only registrants within the profession or discipline are being listed, no special identification is required.

[16.44.1.12 NMAC - Rp, 16.44.1.12 NMAC, 9-30-16]

16.44.1.13 DESIGN COMPETITION: A landscape architect licensed in another jurisdiction must be licensed in New Mexico before participating, partaking, or bidding in any design competition in New Mexico.

[16.44.1.13 NMAC - Rp, 16.44.1.13 NMAC, 9-30-16]

16.44.1.14 BOARD REGULATION: Board regulations may be adopted, amended, repealed, or superseded by rule making proceedings pursuant to applicable provisions of the act, the Uniform Licensing Act, and the State Rules Act.

[16.44.1.14 NMAC - Rp, 16.44.1.14 NMAC, 9-30-16]

HISTORY OF 16.44.1 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

LAB 85-1, Rules and Regulations filed 11-27-85;

LAB 85-1, Rules and Regulations filed 12-02-85;

LAB 89-1, Rules and Regulations filed 05-05-89;

Rule 1 NMBLA, General Provisions filed 07-08-92;

Rule 3 NMBLA, Board Administration filed 07-08-92;

Rule 2, Organization, filed 7-8-92.

History of Repealed Material:

16.44.1 NMAC, Landscape Architects - General Provisions, filed 09-05-02 - Repealed effective 9-30-16.