

WEST VIRGINIA CODE
CHAPTER 30. ARTICLE 22. LANDSCAPE ARCHITECTS
ENACTED JULY 2006

§30-22-1. License required to practice.

The practice of landscape architecture requires education, training and experience and should only be practiced by a licensed landscape architect. Therefore, the Legislature finds that in order to protect the health, safety, interest and welfare of the public and to provide for the regulation of landscape architecture in this state, a person must have a license, as provided in this article, to practice as a landscape architect.

§30-22-2. Unlawful acts.

(a) It is unlawful for any person to practice or offer to practice landscape architecture in this state without a license issued under the provisions of this article, or advertise or use any title or description tending to convey the impression that the person is a licensed landscape architect, unless such person has been duly licensed under the provisions of this article.

(b) It is unlawful for any firm to practice or offer to practice landscape architecture in this state without a certificate of authorization issued under the provisions of this article, or advertise or use any title or description tending to convey the impression that it is a landscape architectural firm, unless such firm has been issued a certificate of authorization under the provisions of this article.

§30-22-3. Applicable law.

The practice of landscape architecture and the Board of Landscape Architects are subject to the provisions of article one of this chapter and the provisions of this article and any rules promulgated thereunder.

§30-22-4. Definitions.

As used in this article, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

(a) "Accredited" means a school, college or university accredited by the Landscape Architectural Accreditation Board (LAAB) or any other accrediting body recognized by the board.

(b) "Applicant" means a person making application for a license or a permit, or a firm making application for a certificate of authorization, under the provisions of this article.

(c) "Board" means the West Virginia Board of Landscape Architects.

(d) "Certificate of authorization" means a certificate issued under the provisions of this article to a firm providing landscape architectural services.

(e) "Certificate of authorization holder" means a firm certified under the provisions of this article to provide landscape architectural services.

(f) "Examination" means the examination in landscape architecture required for licensure.

(g) "Firm" means any business entity, partnership, association, company, corporation, limited partnership, limited liability company or other entity providing landscape architectural services.

(h) "Landscape architect" means a person licensed under the provisions of this article to practice landscape architecture.

(i) "Landscape architecture" means the analysis, planning, design, management and stewardship of the natural and built environments.

(j) "License" means a landscape architecture license issued under the provisions of this article.

(k) "Licensee" means a person holding a landscape architecture license issued under the provisions of this article.

(l) "Permittee" means a person holding a temporary permit.

(m) "Practice of landscape architecture" means the performance of professional services, including but not limited to, analysis, consultations, evaluations, research, planning, design, management or responsible supervision of projects principally directed at the functional, aesthetic use, preservation and stewardship of the land and natural and built environments, including:

(1) Investigation, selection and allocation of land and water resources for appropriate uses;

(2) Formulation of feasibility studies and graphic and written criteria to govern the planning, design and management of land and water resources;

(3) Preparation, review and analysis of those aspects of land use master plans, subdivision plans and preliminary plats as are related to landscape architecture;

(4) Determination of the location and siting of improvements, including buildings and other features, as well as the access and environs for those improvements associated with the practice of landscape architecture;

(5) Design of land forms, soil conservation and erosion control methods, site lighting, water features, irrigation systems, plantings, pedestrian and vehicular circulation systems and related construction details, and natural drainage, surface and ground water drainage systems: Provided, That such systems do not require structural design of system components or a hydraulic analysis of the receiving storm water conveyance system; and

(6) Preparation, filing and administration of plans, drawings, specifications and other related construction documents.

(n) "Temporary permit" means a permit to practice landscape architecture issued by the board for a period of time not to exceed one year.

§30-22-5. Board of Landscape Architects.

(a) The West Virginia Board of Landscape Architects is hereby continued and shall be composed of three members, two of whom must be licensed landscape architects, appointed by the Governor by and with the advice and consent of the Senate, for staggered terms of three years.

(b) Each licensed member of the board, at the time of his or her appointment, must have held a license in this state for a period of not less than three years and must have been a resident of this state for a period of not less than one year immediately preceding the appointment.

(c) Each member of the board must be a resident of this state during the appointment term.

(d) No member may serve more than three consecutive full terms and any member having served three consecutive full terms may not be appointed for one year after completion of his or her third full term. A member shall continue to serve until his or her successor has been appointed and qualified. Any member currently serving on the board on the effective date of this article may be reappointed in accordance with the provisions of this section.

(e) A vacancy on the board shall be filled by appointment by the Governor for the unexpired term of the member whose office is vacant.

(f) The Governor may remove any member from the board for neglect of duty, incompetency or official misconduct.

(g) Any member of the board immediately and automatically forfeits his or her membership if he or she has his or her license to practice suspended or revoked by the board, is convicted of a felony under the laws of any state or the United States, or becomes a nonresident of this state.

(h) The board shall designate one of its members as chairperson and one member as secretary-treasurer who shall serve at the will of the board.

(i) Each member of the board is entitled to receive compensation and expense reimbursement in accordance with article one of this chapter.

(j) A majority of the members of the board shall constitute a quorum.

(k) The board shall hold at least one annual meeting. Other meetings shall be held at the call of the chairperson or upon the written request of two members, at such time and place as designated in the call or request.

§30-22-6. Powers and duties of the board.

(a) The board has all the powers and duties set forth in this article, by rule, in article one of this chapter, and elsewhere in law.

(b) The board's powers and duties include:

(1) Holding meetings, conducting hearings and administering examinations and reexaminations;

(2) Setting the requirements for a license, temporary permit and certificate of authorization;

(3) Establishing procedures for submitting, approving and rejecting applications for a license, temporary permit and certificate of authorization;

(4) Determining the qualifications of any applicant for a license, temporary permit and certificate of authorization;

(5) Preparing, conducting, administering and grading written, oral or written and oral examinations and reexaminations for a license;

(6) Contracting with third parties to prepare and/or administer the examinations and reexaminations required under the provisions of this article;

(7) Determining the passing grade for the examinations;

(8) Maintaining records of the examinations and reexaminations the board or a third party administers, including the number of persons taking the examination or reexamination and the pass and fail rate;

(9) Maintaining an accurate registry of names and addresses of all persons and firms regulated by the board;

(10) Defining, by legislative rule, the fees charged under the provisions of this article;

(11) Issuing, renewing, denying, suspending, revoking or reinstating licenses, temporary permits and certificates of authorization;

(12) Establishing, by legislative rule, the continuing education requirements for licensees;

(13) Suing and being sued in its official name as an agency of this state;

(14) Maintaining an office, and hiring, discharging, setting the job requirements and fixing the compensation of employees and investigators necessary to enforce the provisions of this article;

(15) Investigating alleged violations of the provisions of this article, the rules promulgated hereunder, and orders and final decisions of the board;

(16) Conducting disciplinary hearings of all persons and business entities regulated by the board;

(17) Setting disciplinary action and issuing orders;

(18) Instituting appropriate legal action for the enforcement of the provisions of this article;

(19) Keeping accurate and complete records of its proceedings, and certifying the same as may be appropriate;

(20) Proposing rules in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this article; and

(21) Taking all other actions necessary and proper to effectuate the purposes of this article.

§30-22-7. Rule-making authority.

(a) The board shall propose rules for legislative approval, in accordance with the provisions of article three, chapter twenty-nine-a of this code, to implement the provisions of this article, including the establishment of:

(1) Standards and requirements for licensure, temporary permits and certificates of authorization;

(2) Procedures for examinations and reexaminations;

(3) Requirements for third parties to prepare and/or administer examinations and reexaminations;

(4) Educational and experience requirements, and the passing grade on the examination for licensure;

(5) Procedures for the issuance and renewal of a license, temporary permit and certificate of authorization;

(6) A fee schedule: Provided, That the fee schedule in effect as of the first day of July, two thousand five, will remain in effect until amended, modified, repealed or replaced by the legislative rule promulgated pursuant to this subsection;

(7) Continuing education requirements for licensees;

(8) The procedures for denying, suspending, revoking, reinstating or limiting the practice of a licensee, permittee or certificate of authorization holder;

(9) Requirements for inactive or revoked licenses, temporary permits or certificates of authorization; and

(10) Any other rules necessary to effectuate the provisions of this article.

(b) All rules in effect on the effective date of this article shall remain in effect until they are amended, modified, repealed or replaced.

§30-22-8. Fees; special revenue account; administrative fines.

(a) All fees and other moneys, except administrative fines, received by the board shall be deposited in a separate special revenue fund in the State Treasury designated the "Board of Landscape Architects Fund," which fund is hereby continued. The fund shall be used by the board for the administration of this article. Except as may be provided in article one of this chapter, the board shall retain the amounts in the special revenue account from year to year. No compensation or expense incurred under this article is a charge against the general revenue fund.

(b) Any amounts received as fines imposed pursuant to this article shall be deposited into the general revenue fund of the State Treasury.

§30-22-9. Education, experience and examination requirements for licensure.

(a) An applicant for licensure under this article must have completed one of the following educational and/or experience requirements:

(1) Has a bachelor degree in landscape architecture from an accredited college or university and at least two years of experience in landscape architecture under the supervision of a landscape architect or a person having qualifications acceptable to the board and similar to the qualifications of a landscape architect;

(2) Has a graduate degree in landscape architecture from an accredited college or university and at least one year of experience in landscape architecture under the supervision of a landscape architect or a person having qualifications acceptable to the board and similar to the qualifications of a landscape architect; or

(3) (A) Prior to the thirty-first day of December, two thousand six, has completed at least ten years of experience in landscape architecture, including at least six years of experience in landscape architecture under the supervision of a landscape architect or a person having qualifications acceptable to the board and similar to the qualifications of a landscape architect; or

(B) Prior to the thirty-first day of December, two thousand six, has begun the ten years of experience in landscape architecture set out in subdivision (3) (A) of this subsection, and has not completed the experience requirements prior to the thirty-first day of December, two thousand six, then the person must notify the board that he or she will be making application under this subdivision and comply with the procedures prescribed by the board; or

(C) On and after the first day of January, two thousand seven, has completed at least ten years of experience in landscape architecture under the supervision of a landscape architect or a person having qualifications acceptable to the board and similar to the qualifications of a landscape architect.

(b) An applicant for licensure under this article must pass the examination prescribed by the board.

§30-22-10. License requirements.

(a) The board shall issue a license to practice under the provisions of this article to an applicant who meets the following requirements:

(1) Is of good moral character;

(2) Is at least eighteen years of age;

(3) Is a citizen of the United States or is eligible for employment in the United States;

(4) Has not been convicted of a crime involving moral turpitude;

(5) Has not had his or her application for a license to practice as a landscape architect refused in any state of the United States;

(6) Has not had his or her license to practice landscape architecture suspended or revoked in any state of the United States; and

(7) Has completed the licensure requirements set out in this article and the rules promulgated hereunder.

(b) The board may issue a license to practice under the provisions of this article to an applicant who does not meet the licensure requirements set out in subdivisions (5) or (6) of subsection (a) of this section, but who does meet the licensure requirements established by rule by the board.

(c) An application for a license shall be made on forms prescribed by the board.

(d) An applicant shall pay all the applicable fees.

(e) A license to practice landscape architecture issued by the board prior to the first day of July, two thousand six, shall for all purposes be considered a license issued under this article: Provided, That a person holding a license to practice landscape architecture issued prior to the first day of July, two thousand six, must renew the license pursuant to the provisions of this article.

§30-22-11. License from another jurisdiction; license to practice in this state.

The board may issue a license to practice landscape architecture in this state, without requiring an examination, to an applicant of good moral character who holds a valid license or other authorization to practice landscape architecture from another jurisdiction, if the applicant:

(1) Holds a license or other authorization to practice landscape architecture in another jurisdiction and meets requirements which are substantially equivalent to the licensure requirements set forth in this article;

(2) Is not currently being investigated by a disciplinary authority of this state or another jurisdiction, does not have charges pending against his or her license or other authorization to practice landscape architecture, and has never had a license or other authorization to practice landscape architecture revoked;

(3) Has not previously failed an examination for licensure in this state;

(4) Has paid all the applicable fees; and

(5) Has completed such other action as required by the board.

§30-22-12. License renewal requirements.

(a) A licensee shall, annually or biennially upon or before the first day of July, renew his or her license by completing a form prescribed by the board and paying a renewal fee.

(b) At least thirty days prior to the first day of July, either annually or biennially, the secretary-treasurer of the board shall mail to every licensee a notice of renewal, an application for renewal and a statement for the renewal fee.

(c) The board shall charge a fee for each renewal of a license and a late fee for any renewal not paid in a timely manner.

(d) The board shall require as a condition for the renewal of a license that each licensee complete continuing education requirements.

(e) The board may deny an application for renewal for any reason which would justify the denial of an original application for a license.

§30-22-13. Inactive license requirements.

(a) A licensee who chooses not to continue in active practice and notifies the board in writing, may be granted inactive status.

(b) A person granted inactive status shall pay an inactive fee, is exempt from the continuing education requirements and cannot practice in this state.

(c) When an inactive licensee wants to return to active practice, he or she must complete all the continuing education requirements, pay all the applicable fees and meet all the other requirements prescribed by the board.

§30-22-14. Retired license requirements.

(a) A licensee who chooses to retire and notifies the board in writing, may be granted retired status.

(b) A person granted retired status cannot practice landscape architecture in this state.

§30-22-15. Reinstatement.

The board may reinstate a license upon a showing that the applicant is qualified to resume practice. The applicant shall pay all applicable fees and shall meet all the requirements prescribed by the board.

§30-22-16. Temporary permits.

(a) Upon proper application and payment of the applicable fees, the board may issue a temporary permit, for a period of time not to exceed one year, to an applicant who has completed the educational and/or experience requirements set out in this article, but who has not taken the examination.

(b) The temporary permit expires thirty days after the board gives written notice to the permittee of the results of the first examination held following the issuance of the temporary permit.

(c) The temporary permit may not be renewed nor another temporary permit be issued to the same person.

(d) The temporary permit may be revoked for any reason which would justify the suspension, revocation, limitation or denial of a license.

§30-22-17. Display of license.

(a) The board shall prescribe the form for a license and may issue a duplicate license, upon payment of a fee.

(b) A licensee shall conspicuously display his or her license at his or her principal place of practice.

§30-22-18. Seal requirements.

(a) Each licensee must have a seal, authorized by the board, which seal shall include the licensee's name and the words: "Professional Landscape Architect, State of West Virginia," and any other words or figures prescribed by the board.

(b) All working drawings and specifications prepared by a licensee shall be signed and stamped with the licensee's seal: Provided, That nothing contained in this article shall be construed to permit the seal of a landscape architect to serve as a substitute for the seal of an architect, an engineer or a professional surveyor whenever the seal of such architect, engineer or professional surveyor is required by law.

(c) It is unlawful for a person who is not licensed under the provisions of this article to affix a seal on a document.

§30-22-19. Certificate of authorization requirements.

(a) After the first day of July, two thousand six, a firm practicing landscape architecture in West Virginia shall have a certificate of authorization.

(b) The board shall issue a certificate of authorization to a firm that:

(1) Wants to practice landscape architecture in West Virginia;

(2) Provides proof that the firm employs a West Virginia licensed landscape architect;

(3) Has paid all applicable fees; and

(4) Completes such other requirements as specified by the board.

(c) The name of the employed licensee in direct control or having personal supervision of the practice of the firm shall appear as the landscape architect on all plans, drawings, specifications, reports or other instruments of service rendered or submitted by the firm.

§30-22-20. Certificate of authorization renewal requirements.

(a) A firm wanting to continue in active practice shall, annually or biennially upon or before the first day of July, renew its certificate of authorization and pay a renewal fee.

(b) At least thirty days prior to the first day of July, either annually or biennially, the secretary-treasurer of the board shall mail to every certificate of authorization holder a notice of renewal, an application for renewal and a statement for the renewal fee.

(c) The board shall charge a fee for each renewal of a certificate of authorization and a late fee for any renewal not paid in a timely manner.

§30-22-21. Display of certificate of authorization.

(a) The board shall prescribe the form for a certificate of authorization, and may issue a duplicate certificate of authorization upon payment of a fee.

(b) A firm shall conspicuously display its certificate of authorization at its principal place of practice.

§30-22-22. Exemptions from article.

(a) Nothing in this article shall prohibit any professional engineer, professional surveyor, or forester licensed or registered under the provisions of this code from providing services for which they are licensed or registered.

(b) Nothing in this article shall prohibit any architect licensed or registered under the provisions of this code from performing any of the services included within the definition of the practice of landscape architecture as set forth in subsection (m), section four of this article when incidental to the practice of architecture as defined in article twelve of this chapter.

(c) Nothing in this article shall prohibit a nursery person, agriculturist, horticulturist, gardener, landscape designer, landscape contractor, grader, cultivator of land, garden or lawn caretaker from engaging in the occupation of growing or marketing nursery stock, preparing planting plans, installing plant material, providing drawings or graphic diagrams necessary for the proper layout of goods or materials, or arranging for the installation of goods or materials on private or public land.

(d) Nothing in this article shall prohibit state, county, city or other municipal, urban or regional planners and designers from preparing plans or diagrams necessary to the planning, design and management of communities or regions.

(e) Nothing in this article shall prohibit an individual from making landscape plans, drawings or specifications for property owned, leased or rented by the individual for his or her personal use.

(f) Only licensed landscape architects shall use the title, "Landscape Architect", or other similar words or titles which implies licensure.

§30-22-23. Refusal to issue or renew, suspension or revocation; disciplinary action.

(a) The board may refuse to issue, refuse to renew, suspend, revoke or limit any license, temporary permit, certificate of authorization or practice privilege and may take disciplinary action against a licensee, permittee or certificate of authorization holder who, after notice and a hearing, has been adjudged by the board as unqualified for any of the following reasons:

(1) Fraud, misrepresentation or deceit in obtaining or maintaining a license, temporary permit or certificate of authorization;

(2) Failure by any licensee, permittee or certificate of authorization holder to maintain compliance with the requirements for the issuance or renewal of a license, temporary permit or certificate of authorization;

(3) Dishonesty, fraud, professional negligence in the performance of landscape architectural services, or a willful departure from the accepted standards of landscape architecture and the professional conduct of landscape architects;

(4) Violation of any provision of this article or any rule promulgated hereunder;

(5) Violation of any professional standard or rule of professional conduct;

(6) Failure to comply with the provisions of this article or any rule promulgated hereunder;

(7) Failure to comply with any order or final decision of the board;

(8) Failure to respond to a request or action of the board;

(9) Conviction of a crime involving moral turpitude;

(10) Conviction of a felony or a crime involving dishonesty or fraud or any similar crime under the laws of the United States, this state or another jurisdiction, if the underlying act or omission involved would have constituted a crime under the laws of this state;

(11) Any conduct adversely affecting the licensee's, permittee's or certificate of authorization holder's fitness to perform landscape architectural services; or

(12) Knowingly using any false or deceptive statements in advertising.

(b) If the board suspends, revokes, refuses to issue, refuses to renew or limits any license, temporary permit, certificate of authorization or practice privilege, the board shall make and enter an order to that effect and give written notice of the order to the person by certified mail, return receipt requested, which order shall include a statement of the charges setting forth the reasons for the action, and notice of the date, time and place of the hearing. If a license, temporary permit, certificate of authorization is ordered suspended or revoked, then the licensee, permittee or certificate of authorization holder shall, within twenty days after receipt of the order, return the license, temporary permit, certificate of authorization to the board. The hearing shall be held in accordance with the provisions of this article.

(c) Disciplinary action includes, but is not limited to, a reprimand, censure, probation, administrative fines, and mandatory attendance at continuing education seminars.

§30-22-24. Complaints; investigations; notice.

(a) The board may, on its own motion, conduct an investigation to determine whether there are any grounds for disciplinary action against a licensee, permittee or certificate of authorization holder. The board shall, upon the verified written complaint of any person, conduct an investigation to determine whether there are any grounds for disciplinary action against a licensee, permittee or certificate of authorization holder.

(b) Upon receipt of a written complaint filed against any licensee, permittee or certificate of authorization holder, the board shall provide a copy of the complaint to the licensee, permittee or certificate of authorization holder.

(c) If the board finds, upon investigation, that probable cause exists that the licensee, permittee or certificate of authorization holder has violated any provision of this article or the rules promulgated hereunder, then the board shall serve the licensee, permittee or certificate of authorization holder with a written statement of charges and a notice specifying the date, time and place of the hearing. The hearing shall be held in accordance with the provisions of this article.

§30-22-25. Hearing and judicial review.

(a) Any person adversely affected by an order entered by the board is entitled to a hearing. A hearing on a statement of the charges shall be held in accordance with the provisions for hearings set forth in article one of this chapter and the procedures specified by the board by rule.

(b) Any licensee, permittee or certificate of authorization holder, adversely affected by any decision of the board entered after a hearing, may obtain judicial review of the decision in accordance with section four, article five, chapter twenty-nine-a of this code, and may appeal any ruling resulting from judicial review in accordance with article five, chapter twenty-nine-a of this code.

§30-22-26. Injunctions.

(a) When, by reason of an investigation under this article or otherwise, the board or any other interested person believes that a person has violated or is about to violate any provision of this article, any rule promulgated hereunder, any order of the board or any final decision of the board, the board or any other interested person may apply to any court of competent jurisdiction for an injunction against such person enjoining such person from the violation. Upon a showing that the person has engaged in or is about to engage in any prohibited act or practice, an injunction, restraining order or other appropriate order may be granted by the court without bond.

(b) A cause of action by the board may be brought in the circuit court of the county where the cause of action took place.

§30-22-27. Criminal proceedings; penalties.

(a) When, as a result of an investigation under this article or otherwise, the board has reason to believe that a person has knowingly violated the provisions of this article, the board may bring its information to the attention of the Attorney General or other appropriate law-enforcement officer who may cause appropriate criminal proceedings to be brought.

(b) If a court of law finds that a person knowingly violated any provision of this article, any rule promulgated hereunder, any order of the board or any final decision of the board, then the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred dollars and no more than one thousand dollars for each violation, imprisoned for up to thirty days for each violation, or both fined and imprisoned.

§30-22-28. Single act evidence of practice.

In any action brought or in any proceeding initiated under this article, evidence of the commission of a single act prohibited by this article is sufficient to justify a penalty, injunction, restraining order or conviction without evidence of a general course of conduct.

§30-22-29. Continuation of West Virginia Board of Landscape Architects.

Pursuant to the provisions of article ten, chapter four of this code, the West Virginia Board of Landscape Architects shall continue to exist until the first day of July, two thousand nine, unless sooner terminated, continued or reestablished.