

**NOTICE OF RULEMAKING HEARING
NEBRASKA STATE
BOARD OF LANDSCAPE ARCHITECTS**

NOTICE is hereby given that the State Board of Landscape Architects will hold a rulemaking hearing on the 27th day of October 2020, commencing at 8:30 am, 215 Centennial Mall South, at the Lincoln Community Foundation Building, Large Conference Room, 5th Floor.

The PURPOSE of the hearing is to take testimony and evidence about adoption and amendments and additions to Title 231, Chapters 1 through 7. This action is proposed to implement Neb. Rev. Stat. §§ 81-8,183.01 to 81-8,206, consistent with the authority granted by the law and with constitutionality. The subject matter of the rulemaking action is as follows:

The State Board of Landscape Architects is reorganizing, amending for clarification, and adopting new rules currently reflected in board policy. The main topics to be considered through these proposals include, but are not limited to, the following:

- New rule specifying that an applicant's prior criminal or disciplinary history is not an automatic bar to licensure;
- New rule clarifying what constitutes acceptable direct supervision of landscape architectural work;
- New rule allowing for the acceptance of electronic education transcripts;
- New rule clarifying work performed under a conditional approval is deemed to have been performed pursuant to a valid license, certificate, or permit;
- Reorganization of Chapters 2-4 into two chapters separating the initial and comity licensure provisions for easier referencing and user friendliness; and removing conflicting rules;
- Expansion of seal requirements to include security over the seal, identification requirements of the coordinating professional, and provisions for determining direct supervision of work;
- New rules related to the use of regulated titles in Nebraska;
- Revisions to Chapter 8 (moving to Chapter 7) to simplify and clarify the enforcement process when undertaken by the Board;
- New rules related to the number of professional development hours required, changing the audit process to a randomly selected process not to exceed 10% of the number of licenses, and addition of allowable exemptions and waivers;
- Deletion of Chapter 9; applicable rules are being incorporated to Chapter 7;
- Deletion of Chapter 10; applicable rules are being incorporated into Chapter 7;
- Deletion of Chapter 11; moved to Rule 1.7.1; and
- Deletion of Chapter 12; moved to Rule 1.7.2

This hearing is being conducted under the provisions of Section 84-907 R.R.S., 1943, which provides that DRAFT COPIES OF THE PROPOSED RULES ARE AVAILABLE for public examination at the office of the State Board of Landscape Architects and the office of the Secretary of State, State Capitol Building, Lincoln, Nebraska. The draft copy of the proposed rules and a hearing draft are also available on the Board's website at nsbla.nebraska.gov.

A complete statement on the fiscal impact for organizations and persons regulated by these regulations can be examined at the office of the State Board of Landscape Architects, 215 Centennial Mall South, Ste 400, Lincoln, Nebraska 68508, (402) 471-2407, and at the office of the Secretary of State, Capitol Building, Lincoln, Nebraska.

ALL INTERESTED PERSONS are invited to ATTEND and TESTIFY orally or by written submission at the hearing. Interested persons may also submit written comments prior to the hearing that will be made part of the hearing record at the time of hearing if received by the State Board of Landscape Architects on or before October 23, 2020. If auxiliary aids or reasonable accommodations are needed to participate at the hearing, please call (402) 471-2407 no later than ten days before the hearing. TDD users please call (800) 833-7352 and ask the relay operator to call us at (402) 471-2407.

DATED at Lincoln, Nebraska, this 18th day of September 2020.



Eric Casper, Chairperson
State Board of Landscape Architects

*** Proof of Publication ***

State of Nebraska)
Lancaster County) SS.

STATE BOARD OF LANDSCAPE ARCHITECTS

P.O. BOX 95165
LINCOLN NE 68509

ORDER NUMBER 938278

The undersigned, being first duly sworn, deposes and says that she/he is a Clerk of the Lincoln Journal Star, legal newspaper printed, published and having a general circulation in the County of Lancaster and State of Nebraska, and that the attached printed notice was published in said newspaper

one successive times(s) the first insertion having been on September 19, 20 20 and thereafter on _____, 20____ and that said newspaper is the legal newspaper under the statues of the State of Nebraska.



Section: Class Legals
Category: 0099 LEGALS
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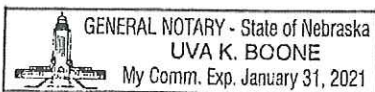
TOTAL AD COST: 72.92
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The above facts are within my personal knowledge and are further verified by my personal inspection of each notice in each of said issues.

Subscribed in my presence and sworn to before me on

September 22, 20 20

U. Boone Notary Public



***** Proof of Publication *****

participate at the hearing, please
call (402) 471-2407 no later than
ten days before the hearing. TDD
users please call (800) 833-7352
and ask the relay operator to call us
at (402) 471-2407.
DATED at Lincoln, Nebraska, this
18th day of September 2020.
Eric Casper, Chairperson State
Board of Landscape Architects
938278 11 Sep 19

FISCAL IMPACT STATEMENT

Agency: State Board of Landscape Architects	
Title: 231	Prepared by: Jean Lais, Administrative Assistant
Chapters: 1 through 7	Date prepared:
Subject: Adoption of Revised Rules and Regulations	Telephone: 402-471-8383

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Increased Costs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Decreased Costs	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Increased Revenue	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Decreased Revenue	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Indeterminable	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Provide an Estimated Cost & Description of Impact:

State Agency: Revenue related to biennial renewals will increase in the first year (2021) as half of the licensees will be renewing for two years and half will be renewing for one year. This will result in a one time increase in revenue of approximately \$8,000. After this time, overall revenue will be decreased due to the lowering and/or deletion of several fees.

Political Subdivision: None

Regulated Public: The regulated public will have a lower cost due to several fees being reduced.

Title 231 – State Board of Landscape Architects

Fee Impact Chart

September 2020

Type of Fee	Change in Fee	Est. #	Revenue Impact
Biennial Renewal Fee*	(\$40.00)	65	(\$2,600.00)
Biennial Renewal Fee*	(\$20.00)	65	(\$1,300.00)
Initial License Application**	(\$200.00)	3	(\$600.00)
Licensing Fee***	(\$170.00)	10	(\$1,700.00)
Total Revenue Impact			(\$6,200.00)

*Renewals are changing from annual to biennial in 2021 with a lower overall fee (\$300/biennially vs. \$170/annually). In the first year, half of the licensees will renew for one year and half will renew for two years. This will result in a one-time increase in revenue of approximately \$8,000. After this time, revenue is expected to remain lower than current numbers.

**The Initial License Application Fee is being lowered from \$300 to \$100

***The Licensing Fee is being eliminated

Chapter 1 – ADMINISTRATION General Provisions

~~001 – Rules and Regulations Governing the Examination and License of Professional Landscape Architects~~

~~Under the authority of, and in compliance with, Section 81-8,183.01 through 81-8,206, Nebraska R.R.S., the following rules and regulations are prescribed by the Nebraska State Board of Landscape Architects. Title 231: Nebraska Administrative Code, Chapters 1 through 12 effective October 8, 2007, is hereby repealed.~~

1.1 Authority and Purpose

The Rules and Regulations of the State Board of Landscape Architects (hereafter, the PLA Rules) are set forth for the purpose of interpreting and implementing the Professional Landscape Architects Act (hereafter, the PLA Act). The PLA Rules are promulgated under the authority of and in conformity with the PLA Act.

0021.2 Definitions

The definitions set out in Neb. Rev Stat. § 81-8,184, are hereby incorporated by reference into these rules and regulations. In addition, the following definitions of terms apply:

~~002.01 **Approved Education:** The term “approved education” shall mean a school of landscape architecture or school of related studies approved by the Board.~~

~~002.02 **Board:** The term “Board” shall mean the Nebraska State Board of Landscape Architects, created by the Professional Landscape Architects Act, Sections 81-8,813.01 through 81-8,206, Nebraska R.R.S., to administer the Professional Landscape Architect’s Act.~~

~~002.03 1.2.1 CLARB term shall means the Council of Landscape Architectural Registration Boards.~~

~~002.04 **CLARB Certificate:** The term “CLARB Certificate” or “CLARB Certified” shall mean certification by the Council of Landscape Architectural Registration Boards that a landscape architect has met the minimum standards of education, experience, examination, and professional conduct established by CLARB and is thereby recommended for licensure in all U.S. jurisdictions.~~

1.2.2 CLARB Certificate Holder means an individual who holds a certificate issued by CLARB indicating the CLARB Standards of Eligibility for Council Certification have been met.

~~002.51.2.3 CLARB Standards of Eligibility Standards for education, experience, examination, and professional conduct that are approved by CLARB’s member boards and adopted by the Board as the minimum standard for licensure. means the current standards for education, experience, examination, and professional conduct approved by CLARB’s member boards and adopted by the Board as the minimum standards of licensure.~~

~~002.06 **Examination.** The term “Examination” shall mean the examination administered by CLARB to evaluate the minimum competency of landscape architects applying for licensure.~~

~~002.07 1.2.4 The term “LAAB” shall means the Landscape Architectural Accreditation Board.~~

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

~~002.08~~ 1.2.5 The term “LAAC” shall mean the Canadian Society of Landscape Architects Accreditation Council.

~~002.09~~ **Landscape Architect.** The term “Landscape Architect” is synonymous with “Licensed Professional Landscape Architect”, “Licensed Landscape Architect” or “Professional Landscape Architect” and shall mean a person who is licensed by the Board on the basis of education, practical experience, and/or examination. This person is qualified and approved by the Board to use the title and practice landscape architecture in this state in compliance with Sections 81-8,183.01 through 81-8,206, Nebraska R.R.S.

~~002.10~~ **Landscape Architecture.** The term “Landscape Architecture” shall mean professional services as defined in Section 81-8,183.01 through 81-8,206, Nebraska R.R.S. ~~002.11~~

~~002.11~~ 1.2.6 The term “LARE” shall mean the CLARB Landscape Architects Registration Examination as developed and administered by CLARB.

1.2.7 PLA means a Professional Landscape Architect as defined in Neb. Rev. Stat. Section §81-8,184(6).

~~002.12~~ **Practical Experience.** The terms “practical experience” and “training” are interchangeable and shall mean permanent employment in landscape architecture under the direction and supervision of an individual licensed to practice landscape architecture or other approved licensed professionals under the laws of the state, or country, in which the work is performed. All practical experience or training shall meet the Board’s approval. The Board may use the CLARB Record as a guide for determining the adequacy of the practical experience or training.

~~002.13~~ 1.2.8 The term “~~p~~Practice,” used in the context of ~~these rules and regulations~~ the PLA Rules, shall mean the professional services of a landscape architect as defined in Neb. Rev. Stat. Section §81-8,184(5).

~~002.14~~ **Record.** The term “record” shall mean the CLARB Record required for consideration of the qualifications of an applicant for licensure. It shall be entirely the responsibility of the applicant to satisfy the Board as to the sufficiency and adequacy of the record of evidence.

~~002.15~~ **Licensure, Certificate of.** The term “certificate of licensure” shall mean a license issued by the Board to a landscape architect to engage in the practice of landscape architecture in accordance with Sections 81-8,183.01 through 81-8,206, Nebraska R.R.S.

~~002.16~~ **Mailing Labels or Lists.** Mailing labels or lists of licensees or applicants may be issued at the discretion of the Board. Requests for lists must be made in writing. Lists requested by government agencies, political subdivisions in Nebraska, or landscape architectural professional societies will be issued at no cost to the requesting organization.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

1.3 Fees, Renewals, Late Payment Penalties

1.3.1 The fee schedule will be set by the Board and is as follows:

Application Fees:

<u>LARE Exam Application Fee (Non-LAAB degree)</u>	<u>\$50</u>
<u>Initial License Application Fee</u>	<u>\$100</u>
<u>Comity License Application Fee</u>	<u>\$300</u>

Renewal Fees:

<u>License Renewal Fee (Annual)</u>	<u>\$170</u>
<u>Late Renewal Fee (Annual)</u>	<u>\$17 for any month or any part of a month, up to \$170</u>
<u>License Renewal Fee (Biennial-beginning with the 2021 renewal period)</u>	<u>\$300</u>
<u>Late Renewal Fee (Biennial)</u>	<u>\$30 for any month or any part of a month, up to \$300</u>

Miscellaneous Fees:

<u>Duplicate/Replacement Certificate</u>	<u>\$15</u>
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1.3.2 The fees may be adjusted as needed to generate the revenue needed to administer the PLA Act.

1.3.3 Submittal of an application authorizes the Board to investigate the information provided in connection with or appended to the application.

1.4 Applications

1.4.1 Absent specific Board action, applications not completed within one year of receipt by the Board will be closed. If an applicant wishes to continue the application process after such date, the applicant will be required to submit a new application with the applicable fee.

1.4.2 Closed applications will be required to meet the current requirements in place at the time the new application is submitted.

1.4.3 The source and character of the information received from references regarding the qualifications of an applicant will not be divulged except as required by law.

1.4.4 An applicant's prior criminal or disciplinary history from any jurisdiction may be considered by the Board as part of the application process for licensure and/or renewal. The existence of such history is not an automatic bar to being licensed, nor is the disclosure intended to automatically require consideration of discipline by the Board.

1.4.5 The review and evaluation of disclosure statements provided by applicants during the application and/or renewal process may be performed by the Board's administrator. However, the Board must review disclosures which an application has not previously disclosed and which indicate: 1) felony convictions; 2) probation, suspension, or

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

revocation of a professional landscape architect license in another jurisdiction; 3) repetitive or multiple violations; or 4) evidence of unfitness to practice the profession.

1.5 Professional Assistance

The Board may retain professional assistance in carrying out administrative matters and other general governance of the Board. Such assistance may include, financial, technological, legal, and administrative consultation, and will work under the general direction of the Board.

1.6 Change of Contact Information and/or Name

It is the responsibility of the applicant or licensee to notify the Board of any changes in their contact information within 30 days of the change. Requests for name changes must be in writing and include a copy of the legal document supporting the name change.

1.7 Adoption of the Attorney General's Model Rules

The Board has adopted Title 53, Nebraska Administrative Code, Chapters 1 through 4 of the Nebraska Department of Justice, also known as the Attorney General's Model Rules, and incorporated them into these regulations.

1.7.1 Procedures governing petitioning for rulemaking will be in accordance with Title 53, Nebraska Administrative Code, Chapter 2.

1.7.2 Procedures governing Declaratory Rulings will be in accordance with Title 53, Nebraska Administrative Code, Chapter 3.

1.8 Federal Requirements

Nothing in the PLA Rules imply exemption from requirements of any federal statute or regulation, including, but not limited to, the Americans with Disability Act and the Fair Housing Act.

1.9 Record of the Board's Action

A quorum of three members of the Board is required for Board actions. The Board will keep record of actions enacted at its meetings.

1.10 Board Member Conflicts of Interest

1.10.1 Board members are not allowed to vote on any matter in which they have any interest, financial or otherwise, direct or indirect, or engage in any business transaction or professional activity or incur any obligation of any nature which is in conflict with the proper discharge of their duties as a Board member.

1.10.2 Board members are prohibited from using or attempting to use their official position to secure unwarranted privileges or exemptions for themselves or others.

1.10.3 Board members will not give the impression that they may be improperly influenced in the performance of Board member duties, or that they are improperly affected by the kinship, rank, position, or influence of any party or person.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

1.10.4 A Board member will not accept gifts of value or loans from persons having business before the Board which are intended to or which might appear to influence the official relationship between the donor and recipient.

1.11 Conditional License

The Board may authorize the Board's administrator to issue licenses on a conditional basis, pending formal approval of the application by the Board.

1.11.1 A conditional license may be withdrawn by the Board if it determines the applicant does not qualify for any reason.

1.11.2 In the event the Board does not grant formal approval of a conditional license, the conditional license will expire at 11:59 p.m. on the date the licensee is notified of such Board action.

1.11.3 Landscape Architectural services performed pursuant to a conditional license that is subsequently withdrawn by the Board will be deemed to have been performed pursuant to a valid license.

1.12 Expired Licenses

A license to practice expires at 11:59 p.m. on the expiration date noted on the license unless renewed by such date.

1.12.1 A professional landscape architect cannot practice as provided in the PLA Act with an expired license.

1.12.2 Licenses that have expired may be renewed during the following twelve months, upon payment of the renewal plus the late renewal fee in accordance with Neb. Rev. Stat. § 81-8,200.

1.13 Reinstatement of a License

A license which has been expired for more than twelve months may be reinstated to active status by meeting the current requirements for licensure by examination or comity and upon approval of the Board.

1.13.1 If the applicant meets these requirements, the license may be reinstated, if the applicant:

1.13.1.1 Submits an application along with the applicable fee;

1.13.1.2 Submits documentation establishing that the applicant has complied with the professional development requirements set forth in Chapter 6 of these rules for the period during which the license was expired, not to exceed the biennial requirement; and

1.13.1.3 Submits an affidavit attesting that the applicant has not practiced landscape architecture in Nebraska during the time the license was expired; or if such attestation cannot be made, an explanation acceptable to the Board of the applicant's practice during the expired period.

1.13.2 All applications will go to the Board for review and final action.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

1.13.3 The original license number will be retained.

1.14 Examination

The examination used by the Board to determine eligibility for licensure will be the current LARE as developed and administered by CLARB.

1.14.1 Applicants must meet the CLARB examination eligibility requirements or receive Board approval prior to beginning the examination.

1.14.1.1 Applicants meeting the CLARB examination eligibility requirements may register directly with CLARB to begin the examination process without first obtaining Board approval.

1.14.1.2 Applicants who do not meet the CLARB examination eligibility requirements may be approved by the Board to sit for the LARE exam, upon submission of the following:

1.14.1.2.1 An application with the applicable fee;

1.14.1.2.2 A copy of the applicant's CLARB Record sent directly to the Board from CLARB; and

1.14.1.2.3 Verification of meeting one of the following:

1.14.1.2.3.1 A non-accredited degree in landscape architecture plus one year of landscape architecture experience;

1.14.1.2.3.2 A NAAB-accredited architectural degree plus one year of landscape architecture experience;

1.14.1.2.3.3 An EAC/ABET-accredited Civil Engineering degree plus one year of landscape architecture experience; or

1.14.1.2.3.4 Any bachelor's degree plus three years of landscape architecture experience.

1.14.1.2.3.5 All experience is to be gained under the direct supervision of a design professional.

1.14.2 Any information requested on the application with respect to education and experience may be substituted with the information in the CLARB Record.

1.14.3 All applications will go to the Board for review and final action.

1.14.4 The Board will follow CLARB policies and schedules for the taking and retaking of the LARE.

1.14.5 The Board will accept the examination results as determined by CLARB.

1.14.6 Passage of the LARE will be determined by the CLARB pass/fail standards in place at the time the examination was taken.

1.14.7 If there is any reported examination irregularity on the part of the applicant, the Board will investigate the allegation and take appropriate action if probable cause is found.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

1.15 Transcripts

Transcripts or other documents verifying graduation issued directly by the granting institution of higher education, its authorized agent, or CLARB will be acceptable as proof of graduation when such proof is required by the Board.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

Chapter 2 – ~~APPLICANTS, CLASSIFICATIONS OF~~ Initial Landscape Architect Licensure

~~001 Intent.~~ For convenience in processing applications for licensure, applicants will be classified according to the following:

~~001.01 Initial License.~~ Initial License shall include each applicant who is not currently a registered or licensed landscape architect and has met the minimum standards for licensure as established by CLARB.

~~001.02 Reciprocity.~~ Reciprocity shall include each applicant who is currently licensed in another U.S. state or territory or Canadian province by a registration or licensing board of landscape architects and holds a CLARB Certificate. The Board reserves the right to check the individual applicant's character and integrity to prove to the satisfaction of the Board that the applicant is qualified to practice landscape architecture in the State of Nebraska.

Reciprocity privileges may be extended to an individual who holds a CLARB Certificate as designated by CLARB and meets all requirements of the Professional Landscape Architects Act of the State of Nebraska, Sections 81-8,183.01 through 81-8,206, Nebraska R.R.S.

2.1 Requirements for Initial Licensure

Initial licensure requires that the applicant:

2.1.1 Establish a CLARB Record;

2.1.2 Satisfy CLARB Standards of Eligibility for Council Certification; and

2.1.3 Submit three references from professional landscape architects or design professionals indicating good reputation and ethical character. At least one reference should be from a professional landscape architect. In the event a professional landscape architect is not available to make such reference, the applicant is to submit an explanation for the Board's review as to why the reference is unavailable.

2.2 Application for Initial Licensure

The Board's administrator is authorized to review and evaluate the applications for initial licensure to determine if they meet or exceed the requirements set forth in these rules.

2.2.1 If the applicant meets or exceeds these requirements, the Board's administrator may issue a conditional license authorizing the individual to provide landscape architecture services in Nebraska, if the applicant:

2.2.1.1 Submits an application and applicable fee(s);

2.2.1.2 Submits satisfactory evidence of having met the requirements set forth in Rule 2.1; and

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

- 2.2.1.3 Submits a copy of the CLARB Record directly to the Board from CLARB.
- 2.2.2 Any information requested on the application with respect to education, experience, or references may be substituted with the information provided in the CLARB Record.
- 2.2.3 A listing of professional landscape architects issued conditional initial licenses will be placed on the agenda of the next meeting of the Board for formal approval by the Board.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

Chapter 3 – APPLICATIONS; RULES, BOARD ACTION, AND APPEAL
Comity Licensure

~~**001 Rules.** The following rules for all applications have been adopted to carry out the provisions of Section 81-8,195, Nebraska R.R.S.~~

~~**001.01** Applications for licensure shall be on forms prescribed and provided by the Board.~~

~~**001.02** Each applicant shall submit, with the applicable forms, a copy of their CLARB Record.~~

~~**001.03** The Board reserves the right to retain, as a permanent part of the application, all documents submitted.~~

~~**001.04** An applicant will be notified, in writing, to appear before the Board, if required, at a time and place designated by the Board.~~

~~**001.05** Failure to comply, within thirty (30) calendar days from date of written request from the Board, for additional evidence or information, or to appear before the Board when such appearance is deemed necessary by the Board, may be considered as just and sufficient cause for disapproval of the application.~~

~~**001.06** In the consideration of applications for licensure, the Board reserves the right to exercise discretion by requiring the applicant to qualify by passing the LARE, or any portion of the LARE as, in the opinion of the Board, may be necessary to bring the applicant's record up to the existing requirements of the State of Nebraska.~~

~~**002 Board Action.**~~

~~**002.01** All applications shall be considered individually by the Board and passed or rejected on a roll call vote.~~

~~**002.02** The Board reserves the right to establish or change the classification under which the applicant is claiming eligibility.~~

~~**002.03** A Certificate of Licensure shall be granted under only one classification upon approval of the Board and submittal of any required licensing fee.~~

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

~~**003 Appeal.** Unless otherwise provided by law, any appeal from the action of the Board shall be filed within thirty (30) calendar days from the mailing date of the notice containing a copy of such decision. An applicant who has been found by the Board to be ineligible for licensure may request, in writing, a hearing to review their application and findings of the Board. The hearing will be conducted before not less than four (4) voting members of the Board and any ruling by the Board on such appeal shall be concurred in by not less than four (4) voting members of the Board. Notice of time and place of such hearing shall be given to the applicant by registered mail at least ten (10) calendar days prior to such hearing.~~

3.1 Requirements for Comity Licensure

Comity Licensure requires that the applicant:

- 3.1.1 Establish a CLARB Record;
- 3.1.2 Be licensed in good standing in at least one other licensing jurisdiction recognized by the Board;
- 3.1.3 Submit three references from professional landscape architects or design professionals indicating good reputation and character. At least one reference should be from a professional landscape architect. In the event a professional landscape architect is not available to make such reference, the applicant is to submit an explanation for the Board's review as to why the reference is unavailable.

3.2 Comity Licensure for CLARB Certificate Holders

The Board's administrator is authorized to review and evaluate the applications of all comity applicants to determine if they meet or exceed the criteria of the CLARB Standards of Eligibility for Council Certification.

- 3.2.1 If the applicant meets or exceeds these requirements, the Board's administrator may issue a conditional license authorizing the individual to offer or provide landscape architectural services in Nebraska, if the applicant:
 - 3.2.1.1 Submits an application and applicable fee(s); and
 - 3.2.1.2 Submits a copy of the CLARB Certificate directly to the Board from CLARB.
- 3.2.2 Any information requested on the application with respect to education, experience, or references may be substituted with the information provided in the CLARB Record.
- 3.2.3 A listing of all landscape architects issued conditional licenses will be placed on the agenda of the next meeting of the Board for formal approval by the Board.

3.3 Comity Licensure for non-CLARB Certificate Holders

A landscape architect who holds a current and valid license issued by a licensing authority of another jurisdiction recognized by the Board and has a current CLARB Council record, may be issued a license to offer or provide landscape architectural services in Nebraska.

- 3.3.1 If an applicant has not satisfied the Examination Standard of the CLARB Standard of Eligibility, but received their initial license by grandfather clause, is in good standing, and

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

has a minimum of three years of experience at the time of the application, the Board may waive the examination requirement; or

- 3.3.2 If an applicant has a minimum of fifteen years of licensed experience in good standing in one or more licensing jurisdictions recognized by the Board, the examination and/or education requirements may be waived.
- 3.3.3 Any experience used to meet the Examination and/or Education Standards cannot be used to meet the Experience Standard.
- 3.3.4 If the application meets or exceeds these requirements, the landscape architect may be issued a license to offer or provide landscape architectural services in Nebraska, if the applicant:
 - 3.3.4.1 Submits an application and the applicable fee(s);
 - 3.3.4.2 Submits satisfactory evidence of such licensure to the Board directly from the issuing jurisdiction or CLARB;
 - 3.3.4.3 Submits a copy of the CLARB Council record directly to the Board from CLARB.
- 3.3.7 Any information requested on the application with respect to education, experience, licensure, or references may be substituted with the information provided in the CLARB Record.
- 3.3.8 All applications will go to the Board for review and final action.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

Chapter 4 – EXAMINATION FOR LANDSCAPE ARCHITECTS The Licensee Seal

~~001 Examinations.~~ Examinations will be given on dates and locations designated by CLARB.

~~001.01~~ The examination will consist of the LARE as administered by CLARB.

~~002 Examination For Classification of Applicant.~~

~~002.01 Initial License.~~ Each applicant for an initial license shall take an examination administered by CLARB. Applicants must meet CLARB's eligibility requirements to take the examination. This examination may include such subject areas as legal and administrative aspects, inventory and analysis, design concepts, communication skills, design and construction development, grading and drainage, design implementation, construction methods and documents, plant materials and other subject areas, as determined by the Board in consultation with CLARB, to test the minimum qualifications the Board deems necessary to protect the public life, health, and property as provided by Section 81-8,184.01, Nebraska R.R.S.

~~002.02 Reciprocity.~~ Any reciprocal applicant who has been registered or licensed in another U.S. state or territory without passing an examination, or who is not CLARB Certified, may be required to successfully complete the LARE before being licensed as a landscape architect in Nebraska.

~~003 Examination, Passing Grade.~~ An applicant must have a passing grade for each exam section in accordance with the CLARB pass/fail standards at the time the examination was taken.

4.1 Use of the Seal

The purpose of the seal is to assist in identification of the professional landscape architect responsible for the work performed under the requirements of the PLA Act and PLA Rules.

4.1.1 The seal used by a professional landscape architect must be legible, whether an embossing, computer generated, or other type of seal. In the absence of legibility, the seal is invalid.

4.1.2 No seal is valid unless signed across the face of the seal with the professional landscape architect's name and the date on which the material was sealed.

4.1.3 The responsible professional landscape architect will identify all work that they have prepared, as well as all work prepared under their direct supervision, by applying their seal to each sheet of the original drawings.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

- 4.1.4 The responsible professional landscape architect will seal all technical submissions as follows: On each design and each drawing; on the cover and index pages identifying each set of specifications; and on the cover page. Two or more professional landscape architects may affix their signatures and seals to a sheet provided it is designated by a note under the seal the specific subject matter for which each is responsible.
- 4.1.5 The seal appearing on any technical submission is prima facie evidence that said submission was prepared by or under the direct supervision of the professional landscape architect sealing the submission.
- 4.1.6 Documents clearly marked as “Draft” prepared for preliminary submission and review do not require the professional’s seal, signature, and date, including documents prepared for a client or governmental agency, unless otherwise required by the entity.
- 4.1.7 Professional landscape architects are responsible for providing adequate security over their seal and signature wherever it appears, regardless of whether the seal and signature is produced electronically or by other means.

4.2 The Coordinating Professional

The Coordinating Professional is a licensed design professional recognized as such by the project owner.

4.2.1 The Coordinating Professional’s role is:

- 4.2.1.1 To coordinate communication between the design professionals related to technical documents on the project;
- 4.2.1.2 To act as project liaison with the governing building official; and
- 4.2.1.3 To verify that all design disciplines involved in a project are working in coordination with one another, and that any changes made to the design are approved by the corresponding profession, so that public life, health, safety, and welfare are not compromised.

4.2.2 The Coordinating Professional’s seal does not indicate responsible charge or direct supervision of the work.

4.2.3 The Coordinating Professional must use the following language in conjunction with their individual seal for identification as the Coordinating Professional: “I, (name of licensee), am the Coordinating Professional on the (name of project) project.”

4.3 Direct Supervision of Work

4.3.1 In order to exercise full professional knowledge of and control over work, a licensee in direct supervision of landscape architectural work must:

- 4.3.1.1 Have and exercise the authority to review and to change, reject, or approve both the work in progress and the final work product, through a continuous process of examination, evaluation, communication, and direction throughout the development of the work;

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

- 4.3.1.2 Be personally aware of the project's scope, needs, parameters, limitations, and special requirements;
 - 4.3.1.3 Be capable of answering questions relevant to the landscape architectural decisions made as part of the services provided, in sufficient detail to demonstrate reasonable knowledge of and proficiency in the work; and
 - 4.3.1.4 Be reasonably satisfied with the product of the services rendered and accepted full responsibility for the work.
- 4.3.2 The Board has final authority regarding the determination of whether technical documents were actually prepared under the direct supervision of a licensee.

Chapter 5 – ~~CERTIFICATE OF LICENSURE AND SEAL~~ Code of Professional Conduct

~~001 – Certificate of Licensure~~

~~001.01 – A Certificate of Licensure shall be issued upon payment of the required licensing fee to a person, who by reason of education, practical experience, passing the CLARB examination, or of being registered or licensed in another state and holds a CLARB Certificate, has been approved by the Board to use the title of, and practice in the capacity of, a Licensed Professional Landscape Architect in Nebraska, as provided for in Section 81-8,199.~~

~~001.02 – Any Certificate of Licensure that has expired due to nonpayment of the annual renewal fee shall not be displayed, and the delinquent licensee shall not use the designation or title of landscape architect and shall not practice landscape architecture; unless the lapsed license is renewed, as provided for in Section 81-8,200, Nebraska R.R.S., the certificate holder may be restrained under permanent injunction, pursuant to Section 81-8,204, Nebraska R.R.S.~~

~~002 – License Seal~~

~~002.01 – For the purpose of stamping all plans, specifications and reports prepared by the licensee, each person licensed as a landscape architect is required to acquire a seal which bears the licensee's name, his or her license number, and the words "State of Nebraska" and "Professional Landscape Architect". This seal shall be used in appropriate areas, and it is the responsibility of the licensee to insure that the imprint is clear and distinct.~~

~~002.02 – The application of the seal and original signature and date, or an electronic seal and original signature and date, to the first sheet of bound sets of plans (with index of drawings included), title page of specifications, and to other drawings and contract documents, shall constitute the official licensed landscape architect seal.~~

~~002.03 – The seal and original signature and date, or an electronic seal and original signature and date, may be applied on all tracings to produce legible reproduction on all copies or prints made from said tracings. This provision does not in any manner modify the requirement of subsection 002.02.~~

5.1 Competence

5.1.1 In practicing landscape architecture, a professional landscape architect will act with reasonable care and competence and will apply the technical knowledge and skill that is ordinarily applied by professional landscape architects of good standing practicing in the same locality.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

- 5.1.2 In designing a project, the professional landscape architect must take into account all applicable federal, state, and municipal laws and regulations. While the professional landscape architect may rely on the advice of other professionals (e.g., attorneys, architects, professional landscape architects, professional engineers, or other qualified persons) as to the intent and meaning of such regulations, once having obtained such advice, the professional landscape architect will not knowingly design a project in violation of such laws and regulations.
- 5.1.3 A professional landscape architect will undertake to perform professional services only when they, together with those whom the professional landscape architect may engage as consultants, is qualified by education, training and experience in the specific technical areas involved.
- 5.1.4 No person will be permitted to practice landscape architecture if, in the Board's judgement, such person's professional competence is substantially impaired by physical or mental disabilities.
- 5.1.5 A professional landscape architect convicted of a crime in connection with landscape architecture or a crime of moral turpitude under state law, federal law, or the law of another jurisdiction, may be held in violation of the code of practice if, in the opinion of the Board, the events and circumstances leading to the conviction indicate a condition which would affect the competency of the professional landscape architect to serve the health, safety, and welfare of the public.
- 5.1.6 The professional landscape architect may accept an assignment requiring education or experience outside the professional landscape architect's field of competence, but only to the extent that the services are restricted to those portions of the project in which the professional landscape architect is qualified. All other phases of the project must be performed by other qualified design professionals.
- 5.1.7 The professional landscape architect will not affix their signature and/or seal to any plan or document dealing with subject matter in which there is a lack of competency by virtue of education or experience, nor to any such plan or document not prepared under the direct supervision and control of said professional landscape architect.
- 5.1.8 When serving as an expert or technical witness before any court, commission, or other tribunal, the professional landscape architect may express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of the professional landscape architect's testimony.

5.2 Conflict of Interest

- 5.2.1 The professional landscape architect will not accept compensation for services from more than one party on a project unless the circumstances are fully disclosed to and agreed to by all interested parties. Such disclosure and agreement is to be in writing.
- 5.2.2 If the professional landscape architect has any business association or direct or indirect financial interest which is substantial enough to influence their judgment in connection with their performance of professional services, the professional landscape architect

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

must fully disclose in writing to their client or employer the nature of the business association or financial interest. If the client or employer objects to such association or interest the professional landscape architect will either terminate such association or interest, or offer to give up the commission or employment.

- 5.2.3 The professional landscape architect will not solicit or accept compensation from material or equipment suppliers, contractors, or sub-consultants in return for specifying or endorsing their products.
- 5.2.4 When acting as the interpreter of construction contract documents, studies, and reports, the professional landscape architect will render decisions impartially. When acting as the judge of contract performance, the professional landscape architect will render decisions in an objective matter, favoring neither party to the contract.
- 5.2.5 A professional landscape architect who initiates a complaint to the Board will not become involved as the landscape architect of record for the project which is the subject of the complaint.
- 5.2.6 Professional landscape architects will not solicit a contract for professional services from a governmental body when the professional landscape architect, or a principal or officer of the professional landscape architect's organization, serves as a voting or non-voting member, whether elected or appointed, or serves as an employee or contractor to perform professional services, of the same governmental body which is procuring the professional services. For purposes of this subparagraph, "governmental body" means a board, council, commission, or similar multi-membered body of any county or political subdivision. Professional landscape architects are not in violation of this provision, however, if the professional landscape architect, or principal or officer of their organization who serves as a member of the governmental body, plays no role in the solicitation or procurement of the contract on behalf of the governmental body.
- 5.2.7 Professional landscape architects are responsible for obtaining formal review and approval of design work when such approval is required prior to construction.

5.3 Disclosure of Professional Relationships or Responsibility

- 5.3.1 When making public statements on landscape architectural questions, the professional landscape architect must disclose if they are being compensated for making such statements.
- 5.3.2 The professional landscape architect will accurately represent to a prospective or existing client or employer their qualifications and the scope of their responsibility in connection with work for which they are claiming credit.
- 5.3.3 The professional landscape architect possessing knowledge of a violation of these rules by another professional landscape architect will report such knowledge to the Board.

5.4 Compliance with Laws

- 5.4.1 The professional landscape architect will not, in the conduct of their landscape architectural practice, knowingly violate any state or federal criminal law. Allegations of

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

violations of this section may be based on an independent finding of a violation of the law by a court of competent jurisdiction or an administrative or regulatory body.

- 5.4.2 The professional landscape architect will neither offer nor give any gift of significant value, or any monetary payment to a government official with the intent of influencing the official's judgement in connection with a prospective or existing project in which the professional landscape architect is interested or has an interest.
- 5.4.3 The professional landscape architect will comply with the laws and regulations governing their professional practice in any other jurisdiction.
- 5.4.3.1 A professional landscape architect may be subject to disciplinary action if, based on grounds substantially similar to those which lead to disciplinary action in this jurisdiction, the professional landscape architect is disciplined in any other jurisdiction.
- 5.4.3.2 A person whose Nebraska license was issued on the basis of a CLARB Certificate may, upon suspension or revocation, have their Nebraska license suspended until the certificate is reinstated.
- 5.4.3.3 A Nebraska license based upon comity with another jurisdiction may be concurrently suspended upon suspension or revocation of that jurisdiction's license, pending reinstatement of the license by the other jurisdiction.
- 5.4.3.4 A license under suspension must be kept current through the suspension period. If the license has expired during the suspension period, a new application for licensure will be required.

5.5 Professional Conduct

- 5.5.1 The professional landscape architect will not sign or seal drawings, specifications, reports, or other professional work for which they do not have direct supervision. If the portions of such professional work were prepared by the professional landscape architect's consultants who are licensed under the law of the State of Nebraska or another state, the professional landscape architect may sign or seal that portion of the professional work if the professional landscape architect has reviewed such portion, has coordinated its preparation, and accepts responsibility for its adequacy.
- 5.5.2 The professional landscape architect will not engage in conduct involving fraud or wanton disregard of the rights of others.
- 5.5.3 The professional landscape architect will not engage in unethical, immoral, or dishonorable conduct that would indicate lack of fitness to perform the tasks required by clients or a level of proficiency that is insufficient to serve the public interest.
- 5.5.4 The professional landscape architect will not in advertisements or public statements engage in misleading, untruthful, or improbable statements, or flamboyant, exaggerated or extravagant claims concerning the professional landscape architect's professional excellence or abilities.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

- 5.5.5 The professional landscape architect will not knowingly aid or abet the practice or performance of activities requiring a license by a person not licensed to conduct such practice or activity.
- 5.5.6 The professional landscape architect will not deliberately make a materially false statement or fail deliberately to disclose accurately and completely a material fact requested in the connection with their application for licensure or renewal or otherwise requested by the Board.
- 5.5.7 The professional landscape architect will not assist the application for licensure of a person known by the professional landscape architect to be unqualified in respect to education, training, experience, or character.
- 5.5.8 If, in the course of their work on a project, a professional landscape architect becomes aware of a decision or an action taken by the employer or client against the professional landscape architect's advice, which violates applicable laws and regulations and which will, in the professional landscape architect's judgement, have a material adverse effect on the safety to the public of the finished project, the professional landscape architect will advise the employer or client of the violation and request reconsideration of the decision or action. In the event the employer or client does not reverse or alter the decision or action in order to bring it into conformity with applicable laws, the professional landscape architect will:
- 5.5.8.1 Report the decision or action to the local building inspector or other public official charged with the enforcement of the applicable laws and regulations;
 - 5.5.8.2 Refuse to consent to the decision or action; and
 - 5.5.8.3 In circumstances where the professional landscape architect reasonably believes that other such decisions or actions will be taken notwithstanding their objection, terminate their services with reference to the project.

5.6 Use of Regulated Titles

- 5.6.1 Professional landscape architects licensed in Nebraska may identify themselves as such.
- 5.6.2 Professional landscape architects who are not licensed in Nebraska, but who hold a valid license in another licensing jurisdiction recognized by the Board:
- 5.6.2.1 May identify themselves as such on correspondence and other routine documents that do not contain an offer to provide professional services:
 - 5.6.2.2 May identify themselves as such on correspondence and other documents that offer to provide professional services in Nebraska, if such documents clearly indicate and disclose that the professional landscape architect:
 - 5.6.2.2.1 Holds a valid and current license in another licensing jurisdiction;
 - 5.6.2.2.2 Does not hold a current and valid license in Nebraska;
 - 5.6.2.2.3 Would have to obtain a license in Nebraska in order to perform the services described in the offer; and

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

5.6.2.2.4 Has a reasonable likelihood of being issued a license in Nebraska.

5.6.3 Individuals who do not hold a current and valid license in any jurisdiction shall not use the title professional landscape architect in Nebraska.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

Chapter 6 – Professional Development ~~REQUIREMENTS~~

~~**001 Effective Date.** As a condition for renewal of a Certificate of Licensure, the licensee shall be required to successfully complete fifteen (15) contact hours of professional development during the preceding calendar year.~~

~~**002 Diversity.** Licensees are encouraged to obtain a diversity of professional development experiences during the renewal period.~~

6.1 Requirements

Every professional landscape architect must complete a minimum of 15 hours of Professional Development Hours (PDH) during each calendar year. A maximum of four PDH may be reported as self-study. This provision ends with licenses that expire on December 31, 2020.

Beginning with licenses that expire on December 31, 2021, every professional landscape architect must complete a minimum of 24 hours of Professional Development Hours (PDH) per biennial calendar period. A maximum of six PDH may be reported as self-study.

6.2 Professional Development Hour Units

6.2.1 One PDH is equivalent to at least 50 minutes of instruction.

6.2.2 One semester credit hour of formal education is equivalent to 45 PDHs.

6.2.3 One quarter credit hour of formal education is equivalent to 30 PDHs.

6.2.4 One International Association for Continuing Education Training (IACET) Continuing Education Unit (CEU) is equivalent to 10 PDHs.

~~003~~6.3 Professional Development – Structured Programs

~~Only those professional development hours earned during the renewal period at collegiate level institutions, or through professional level seminars, conferences, study tours and self-paced professional development programs offered for the purpose of keeping the licensee apprised of advancements and new developments in the professional service areas, such as the following, will be acceptable:~~A structured program is a program that has a sponsor other than the licensee; has evidence of pre-planning including written objective and form; has an assessment component; and is documented and verifiable. This includes PDH earned at collegiate level institutions, or through professional level seminars, conferences, study tours, and self-paced professional development programs offered for the purpose of keeping the licensee apprised of advancements and new developments in the professional service areas, as defined in Neb. Rev. Stat. §81-8,184(5), and ethics.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

~~003.01— Consultations, investigation, research, planning, design, preparation of drawings, specifications, contract documents, reports, responsible construction observation or landscape management, in connection with the planning and development of land and incidental water areas where the primary purpose of the program is the preservation, conservation, enhancement or restoration of landscape systems, plant communities or aesthetic values, or the determination of proper land uses and land development.~~

~~003.02— Professional personal development of leadership, creativity, communication and computer application skills as they relate to the practice of landscape architecture.~~

~~003.03— Professional practice management including project management, quality assurance, supervision of technical staff and business ethics.~~

0046.4 Professional Development—Self-Study Activities

~~Licenses will be allowed to claim up to four (4) contact hours for self study activities during the renewal period. Self study activities may include reading professional journals, periodicals or professional oriented books and visits to sites for observation of landscape architectural projects, research projects, ecological or land restoration projects and natural environmental areas.~~ Self-study activities may include reading professional journals, periodicals or professional oriented books and visits to sites for observation of landscape architectural projects, research projects, ecological or land restoration projects and natural environmental areas.

0056.5 ReportingRecordkeeping

~~A report and a signed affidavit of professional development, completed by the licensee, shall be filed with the Board, on forms prescribed by the Board, setting forth the professional development in which the person has participated, the sponsor of a program, and request for Board approval. Licensee reports of professional development may, at the request of the Board, be selected for an audit. The report shall be filed with the annual renewal fee no later than December 31 of the calendar year in which the professional development requirement was completed.~~ Every professional landscape architect is responsible for maintaining records necessary to support hours claimed for professional development. Records required include, but not limited to:

6.5.1 A log showing the type of activity claimed, sponsoring organization, location, duration, the instructor's or speaker's name, and PDH earned;

6.5.2 Attendance verification records in the form of completion certificates or other documents supporting evidence of attendance; or

6.5.3 Records relating to professional development that are maintained by CLARB, the Landscape Architects Continuing Education System (LA CES), the American Society Landscape Architects (ASLA), or other professional organizations are acceptable as evidence of completion of the PDH requirement.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

~~**006 Documentation.** Licensees shall develop documentation for each professional development program or activity claimed and retain this documentation for a two (2) year period. Copies of this documentation are not required to be submitted to the Board unless the licensee is selected for audit.~~

6.6 Determination of Credit

The Board has final authority with respect to approval of courses, credit, unit value for courses, and other methods of earning PDH credit. No pre-approval of offerings will be issued.

6.6.1 Certified satisfaction of mandatory professional development requirements in another jurisdiction recognized by the Board, for the exact time period in question in Nebraska, will satisfy the Nebraska requirements.

~~**007 Peer Review Committee.** The Board may appoint a Peer Review Committee to review the required professional development documentation submitted by each licensee. The committee shall report to the Board its recommendations regarding licensee compliance with the professional development requirements. The Peer Review Committee shall consist of three members who are licensed landscape architects. Each member shall serve a three year term. The Board shall appoint subsequent Peer Review Committee members to a term of three years as each term expires.~~

6.7 Audits

The Board will establish a number of professional landscape architects to be selected at random, but not to exceed ten percent of the total number of licensees, to submit documentation verifying compliance with the PDH requirements.

6.7.1 If the Board disallows any of the hours claimed, the licensee will be granted a period of time, as determined by the Board, after notification of disallowance, to substantiate the original claim or to earn additional hours to meet the minimum requirement. PDH used to satisfy a deficiency may not be used to meet the PDH requirement for the next biennial period.

~~**008 Failure To Comply.** The Board shall not renew the Certificate of Licensure of any licensee who has failed to complete the professional development requirement, or failed to request in writing a waiver or exemption, unless the person can show good cause, as determined by the Board, why the licensee was unable to comply with such requirement as provided for in Section 81-8,200, Nebraska R.R.S. If the Board determines good cause was shown, the Board shall permit the licensee to make up all outstanding required hours of professional development.~~

6.8 Exemptions and Waivers

Professional landscape architects may be exempt from the continuing education requirement for one the following reasons:

6.8.1 A professional landscape architect who has received or reinstated their license in the past biennium is exempt from the PDH requirement for their first renewal period.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

6.8.2 Contingent upon approval from the Board or the Board's administrator:

6.8.2.1 Professional landscape architects serving on active duty in the armed forces of the United States or any state for a period of time exceeding 120 days in each calendar year of their renewal period are exempt from obtaining the required biennium PDH.

6.8.2.2 Professional landscape architects serving on active duty in the armed forces of the United States or any state for a period of time exceeding 120 days in only one calendar year of their renewal period, are exempt from obtaining half the required PDH.

6.8.2.3 Supporting military orders must be furnished to the Board prior to a military exemption being approved.

6.8.3 Professional landscape architects experiencing physical disability, illness, or other extenuating circumstances as reviewed and approved by the Board may be exempt. Supporting documentation must be furnished to the Board.

6.8.4 The Board may, at its discretion, waive the professional development requirement for any professional landscape architect.

~~**009 Board Denial.** If the Board disapproves the submitted professional development report in whole or part, the licensee will be so notified and will be granted a period of time as determined by the Board to correct the deficiencies noted.~~

~~**010 Appeal and Hearing.** In the event of a Board denial, in whole or in part of any completed professional development activities as reported to the Board, the licensee shall have the right, within twenty (20) calendar days after the date of the Board's notification of denial, to request in writing a hearing before the Board. The hearing shall be held within sixty (60) calendar days after receipt of the request for such hearing. The decision of the Board subsequent to the hearing shall be final.~~

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

Chapter 7 – FEES Enforcement

~~001 – Application and Other Fees. The Board has the authority to establish fees as provided for in Section 81-8,194, Nebraska R.R.S.~~

~~001.01 Fees shall be:~~

~~001.01A The application fee for Initial License applicants is three hundred dollars (\$300.00).~~

~~001.01B The application fee for Reciprocity applicants licensure is three hundred dollars (\$300.00).~~

~~001.01C The fee for the Certificate of Licensure for applicants approved for licensure by the Board is one hundred seventy dollars (\$170.00).~~

~~001.01D The fee for annual renewal of the Certificate of Licensure is one hundred seventy dollars (\$170.00).~~

~~001.01E The annual renewal fee after December 31 of a calendar year shall be increased by ten percent for each month, or fraction of a month, such payment is delayed; except that the maximum fee for delinquency shall not exceed twice the amount of the original renewal fee, but no renewals shall be made after a lapse of one year. Application for renewal of a lapsed license shall be in the same manner as provided for an original application pursuant to Section 81-8,196, Nebraska R.R.S.~~

~~002 – No Refunds. All fees are non-refundable.~~

~~003 – Application The licensing fee for each approved professional landscape architect applies to the calendar year in which they are approved by the Board. The renewal fee applies to the next calendar year.~~

~~004 – Adjustable Any fee shall be adjusted as needed to generate the revenue needed to administer the Nebraska Professional Landscape Architecture Act.~~

7.1 Initial Review of Complaints and Compliance Issues

When a complaint is received by the Board in which a person is alleged to have violated the PLA Act and/or PLA Rules, or if the Board becomes aware of a compliance issue that may constitute a violation of the PLA Act and/or PLA Rules, the Board may refer the complaint or compliance issue to a committee or an investigator, or may consider the complaint or compliance issue without such referral.

7.1.1 If applicable, the committee or investigator will make a recommendation as to:

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

- 7.1.1.1 Whether the matter should be dismissed for lack of probable cause;
 - 7.1.1.2 Whether there is probable cause that a violation of the PLA Act and/or PLA Rules has occurred; or
 - 7.1.1.3 Whether further investigation is required in order to determine whether there is probable cause.
- 7.1.2 Upon receipt of a recommendation or upon consideration by the Board, the Board will determine whether there is probable cause and, if so, whether the informal or formal process should be undertaken to resolve the matter. If the Board finds there is no probable cause, the complaint will be dismissed. The Board may make a determination on probable cause with or without having requested a response from the respondent.
- 7.1.3 A complaint or compliance issued against any person may be brought in the name of the Board.

7.2 Informal Process

The Board may utilize an informal process as described below in lieu of, or as a prerequisite for, entering into a formal legal process.

- 7.2.1 The respondent is entitled to copies of the complaint and all information upon which the probable cause determination was made.
- 7.2.2 The Board and the respondent may reach an agreement as to the terms of the resolution of the matter without the respondent's appearance before the Board.
- 7.2.3 If an agreement is not reached without the appearance of the respondent, the respondent will be requested in writing to appear before the Board for an informal discussion of the matter.
 - 7.2.3.1 The Board may, but need not, request any other party involved in the complaint to appear along with the respondent. Such appearance is voluntary and cannot be compelled.
 - 7.2.3.2 Copies of the documents referred to in Rule 7.2.1 will be provided to the respondent no later than the time the request for appearance is made.
- 7.2.4 At the scheduled meeting with the Board, the Board shall clearly state to the party or parties that the meeting is informal and that no individuals will be giving up their rights to due process by participating in the informal process.
- 7.2.5 The Board may request that a party or parties bring materials, documents, or exhibits to facilitate the informal discussion with the Board.
- 7.2.6 The matter will be resolved if the Board and the respondent can reach terms of mutual agreement on the issues, and a consent agreement or other such documents is executed on those terms. Acceptable terms may include, but are not limited to, a requirement for additional professional education, limitations on practice, civil penalties, and assessment of fees and/or costs as outlined in Neb. Rev. Stat. § 81-8,208.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

7.2.7 The Board may separate issues within a complaint into those that can be resolved with an informal process from those that must be resolved under a formal process.

7.2.8 The respondent's participation in the informal process is voluntary, not mandatory.

7.3 Formal Process

The procedure for hearings in matters not resolved by informal process will be in accordance with Title 53, Nebraska Administrative Code, Chapter 4 of the Nebraska Department of Justice.

7.3.1 The formal process will be initiated by the filing of a petition in accordance with the Nebraska Administrative Code. The Board's receipt of a complaint does not constitute the initiation of a formal process.

7.3.2 Any person aggrieved by a final decision in a formal process is entitled to judicial review under the Administrative Procedures Act, or resort to such other means of review as may be provided by law.

7.4 Failure to Comply with Board Orders

If any person refuses to obey any decision or order of the Board, enforcement proceedings may be commenced in the appropriate district court in accordance with Neb. Rev. Stat. §81-8,202.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

Chapter 8 – RULES OF PROFESSIONAL CONDUCT AND COMPETENCE

001 Preamble. In order to establish and maintain a high standard of integrity, skills and practice in the technical profession, and to safeguard the life, health, and property of the public, the following rules of professional conduct, as provided in Section 81-8,191.01, Nebraska R.R.S., are promulgated and shall be binding upon every person holding a certificate of licensure as a landscape architect and all other legal entities lawfully permitted to offer or perform professional landscape architectural services in Nebraska. As such, the Board is authorized to establish conduct, policy and practices in accordance with the legislation cited herein above. All landscape architects licensed under the Nebraska law are charged with having knowledge of the existence of these rules of professional conduct. Each landscape architect shall be deemed to be familiar with these provisions and to understand them. Such knowledge shall encompass the understanding that the practice of landscape architecture is a privilege as opposed to a right. The landscape architect shall be forthright and candid in any statements or written response to the Board on matters pertaining to professional conduct.

002 Rules of Professional Conduct. The professional landscape architect shall, at all times, recognize the primary obligation to protect the life, health, and property of the public in the performance of the professional duties. If the professional landscape architect's judgment is overruled under circumstances where the life, health, and property of the public are endangered, the client or employer shall be informed of the possible consequences and the professional landscape architect shall notify such other proper authority of the situation as may be appropriate.

002.01 The professional landscape architect shall undertake to perform assignments only when qualified by education and experience in the specific technical field of the profession involved.

002.02 The professional landscape architect may accept an assignment requiring education or experience outside of the professional landscape architect's field of competence, but only to the extent that the services are restricted to those phases of the project in which the professional is qualified. All other phases of such project shall be performed by qualified associates, consultants or employees.

002.03 The professional landscape architect shall not affix a personal signature and/or seal to any plan or document dealing with subject matter in which there is lack of competence by virtue of education or experience, nor to any such plan or document not prepared under the professional landscape architect's direct supervision and control.

002.04 The professional landscape architect shall be completely objective and truthful in all professional reports, statements or testimony and shall include all relevant and pertinent information in such reports, statements or testimony.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

~~**002.05**—The professional landscape architect, when serving as an expert or technical witness before any court, commission or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of the professional landscape architect's testimony.~~

~~**002.06**—The professional landscape architect shall issue no statements, criticisms or arguments on matters connected with public policy which are inspired or paid for by an interested party or parties, unless such comments are prefaced by explicit personal identification, by disclosing the identities of the party or parties on whose behalf the professional landscape architect is speaking, and by revealing the existence of any pecuniary interest the professional landscape architect may have in the instant matters.~~

~~**002.07**—The professional landscape architect shall not accept compensation, financial or otherwise, from more than one party for the services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.~~

~~**002.08**—The professional landscape architect shall not solicit, or accept, financial or other valuable considerations from material or equipment suppliers for specifying their products.~~

~~**002.09**—The professional landscape architect shall not solicit, or accept, gratuities, directly or indirectly, from contractors, their agents or other parties dealing with the professional landscape architect's client or employer in connection with work for which the professional landscape architect is responsible.~~

~~**002.10**—The professional landscape architect shall not solicit a contract from a public body on which a principal or officer of the professional landscape architect's organization serves as a member.~~

~~**002.11**—The professional landscape architect shall not offer to pay, either directly or indirectly, any commission, political contribution, gift or other consideration in order to secure work, exclusive of securing positions through employment agencies.~~

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

~~**002.12**—The professional landscape architect shall not falsify or permit misrepresentation of academic or professional qualifications. The professional landscape architect shall not misrepresent or exaggerate degrees of responsibility in, or for, the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures or past accomplishments with the intent and purpose of enhancing the professional landscape architect's qualifications and work.~~

~~**002.13**—The professional landscape architect shall not knowingly associate with, or permit the use of, a personal name or firm name in a business venture by any person or firm which the professional knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature.~~

~~**002.14**—If the professional landscape architect has knowledge, or reason to believe, that another person or firm may be in violation of any of these provisions, the professional landscape architect shall present such information, or file a complaint, to the Board in writing and shall cooperate with the Board in furnishing such further information or assistance as may be required by the Board. All complaints filed with the Board shall be privileged and held confidential.~~

~~**002.15**—Conviction of a felony without restoration of civil rights, or the revocation or suspension of a professional license by another jurisdiction, if for a cause which in the State of Nebraska would constitute a violation of Nebraska law or of these rules, shall be grounds for a charge of violation of these rules.~~

~~**003 Conflict of Interest.**~~

~~**003.01**—A professional landscape architect shall avoid accepting a commission where duty to the client, or the public, would conflict with the personal interest of the professional landscape architect or the interest of another client. Prior to accepting such employment, the professional landscape architect shall disclose to a prospective client such facts as may give rise to a conflict of interest.~~

~~**003.02**—A professional landscape architect shall not accept compensation for services relating or pertaining to the same project from more than one party, unless there is a unity of interest between or among the parties to the project, and unless the professional landscape architect makes full disclosure and obtains the express consent of all parties from whom compensation will be received.~~

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

~~**003.03**—A professional landscape architect shall not, directly or indirectly, solicit or accept any compensation, gratuity or item of value from contractors, their agents or other persons dealing with the client or employer in connection with the work for which the professional landscape architect has been retained, without the knowledge and approval of the client or the employer.~~

~~**003.04**—When in public service as a member, advisor or employee of a governmental body or department, the professional landscape architect shall absent himself or herself and not participate in discussions, considerations, actions, or decisions with respect to services provided by the individual that may cause financial benefit or detriment to the individual, their immediate family, or a business with which the individual is associated.~~

~~**004—Conflict of Interest, Board Members.** The provisions of Section 49-14, 101, Nebraska R.R.S. for public officials shall apply.~~

~~**004.01**—No person shall offer or give to the following persons anything of value, including a gift, loan, contribution, reward or promise of future employment, based on an agreement that the vote, official action or judgment of any public official, public employee or candidate would be influenced thereby:~~

~~**004.01A**—A public official, public employee or candidate;~~

~~**004.01B**—A member of the immediate family of an individual listed in subdivision 004.01A of this subsection; or~~

~~**004.01C**—A business with which an individual listed under subdivision 004.01A or 004.01B or of this subsection is associated.~~

~~**004.02**—No person listed in subsection 004.01 of this section shall solicit or accept anything of value, including a gift, loan, contribution, reward or promise of future employment based on agreement that the vote, official action or judgment of the public official, public employee or candidate would be influenced thereby.~~

~~**004.03**—No public official or public employee shall use that person's public office, or any confidential information received through the holding of a public office, to cause financial benefit or detriment, other than compensation provided by law to an individual, their immediate family, or a business with which the individual is associated.~~

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

~~**004.04**— No public official or public employee shall use personnel, resources, property or funds under that individual's official care and control, other than in accordance with prescribed constitutional, statutory and regulatory procedures, or use such items, other than compensation provided by law, for personal financial gain.~~

~~**004.05**— Any person violating the provisions of this section shall be guilty of a Class III misdemeanor, as provided in Chapter 28, Crimes and Punishments, Nebraska R.R.S..~~

~~**004.06**— A Board member shall not permit their name to be used as a reference for an applicant seeking to be licensed as a professional landscape architect in the State of Nebraska.~~

~~**004.07**— A Board member shall not participate in the evaluation or grading of any section of an examination, nor in the approval of any applicant seeking licensure, whenever such applicant is a business associate, co-worker, employee or relative.~~

~~**005— Competence of Professional Practice.**~~

~~**005.01**— In practicing landscape architecture, the landscape architect shall act with reasonable care and competence, and shall apply the technical knowledge and skill which is ordinarily accepted and applied by landscape architects of good standing, practicing in the same locality.~~

~~**005.02**— In designing a project, the landscape architect shall take into account the applicable state and municipal zoning, building or development laws and regulations. While the landscape architect may rely on the advice of other professionals (e.g., attorneys, engineers, architects or landscape architects and other qualified persons) as to the intent and meaning of such regulations, once having obtained such advice, the landscape architect shall not knowingly design a project in violation of such laws and regulations.~~

~~**005.03**— The landscape architect shall undertake to perform professional services only when the landscape architect, together with those whom the landscape architect may engage as consultants, that are qualified by education, training, experience, or licensure in the specific technical areas involved.~~

~~**005.04**— No person shall be permitted to practice landscape architecture if, in the Board's judgment, such person's professional competence is substantially impaired by physical or mental disabilities.~~

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

~~**005.05**—Any applicant or landscape architect convicted of a felony, or other criminal offense, under state law, federal law or the law of another jurisdiction, and which if committed in this state would have constituted a felony under the state law, may be held in violation of the Code of Practice promulgated by the State Board of Landscape Architects if, in the opinion of the Board, the events and circumstances leading to the conviction indicate a condition which would affect the competency of the licensee to serve the life, health, and property of the public.~~

~~**005.06**—In the event a question arises as to the competence of a professional landscape architect to perform an assignment in a specific technical field, which cannot be otherwise resolved to the Board's satisfaction, the Board, either upon request or by its own volition, may require the professional landscape architect to submit to an appropriate examination as determined by the Board.~~

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

~~Chapter 9 – PROBABLE CAUSE FOR VIOLATIONS, PROHIBITIONS, PENALTIES~~

~~001 Probable Cause Determination.~~ The Board shall be responsible for making the determination as to whether probable cause exists to believe that a violation of the provisions of Section 81-8, 183.01 through 81-8,206, Nebraska R.R.S. or of these Rules and Regulations of the Board has occurred.

~~002 Prohibitions.~~ No person shall knowingly:

~~002.01~~ Practice landscape architecture unless the person is a holder of a valid license issued pursuant to this act;

~~002.02~~ Use the name or title "landscape architect", "landscape architecture" or "landscape architectural" or words to that effect, or advertise any title or description tending to convey the impression that he or she is a licensed landscape architect, when he or she is not then the holder of a license issued pursuant to this act;

~~002.03~~ Present as their own the certificate of registration or licensure of another;

~~002.04~~ Give false or forged evidence to the Board, or a member thereof, for the purpose of obtaining a certificate of licensure;

~~002.05~~ Use or attempt to use a landscape architect certificate of licensure which has been suspended, revoked, or placed on inactive status;

~~002.06~~ Employ unlicensed persons to practice landscape architecture except as defined in Section 81-8,206, Nebraska R.R.S.;

~~002.07~~ Aid and abet an unauthorized person in the practice of landscape architecture, or by sealing the plans, specifications, or documents prepared by others not under the direction and supervision of the landscape architect; or

~~002.08~~ Conceal information relative to violations of Sections 81-8,183.01 through 81-8,206, Nebraska R.R.S. or these Rules and Regulations of the Board.

~~002.09~~ Allow or be a party to transgressions or infringements of the Rules of Professional Conduct and Competence as provided in Chapter 8.

~~002.10~~ Any person violating these prohibitions may be guilty of a Class III misdemeanor in accordance with Section 81-8,205 of the Nebraska R.R.S.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

~~**003—Cause for Disciplinary Proceedings.** The following acts shall constitute grounds for which disciplinary actions, as provided hereafter in Section 004, may be taken:~~

~~**003.01**—Having a license to practice landscape architecture revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country;~~

~~**003.02**—Being convicted or found guilty, regardless of adjudication, of a misdemeanor or felony in any jurisdiction which directly relates to the practice of landscape architecture or the ability to practice landscape architecture;~~

~~**003.03**—Making or filing a report or record which the landscape architect knows to be false, willfully failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records shall include only those which are signed in the capacity of a licensed landscape architect.~~

~~**003.04**—Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content;~~

~~**003.05**—Upon proof that the landscape architect is guilty of fraud or deceit, or of negligence, incompetence, or misconduct, in the practice of landscape architecture;~~

~~**003.06**—Practicing on a revoked, suspended, lapsed, or invalid license;~~

~~**003.07**—Upon proof that a licensee has aided or abetted in the practice of landscape architecture by any person not authorized to practice landscape architecture;~~

~~**003.08**—Attempting to procure a certificate of licensure to practice landscape architecture by bribery or fraudulent misrepresentation;~~

~~**003.09**—Aiding, assisting, procuring, or advising any unlicensed person to practice landscape architecture contrary to Section 81-8,183.01 through 81-8,206, Nebraska R.R.S., or to any rule of the Board.~~

~~**004—Probable Board Disciplinary Actions.** When and if the Board, after due process covered in Chapter 10, finds that any licensed landscape architect has engaged in any improper conduct of any of the grounds set forth in Section 003, it may enter an order imposing one or more of the following penalties, and as provided for in Section 81-8,205, Nebraska R.R.S.:~~

~~**004.01**—Denial of an application for licensure.~~

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

~~**004.02**—Revocation or suspension of a certificate of licensure.~~

~~**004.03**—Issuance of a reprimand.~~

~~**004.04**—Placement of the licensed landscape architect on probation for a period of time and subject to such conditions as the Board may specify, including requiring the licensed landscape architect to attend professional development courses or to work under the supervision of another licensed landscape architect.~~

~~**004.05**—Restriction of the authorized scope of practice by the licensed landscape architect.~~

~~**005 Reissuance of Certificate.** The Board may reissue the certificate of licensure of a licensed landscape architect disciplined by the Board upon certification by the Board that the licensee has complied with all of the terms and conditions set forth in the final order.~~

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

Chapter 10 – PROCEDURE – CONTESTED CASES

~~**001 Contested Cases.** The term "contested case" shall mean any case arising by virtue of charge or complaint filed under Section 81-8,202, and shall include any case arising by order of the Board on its own motion to show cause why disciplinary action under such section should not be invoked. All complaints filed by persons other than the Board shall also be considered as orders to show cause issued by the Board. All cases involving applicants found ineligible for licensure, covered under Chapter 3, may be considered by the procedures covered in this Chapter.~~

~~**002 Setting of Hearings.** The time and place of any hearing before the Board will be set as directed by the Board and in accordance with any requirements of law. Notice of such hearing shall be given to all known interested parties by mailing a copy of such notice to the interested party at their last known address at least fourteen (14) days prior thereto.~~

~~**003 Pleadings.** Any complaint, responsive or rebuttal pleading shall be headed: "BEFORE THE NEBRASKA STATE BOARD OF LANDSCAPE ARCHITECTS," shall contain a heading specifying the nature of the pleading, and the name and address of the complainant, if any. Any responsive pleading shall be filed within thirty (30) days from the date of service of the complaint, or order, to show cause, provided that failure to file such a responsive pleading will be considered a general denial. All pleadings shall be filed with the Board at its official office.~~

~~**003.01** An original and six (6) copies, plus one additional copy for each person charged by a complaint, shall be filed with the Board. In any contested case the Board will cause a copy of such charges to be served on each person accused, either personally or by certified mail, return card requested, together with a notice of the time and place of the hearing within the time prescribed by law. Responsive or rebuttal pleadings filed shall contain a certificate of mailing, postage prepaid, of a copy thereof to all interested parties.~~

~~**004 Continuances.** A continuance of any hearing may be granted, at the discretion of the Board, upon application of any interested party for good cause shown. The Board may continue any matter on its own motion. Fourteen (14) days notice of the reset hearing shall be given in the manner prescribed for the original hearing, unless waived by all interested parties. The Board Chairperson is designated to rule on all pre-hearing motions; in the Chairperson's absence, the Vice-Chairperson is designated to rule on all pre-hearing motions.~~

~~**005 Consolidation.** The Board may order two or more proceedings, which are legally or factually related, to be heard and considered together.~~

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

~~**006 Conduct of Hearings.** Hearings will be conducted before not less than four (4) members of the Board, but any ruling of the Board with respect to such matter shall be concurred on by at least four (4) members of the Board. Where the case involves a charge filed by a complainant other than the Board, the complainant shall first present their evidence and then the respondent may present their evidence. If the case is filed by the Board on its own motion requiring the respondent to show cause, the attorney representing the Board shall offer, for the record, the evidence giving rise to the case and then the respondent may present their evidence. Rebuttal and surrebuttal shall be permitted. The Board shall rule on motions and objections and may interrogate any witnesses.~~

~~**007 Appearances.** Any individual may appear on their own behalf before the Board. An individual may appear on behalf of another in any proceeding before the Board only if:~~

~~(a) the individual is admitted to practice law before the Nebraska Supreme Court,
or~~

~~(b) the individual is admitted to practice law before the Supreme Court of any State and is accompanied by a person admitted to practice law before the Nebraska Supreme Court.~~

~~**008 Briefs.** Submission of briefs may be required by the Board. If required, the time in which briefs shall be filed, and the number of copies to be filed, shall be fixed by the Board.~~

~~**009 Oral Arguments.** Oral argument at the commencement or close of a hearing may be permitted by the Board at its discretion.~~

~~**010 Copy of Record.** A transcript of the record of any hearing will be furnished any interested party upon the payment by such interested party for the costs of its preparation. If transcribed testimony at any hearing is desired by any interested party it shall be incumbent upon such interested party to make their own arrangements for a copy with a reporter. A copy of any such testimony prepared for the use of the Board may be loaned, at the discretion of the Board, for such a period of time as it shall fix.~~

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

~~**011 Evidence and Witnesses.** Proceedings with respect to evidence at hearings and related matters are governed by Chapter 84, Article 9, Nebraska R.R.S. Unless a request, in writing, is received by the Board at least three (3) working days prior to the scheduled hearing date that the Board be bound by the rules of evidence applicable in district court in any formal hearing before it, as provided by Section 84-914, such Board shall not be bound by the rules of evidence. The party requesting the rules of evidence shall be responsible for all costs associated with the rules of evidence, including the cost of a court reporter arranged for by the board. Any witness who appears under subpoena of the Board is entitled to the same fee as is paid for like service in the District Courts of Nebraska. A subpoena requiring the attendance of a witness will be issued by the Board on written application of any interested party, provided that such interested party must deposit with the praecipe for subpoena cash or a certified check, payable to the order of the witness, and equal in amount to the fee for one day's attendance at the hearing, plus, if the witness resides outside of the corporate limits of the place of the hearing, compensation for travel expenses including travel, food, and lodging. Said fee shall be paid the witness, following their appearance in compliance with the subpoena, unless otherwise directed by the Board for good cause shown.~~

~~**012 Disposition.** The Board will notify, by mail, each of the parties in a contested case of the disposition of the case at the time the same is filed. The disposition will be in conformity with Section 84-915.~~

~~**013 Final Decision; Appeal; District Court.** Any person aggrieved by a final decision in a contested case is entitled to judicial review under Section 84-917 to 84-919, Nebraska R.R.S., or resort to such other means of review as may be provided by law.~~

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

~~Chapter 11 – PROMULGATION, AMENDMENT, OR REPEAL OF RULES.~~

~~001 Party.~~ A party instituting promulgation, amendment, or repeal of rules proceeding is a petitioner. Any interested person may intervene in any promulgation, amendment, or repeal of rules proceeding without any prior notice of filing if such intervention will not unduly delay the proceedings.

~~002 Petition – Form.~~ A petition for the promulgation, amendment, or repeal of any rule, subject to the authority or jurisdiction of the Board, may be filed by any interested person. Such a petition shall show the venue, "BEFORE THE NEBRASKA STATE BOARD OF LANDSCAPE ARCHITECTS," shall be entitled, "In the Matter of" (specifying the name and address of the petitioner and the subject matter), shall state the precise wording of the proposed rule or amendment, or the present rule to be repealed, plus, in ordinary and concise language, without repetition, the reasons for such promulgation, amendment, or repeal, shall be subscribed by the petitioner, or by a duly authorized officer of the petitioner, if it be a corporation, or for the petitioner by their attorney, licensed to practice in the State of Nebraska, in which case the attorney shall also state their own address, and shall request a hearing if one is desired.

~~003 Submission.~~ Each petition for the promulgation, amendment, or repeal of rules must be accompanied by the original and six (6) copies, which shall be filed with the Board.

~~004 Consideration.~~ The Board, at its discretion, shall determine whether a formal hearing on such petition would assist it. If it is so determined, it will set the matter for hearing and give notice to the petitioner, and such other parties as it deems desirable, by mail. The Board may, at its discretion, notify the petitioner by mail that such petition will be considered as submitted by the Board and no hearing will be held.

~~005 Disposition.~~ Disposition will be noticed as in Chapter 10, Section 12. At the time and place set for hearing, if any, the Board shall then and there afford the petitioner, and any intervenor, a reasonable time to discuss the petition.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

~~Chapter 12 – DECLARATORY RULINGS~~

~~001 Adoption of Chapter 11.~~ ~~The provisions of Chapter 11 shall be applicable to petitions for declaratory rulings.~~

~~002 Discretion of Board.~~ ~~The Board shall have complete discretion as to whether a declaratory ruling will be issued. If a declaratory ruling is issued, if issued after argument at a hearing and stated to be binding, the same is binding between the Board and the petitioner on the state of facts alleged, unless it is altered or set aside by a court.~~

Chapter 1 – General Provisions

1.1 Authority and Purpose

The Rules and Regulations of the State Board of Landscape Architects (hereafter, the PLA Rules) are set forth for the purpose of interpreting and implementing the Professional Landscape Architects Act (hereafter, the PLA Act). The PLA Rules are promulgated under the authority of and in conformity with the PLA Act.

1.2 Definitions

The definitions set out in Neb. Rev Stat. § 81-8,184, are hereby incorporated by reference into these rules and regulations. In addition, the following definitions of terms apply:

- 1.2.1 CLARB means the Council of Landscape Architectural Registration Boards.
- 1.2.2 CLARB Certificate Holder means an individual who holds a certificate issued by CLARB indicating the CLARB Standards of Eligibility for Council Certification have been met.
- 1.2.3 CLARB Standards of Eligibility means the current standards for education, experience, examination, and professional conduct approved by CLARB's member boards and adopted by the Board as the minimum standards of licensure.
- 1.2.3 LAAB means the Landscape Architectural Accreditation Board.
- 1.2.4 LAAC means the Canadian Society of Landscape Architects Accreditation Council.
- 1.2.5 LARE means the CLARB Landscape Architects Registration Examination as developed and administered by CLARB.
- 1.2.6 PLA means a Professional Landscape Architect as defined in Neb. Rev. Stat. Section §81-8,184(6)
- 1.2.9 Practice, used in the context of the PLA Rules, means the professional services of a landscape architect as defined in Neb. Rev. Stat. Section §81-8,184(5).

1.3 Fees, Renewals, Late Payment Penalties

- 1.3.1 The fee schedule will be set by the Board and is as follows:

Application Fees:

LARE Exam Application Fee (Non-LAAB degree)	\$50
Initial License Application Fee	\$100
Comity License Application Fee	\$300

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

Renewal Fees:

License Renewal Fee (Annual)	\$170
Late Renewal Fee (Annual)	\$17 for any month or any part of a month, up to \$170
License Renewal Fee (Biennial-beginning with the 2021 renewal period)	\$300
Late Renewal Fee (Biennial)	\$30 for any month or any part of a month, up to \$300

Miscellaneous Fees:

Duplicate/Replacement Certificate	\$15
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- 1.3.2 The fees may be adjusted as needed to generate the revenue needed to administer the PLA Act.
- 1.3.3 Submittal of an application authorizes the Board to investigate the information provided in connection with or appended to the application.

1.4 Applications

- 1.4.1 Absent specific Board action, applications not completed within one year of receipt by the Board will be closed. If an applicant wishes to continue the application process after such date, the applicant will be required to submit a new application with the applicable fee.
- 1.4.2 Closed applications will be required to meet the current requirements in place at the time the new application is submitted.
- 1.4.3 The source and character of the information received from references regarding the qualifications of an applicant will not be divulged except as required by law.
- 1.4.4 An applicant's prior criminal or disciplinary history from any jurisdiction may be considered by the Board as part of the application process for licensure and/or renewal. The existence of such history is not an automatic bar to being licensed, nor is the disclosure intended to automatically require consideration of discipline by the Board.
- 1.4.5 The review and evaluation of disclosure statements provided by applicants during the application and/or renewal process may be performed by the Board's administrator. However, the Board must review disclosures which an application has not previously disclosed and which indicate: 1) felony convictions; 2) probation, suspension, or revocation of a professional landscape architect license in another jurisdiction; 3) repetitive or multiple violations; or 4) evidence of unfitness to practice the profession.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

1.5 Professional Assistance

The Board may retain professional assistance in carrying out administrative matters and other general governance of the Board. Such assistance may include, financial, technological, legal, and administrative consultation, and will work under the general direction of the Board.

1.6 Change of Contact Information and/or Name

It is the responsibility of the applicant or licensee to notify the Board of any changes in their contact information within 30 days of the change. Requests for name changes must be in writing and include a copy of the legal document supporting the name change.

1.7 Adoption of the Attorney General's Model Rules

The Board has adopted Title 53, Nebraska Administrative Code, Chapters 1 through 4 of the Nebraska Department of Justice, also known as the Attorney General's Model Rules, and incorporated them into these regulations.

1.7.1 Procedures governing petitioning for rulemaking will be in accordance with Title 53, Nebraska Administrative Code, Chapter 2.

1.7.2 Procedures governing Declaratory Rulings will be in accordance with Title 53, Nebraska Administrative Code, Chapter 3.

1.8 Federal Requirements

Nothing in the PLA Rules imply exemption from requirements of any federal statute or regulation, including, but not limited to, the Americans with Disability Act and the Fair Housing Act.

1.9 Record of the Board's Action

A quorum of three members of the Board is required for Board actions. The Board will keep record of actions enacted at its meetings.

1.10 Board Member Conflicts of Interest

1.10.1 Board members are not allowed to vote on any matter in which they have any interest, financial or otherwise, direct or indirect, or engage in any business transaction or professional activity or incur any obligation of any nature which is in conflict with the proper discharge of their duties as a Board member.

1.10.2 Board members are prohibited from using or attempting to use their official position to secure unwarranted privileges or exemptions for themselves or others.

1.10.3 Board members will not give the impression that they may be improperly influenced in the performance of Board member duties, or that they are improperly affected by the kinship, rank, position, or influence of any party or person.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

1.10.4 A Board member will not accept gifts of value or loans from persons having business before the Board which are intended to or which might appear to influence the official relationship between the donor and recipient.

1.11 Conditional License

The Board may authorize the Board's administrator to issue licenses on a conditional basis, pending formal approval of the application by the Board.

1.11.1 A conditional license may be withdrawn by the Board if it determines the applicant does not qualify for any reason.

1.11.2 In the event the Board does not grant formal approval of a conditional license, the conditional license will expire at 11:59 p.m. on the date the licensee is notified of such Board action.

1.11.3 Landscape Architectural services performed pursuant to a conditional license that is subsequently withdrawn by the Board will be deemed to have been performed pursuant to a valid license.

1.12 Expired Licenses

A license to practice expires at 11:59 p.m. on the expiration date noted on the license unless renewed by such date.

1.12.1 A professional landscape architect cannot practice as provided in the PLA Act with an expired license.

1.12.2 Licenses that have expired may be renewed during the following twelve months, upon payment of the renewal plus the late renewal fee in accordance with Neb. Rev. Stat. § 81-8,200.

1.13 Reinstatement of a License

A license which has been expired for more than twelve months may be reinstated to active status by meeting the current requirements for licensure by examination or comity and upon approval of the Board.

1.13.1 If the applicant meets these requirements, the license may be reinstated, if the applicant:

1.13.1.1 Submits an application along with the applicable fee;

1.13.1.2 Submits documentation establishing that the applicant has complied with the professional development requirements set forth in Chapter 6 of these rules for the period during which the license was expired, not to exceed the biennial requirement; and

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

1.13.1.3 Submits an affidavit attesting that the applicant has not practiced landscape architecture in Nebraska during the time the license was expired; or if such attestation cannot be made, an explanation acceptable to the Board of the applicant's practice during the expired period.

1.13.2 All applications will go to the Board for review and final action.

1.13.3 The original license number will be retained.

1.14 Examination

The examination used by the Board to determine eligibility for licensure will be the current LARE as developed and administered by CLARB.

1.14.1 Applicants must meet the CLARB examination eligibility requirements or receive Board approval prior to beginning the examination.

1.14.1.1 Applicants meeting the CLARB examination eligibility requirements may register directly with CLARB to begin the examination process without first obtaining Board approval.

1.14.1.2 Applicants who do not meet the CLARB examination eligibility requirements may be approved by the Board to sit for the LARE exam, upon submission of the following:

1.14.1.2.1 An application with the applicable fee;

1.14.1.2.2 A copy of the applicant's CLARB Record sent directly to the Board from CLARB; and

1.14.1.2.3 Verification of meeting one of the following:

1.14.1.2.3.1 A non-accredited degree in landscape architecture plus one year of landscape architecture experience;

1.14.1.2.3.2 A NAAB-accredited architectural degree plus one year of landscape architecture experience;

1.14.1.2.3.3 An EAC/ABET-accredited Civil Engineering degree plus one year of landscape architecture experience; or

1.14.1.2.3.4 Any bachelor's degree plus three years of landscape architecture experience.

1.14.1.2.3.5 All experience is to be gained under the direct supervision of a design professional.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

- 1.14.2 Any information requested on the application with respect to education and experience may be substituted with the information in the CLARB Record.
- 1.14.3 All applications will go to the Board for review and final action.
- 1.14.4 The Board will follow CLARB policies and schedules for the taking and retaking of the LARE.
- 1.14.5 The Board will accept the examination results as determined by CLARB.
- 1.14.6 Passage of the LARE will be determined by the CLARB pass/fail standards in place at the time the examination was taken.
- 1.14.7 If there is any reported examination irregularity on the part of the applicant, the Board will investigate the allegation and take appropriate action if probable cause is found.

1.15 Transcripts

Transcripts or other documents verifying graduation issued directly by the granting institution of higher education, its authorized agent, or CLARB will be acceptable as proof of graduation when such proof is required by the Board.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

Chapter 2 – Initial Landscape Architect Licensure

2.1 Requirements for Initial Licensure

Initial licensure requires that the applicant:

- 2.1.1 Establish a CLARB Record;
- 2.1.2 Satisfy CLARB Standards of Eligibility for Council Certification; and
- 2.1.3 Submit three references from professional landscape architects or design professionals indicating good reputation and ethical character. At least one reference should be from a professional landscape architect. In the event a professional landscape architect is not available to make such reference, the applicant is to submit an explanation for the Board's review as to why the reference is unavailable.

2.2 Application for Initial Licensure

The Board's administrator is authorized to review and evaluate the applications for initial licensure to determine if they meet or exceed the requirements set forth in these rules.

- 2.2.1 If the applicant meets or exceeds these requirements, the Board's administrator may issue a conditional license authorizing the individual to provide landscape architecture services in Nebraska, if the applicant;
 - 2.2.1.1 Submits an application and applicable fee(s);
 - 2.2.1.2 Submits satisfactory evidence of having met the requirements set forth in Rule 2.1; and
 - 2.2.1.3 Submits a copy of the CLARB Record directly to the Board from CLARB.
- 2.2.2 Any information requested on the application with respect to education, experience, or references may be substituted with the information provided in the CLARB Record.
- 2.2.3 A listing of professional landscape architects issued conditional initial licenses will be placed on the agenda of the next meeting of the Board for formal approval by the Board.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

Chapter 3 – Comity Licensure

3.1 Requirements for Comity Licensure

Comity Licensure requires that the applicant:

- 3.1.1 Establish a CLARB Record;
- 3.1.2 Be licensed in good standing in at least one other licensing jurisdiction recognized by the Board;
- 3.1.3 Submit three references from professional landscape architects or design professionals indicating good reputation and character. At least one reference should be from a professional landscape architect. In the event a professional landscape architect is not available to make such reference, the applicant is to submit an explanation for the Board's review as to why the reference is unavailable.

3.2 Comity Licensure for CLARB Certificate Holders

The Board's administrator is authorized to review and evaluate the applications of all comity applicants to determine if they meet or exceed the criteria of the CLARB Standards of Eligibility for Council Certification.

- 3.2.1 If the applicant meets or exceeds these requirements, the Board's administrator may issue a conditional license authorizing the individual to offer or provide landscape architectural services in Nebraska, if the applicant:
 - 3.2.1.1 Submits an application and applicable fee(s); and
 - 3.2.1.2 Submits a copy of the CLARB Certificate directly to the Board from CLARB.
- 3.2.2 Any information requested on the application with respect to education, experience, or references may be substituted with the information provided in the CLARB Record.
- 3.2.3 A listing of all landscape architects issued conditional licenses will be placed on the agenda of the next meeting of the Board for formal approval by the Board.

3.3 Comity Licensure for non-CLARB Certificate Holders

A landscape architect who holds a current and valid license issued by a licensing authority of another jurisdiction recognized by the Board and has a current CLARB Council record, may be issued a license to offer or provide landscape architectural services in Nebraska.

- 3.3.1 If an applicant has not satisfied the Examination Standard of the CLARB Standard of Eligibility, but received their initial license by grandfather clause, is in good standing, and has a minimum of three years of experience at the time of the application, the Board may waive the examination requirement; or

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

- 3.3.2 If an applicant has a minimum of fifteen years of licensed experience in good standing in one or more licensing jurisdictions recognized by the Board, the examination and/or education requirements may be waived.
- 3.3.3 Any experience used to meet the Examination and/or Education Standards cannot be used to meet the Experience Standard.
- 3.3.4 If the application meets or exceeds these requirements, the landscape architect may be issued a license to offer or provide landscape architectural services in Nebraska, if the applicant:
 - 3.3.4.1 Submits an application and the applicable fee(s);
 - 3.3.4.2 Submits satisfactory evidence of such licensure to the Board directly from the issuing jurisdiction or CLARB;
 - 3.3.4.3 Submits a copy of the CLARB Council record directly to the Board from CLARB.
- 3.3.7 Any information requested on the application with respect to education, experience, licensure, or references may be substituted with the information provided in the CLARB Record.
- 3.3.8 All applications will go to the Board for review and final action.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

Chapter 4 – The Licensee Seal

4.1 Use of the Seal

The purpose of the seal is to assist in identification of the professional landscape architect responsible for the work performed under the requirements of the PLA Act and PLA Rules.

- 4.1.1 The seal used by a professional landscape architect must be legible, whether an embossing, computer generated, or other type of seal. In the absence of legibility, the seal is invalid.
- 4.1.2 No seal is valid unless signed across the face of the seal with the professional landscape architect's name and the date on which the material was sealed.
- 4.1.3 The responsible professional landscape architect will identify all work that they have prepared, as well as all work prepared under their direct supervision, by applying their seal to each sheet of the original drawings.
- 4.1.4 The responsible professional landscape architect will seal all technical submissions as follows: On each design and each drawing; on the cover and index pages identifying each set of specifications; and on the cover page. Two or more professional landscape architects may affix their signatures and seals to a sheet provided it is designated by a note under the seal the specific subject matter for which each is responsible.
- 4.1.5 The seal appearing on any technical submission is prima facie evidence that said submission was prepared by or under the direct supervision of the professional landscape architect sealing the submission.
- 4.1.6 Documents clearly marked as "Draft" prepared for preliminary submission and review do not require the professional's seal, signature, and date, including documents prepared for a client or governmental agency, unless otherwise required by the entity.
- 4.1.7 Professional landscape architects are responsible for providing adequate security over their seal and signature wherever it appears, regardless of whether the seal and signature is produced electronically or by other means.

4.2 The Coordinating Professional

The Coordinating Professional is a licensed design professional recognized as such by the project owner.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

- 4.2.1 The Coordinating Professional's role is:
 - 4.2.1.1 To coordinate communication between the design professionals related to technical documents on the project;
 - 4.2.1.2 To act as project liaison with the governing building official; and
 - 4.2.1.3 To verify that all design disciplines involved in a project are working in coordination with one another, and that any changes made to the design are approved by the corresponding profession, so that public life, health, safety, and welfare are not compromised.
- 4.2.2 The Coordinating Professional's seal does not indicate responsible charge or direct supervision of the work.
- 4.2.3 The Coordinating Professional must use the following language in conjunction with their individual seal for identification as the Coordinating Professional: "I, (name of licensee), am the Coordinating Professional on the (name of project) project."

4.3 Direct Supervision of Work

- 4.3.1 In order to exercise full professional knowledge of and control over work, a licensee in direct supervision of landscape architectural work must:
 - 4.3.1.1 Have and exercise the authority to review and to change, reject, or approve both the work in progress and the final work product, through a continuous process of examination, evaluation, communication, and direction throughout the development of the work;
 - 4.3.1.2 Be personally aware of the project's scope, needs, parameters, limitations, and special requirements;
 - 4.3.1.3 Be capable of answering questions relevant to the landscape architectural decisions made as part of the services provided, in sufficient detail to demonstrate reasonable knowledge of and proficiency in the work; and
 - 4.3.1.4 Be reasonably satisfied with the product of the services rendered and accepted full responsibility for the work.
- 4.3.2 The Board has final authority regarding the determination of whether technical documents were actually prepared under the direct supervision of a licensee.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

Chapter 5 – Code of Professional Conduct

5.1 Competence

- 5.1.1 In practicing landscape architecture, a professional landscape architect will act with reasonable care and competence and will apply the technical knowledge and skill that is ordinarily applied by professional landscape architects of good standing practicing in the same locality.
- 5.1.2 In designing a project, the professional landscape architect must take into account all applicable federal, state, and municipal laws and regulations. While the professional landscape architect may rely on the advice of other professionals (e.g., attorneys, architects, professional landscape architects, professional engineers, or other qualified persons) as to the intent and meaning of such regulations, once having obtained such advice, the professional landscape architect will not knowingly design a project in violation of such laws and regulations.
- 5.1.3 A professional landscape architect will undertake to perform professional services only when they, together with those whom the professional landscape architect may engage as consultants, is qualified by education, training and experience in the specific technical areas involved.
- 5.1.4 No person will be permitted to practice landscape architecture if, in the Board's judgement, such person's professional competence is substantially impaired by physical or mental disabilities.
- 5.1.5 A professional landscape architect convicted of a crime in connection with landscape architecture or a crime of moral turpitude under state law, federal law, or the law of another jurisdiction, may be held in violation of the code of practice if, in the opinion of the Board, the events and circumstances leading to the conviction indicate a condition which would affect the competency of the professional landscape architect to serve the health, safety, and welfare of the public.
- 5.1.6 The professional landscape architect may accept an assignment requiring education or experience outside the professional landscape architect's field of competence, but only to the extent that the services are restricted to those portions of the project in which the professional landscape architect is qualified. All other phases of the project must be performed by other qualified design professionals.
- 5.1.7 The professional landscape architect will not affix their signature and/or seal to any plan or document dealing with subject matter in which there is a lack of competency by virtue of education or experience, nor to any such plan or document not prepared under the direct supervision and control of said professional landscape architect.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

5.1.8 When serving as an expert or technical witness before any court, commission, or other tribunal, the professional landscape architect may express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of the professional landscape architect's testimony.

5.2 Conflict of Interest

5.2.1 The professional landscape architect will not accept compensation for services from more than one party on a project unless the circumstances are fully disclosed to and agreed to by all interested parties. Such disclosure and agreement is to be in writing.

5.2.2 If the professional landscape architect has any business association or direct or indirect financial interest which is substantial enough to influence their judgment in connection with their performance of professional services, the professional landscape architect must fully disclose in writing to their client or employer the nature of the business association or financial interest. If the client or employer objects to such association or interest the professional landscape architect will either terminate such association or interest, or offer to give up the commission or employment.

5.2.3 The professional landscape architect will not solicit or accept compensation from material or equipment suppliers, contractors, or sub-consultants in return for specifying or endorsing their products.

5.2.4 When acting as the interpreter of construction contract documents, studies, and reports, the professional landscape architect will render decisions impartially. When acting as the judge of contract performance, the professional landscape architect will render decisions in an objective matter, favoring neither party to the contract.

5.2.5 A professional landscape architect who initiates a complaint to the Board will not become involved as the landscape architect of record for the project which is the subject of the complaint.

5.2.6 Professional landscape architects will not solicit a contract for professional services from a governmental body when the professional landscape architect, or a principal or officer of the professional landscape architect's organization, serves as a voting or non-voting member, whether elected or appointed, or serves as an employee or contractor to perform professional services, of the same governmental body which is procuring the professional services. For purposes of this subparagraph, "governmental body" means a board, council, commission, or similar multi-membered body of any county or political subdivision. Professional landscape architects are not in violation of this provision, however, if the professional landscape architect, or principal or officer of their organization who serves as a member of the governmental body, plays no role in the solicitation or procurement of the contract on behalf of the governmental body.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

5.2.7 Professional landscape architects are responsible for obtaining formal review and approval of design work when such approval is required prior to construction.

5.3 Disclosure of Professional Relationships or Responsibility

5.3.1 When making public statements on landscape architectural questions, the professional landscape architect must disclose if they are being compensated for making such statements.

5.3.2 The professional landscape architect will accurately represent to a prospective or existing client or employer their qualifications and the scope of their responsibility in connection with work for which they are claiming credit.

5.3.3 The professional landscape architect possessing knowledge of a violation of these rules by another professional landscape architect will report such knowledge to the Board.

5.4 Compliance with Laws

5.4.1 The professional landscape architect will not, in the conduct of their landscape architectural practice, knowingly violate any state or federal criminal law. Allegations of violations of this section may be based on an independent finding of a violation of the law by a court of competent jurisdiction or an administrative or regulatory body.

5.4.2 The professional landscape architect will neither offer nor give any gift of significant value, or any monetary payment to a government official with the intent of influencing the official's judgement in connection with a prospective or existing project in which the professional landscape architect is interested or has an interest.

5.4.3 The professional landscape architect will comply with the laws and regulations governing their professional practice in any other jurisdiction.

5.4.3.1 A professional landscape architect may be subject to disciplinary action if, based on grounds substantially similar to those which lead to disciplinary action in this jurisdiction, the professional landscape architect is disciplined in any other jurisdiction.

5.4.3.2 A person whose Nebraska license was issued on the basis of a CLARB Certificate may, upon suspension or revocation, have their Nebraska license suspended until the certificate is reinstated.

5.4.3.3 A Nebraska license based upon comity with another jurisdiction may be concurrently suspended upon suspension or revocation of that jurisdiction's license, pending reinstatement of the license by the other jurisdiction.

5.4.3.4 A license under suspension must be kept current through the suspension period. If the license has expired during the suspension period, a new application for licensure will be required.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

5.5 Professional Conduct

- 5.5.1 The professional landscape architect will not sign or seal drawings, specifications, reports, or other professional work for which they do not have direct supervision. If the portions of such professional work were prepared by the professional landscape architect's consultants who are licensed under the law of the State of Nebraska or another state, the professional landscape architect may sign or seal that portion of the professional work if the professional landscape architect has reviewed such portion, has coordinated its preparation, and accepts responsibility for its adequacy.
- 5.5.2 The professional landscape architect will not engage in conduct involving fraud or wanton disregard of the rights of others.
- 5.5.3 The professional landscape architect will not engage in unethical, immoral, or dishonorable conduct that would indicate lack of fitness to perform the tasks required by clients or a level of proficiency that is insufficient to serve the public interest.
- 5.5.4 The professional landscape architect will not in advertisements or public statements engage in misleading, untruthful, or improbable statements, or flamboyant, exaggerated or extravagant claims concerning the professional landscape architect's professional excellence or abilities.
- 5.5.5 The professional landscape architect will not knowingly aid or abet the practice or performance of activities requiring a license by a person not licensed to conduct such practice or activity.
- 5.5.6 The professional landscape architect will not deliberately make a materially false statement or fail deliberately to disclose accurately and completely a material fact requested in the connection with their application for licensure or renewal or otherwise requested by the Board.
- 5.5.7 The professional landscape architect will not assist the application for licensure of a person known by the professional landscape architect to be unqualified in respect to education, training, experience, or character.
- 5.5.8 If, in the course of their work on a project, a professional landscape architect becomes aware of a decision or an action taken by the employer or client against the professional landscape architect's advice, which violates applicable laws and regulations and which will, in the professional landscape architect's judgement, have a material adverse effect on the safety to the public of the finished project, the professional landscape architect will advise the employer or client of the violation and request reconsideration of the decision or action. In the event the employer or client does not reverse or alter the decision or action in order to bring it into conformity with applicable laws, the professional landscape architect will:

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

- 5.5.8.1 Report the decision or action to the local building inspector or other public official charged with the enforcement of the applicable laws and regulations;
- 5.5.8.2 Refuse to consent to the decision or action; and
- 5.5.8.3 In circumstances where the professional landscape architect reasonably believes that other such decisions or actions will be taken notwithstanding their objection, terminate their services with reference to the project.

5.6 Use of Regulated Titles

- 5.6.1 Professional landscape architects licensed in Nebraska may identify themselves as such.
- 5.6.2 Professional landscape architects who are not licensed in Nebraska, but who hold a valid license in another licensing jurisdiction recognized by the Board:
 - 5.6.2.1 May identify themselves as such on correspondence and other routine documents that do not contain an offer to provide professional services:
 - 5.6.2.2 May identify themselves as such on correspondence and other documents that offer to provide professional services in Nebraska, if such documents clearly indicate and disclose that the professional landscape architect:
 - 5.6.2.2.1 Holds a valid and current license in another licensing jurisdiction;
 - 5.6.2.2.2 Does not hold a current and valid license in Nebraska;
 - 5.6.2.2.3 Would have to obtain a license in Nebraska in order to perform the services described in the offer; and
 - 5.6.2.2.4 Has a reasonable likelihood of being issued a license in Nebraska.
- 5.6.3 Individuals who do not hold a current and valid license in any jurisdiction shall not use the title professional landscape architect in Nebraska.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

Chapter 6 – Professional Development

6.1 Requirements

Every professional landscape architect must complete a minimum of 15 hours of Professional Development Hours (PDH) during each calendar year. A maximum of four PDH may be reported as self-study. This provision ends with licenses that expire on December 31, 2020.

Beginning with licenses that expire on December 31, 2021, every professional landscape architect must complete a minimum of 24 hours of Professional Development Hours (PDH) per biennial calendar period. A maximum of six PDH may be reported as self-study.

6.2 Professional Development Hour Units

- 6.2.1 One PDH is equivalent to at least 50 minutes of instruction.
- 6.2.2 One semester credit hour of formal education is equivalent to 45 PDHs.
- 6.2.3 One quarter credit hour of formal education is equivalent to 30 PDHs.
- 6.2.4 One International Association for Continuing Education Training (IACET) Continuing Education Unit (CEU) is equivalent to 10 PDHs.

0036.3 Structured Programs

A structured program is a program that has a sponsor other than the licensee; has evidence of pre-planning including written objective and form; has an assessment component; and is documented and verifiable. This includes PDH earned at collegiate level institutions, or through professional level seminars, conferences, study tours, and self-paced professional development programs offered for the purpose of keeping the licensee apprised of advancements and new developments in the professional service areas, as defined in Neb. Rev. Stat. §81-8,184(5), and ethics.

6.4 Self-Study Activities

Self-study activities may include reading professional journals, periodicals or professional oriented books and visits to sites for observation of landscape architectural projects, research projects, ecological or land restoration projects and natural environmental areas.

6.5 Recordkeeping

Every professional landscape architect is responsible for maintaining records necessary to support hours claimed for professional development. Records required include, but not limited to:

- 6.5.1 A log showing the type of activity claimed, sponsoring organization, location, duration, the instructor's or speaker's name, and PDH earned;

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

- 6.5.2 Attendance verification records in the form of completion certificates or other documents supporting evidence of attendance; or
- 6.5.3 Records relating to professional development that are maintained by CLARB, the Landscape Architects Continuing Education System (LA CES), the American Society Landscape Architects (ASLA), or other professional organizations are acceptable as evidence of completion of the PDH requirement.

6.6 Determination of Credit

The Board has final authority with respect to approval of courses, credit, unit value for courses, and other methods of earning PDH credit. No pre-approval of offerings will be issued.

- 6.6.1 Certified satisfaction of mandatory professional development requirements in another jurisdiction recognized by the Board, for the exact time period in question in Nebraska, will satisfy the Nebraska requirements.

6.7 Audits

The Board will establish a number of professional landscape architects to be selected at random, but not to exceed ten percent of the total number of licensees, to submit documentation verifying compliance with the PDH requirements.

- 6.7.1 If the Board disallows any of the hours claimed, the licensee will be granted a period of time, as determined by the Board, after notification of disallowance, to substantiate the original claim or to earn additional hours to meet the minimum requirement. PDH used to satisfy a deficiency may not be used to meet the PDH requirement for the next biennial period.

6.8 Exemptions and Waivers

Professional landscape architects may be exempt from the continuing education requirement for one the following reasons:

- 6.8.1 A professional landscape architect who has received or reinstated their license in the past biennium is exempt from the PDH requirement for their first renewal period.
- 6.8.2 Contingent upon approval from the Board or the Board's administrator:
 - 6.8.2.1 Professional landscape architects serving on active duty in the armed forces of the United States or any state for a period of time exceeding 120 days in each calendar year of their renewal period are exempt from obtaining the required biennium PDH.
 - 6.8.2.2 Professional landscape architects serving on active duty in the armed forces of the United States or any state for a period of time exceeding 120 days in only

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

one calendar year of their renewal period, are exempt from obtaining half the required PDH.

- 6.8.2.3 Supporting military orders must be furnished to the Board prior to a military exemption being approved.
- 6.8.3 Professional landscape architects experiencing physical disability, illness, or other extenuating circumstances as reviewed and approved by the Board may be exempt. Supporting documentation must be furnished to the Board.
- 6.8.4 The Board may, at its discretion, waive the professional development requirement for any professional landscape architect.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

Chapter 7 – Enforcement

7.1 Initial Review of Complaints and Compliance Issues

When a complaint is received by the Board in which a person is alleged to have violated the PLA Act and/or PLA Rules, or if the Board becomes aware of a compliance issue that may constitute a violation of the PLA Act and/or PLA Rules, the Board may refer the complaint or compliance issue to a committee or an investigator, or may consider the complaint or compliance issue without such referral.

- 7.1.1 If applicable, the committee or investigator will make a recommendation as to:
 - 7.1.1.1 Whether the matter should be dismissed for lack of probable cause;
 - 7.1.1.2 Whether there is probable cause that a violation of the PLA Act and/or PLA Rules has occurred; or
 - 7.1.1.3 Whether further investigation is required in order to determine whether there is probable cause.
- 7.1.2 Upon receipt of a recommendation or upon consideration by the Board, the Board will determine whether there is probable cause and, if so, whether the informal or formal process should be undertaken to resolve the matter. If the Board finds there is no probable cause, the complaint will be dismissed. The Board may make a determination on probable cause with or without having requested a response from the respondent.
- 7.1.3 A complaint or compliance issued against any person may be brought in the name of the Board.

7.2 Informal Process

The Board may utilize an informal process as described below in lieu of, or as a prerequisite for, entering into a formal legal process.

- 7.2.1 The respondent is entitled to copies of the complaint and all information upon which the probable cause determination was made.
- 7.2.2 The Board and the respondent may reach an agreement as to the terms of the resolution of the matter without the respondent's appearance before the Board.
- 7.2.3 If an agreement is not reached without the appearance of the respondent, the respondent will be requested in writing to appear before the Board for an informal discussion of the matter.
 - 7.2.3.1 The Board may, but need not, request any other party involved in the complaint to appear along with the respondent. Such appearance is voluntary and cannot be compelled.

NEBRASKA ADMINISTRATIVE CODE
Title 231 – State Board of Landscape Architects

- 7.2.3.2 Copies of the documents referred to in Rule 7.2.1 will be provided to the respondent no later than the time the request for appearance is made.
- 7.2.4 At the scheduled meeting with the Board, the Board shall clearly state to the party or parties that the meeting is informal and that no individuals will be giving up their rights to due process by participating in the informal process.
- 7.2.5 The Board may request that a party or parties bring materials, documents, or exhibits to facilitate the informal discussion with the Board.
- 7.2.6 The matter will be resolved if the Board and the respondent can reach terms of mutual agreement on the issues, and a consent agreement or other such documents is executed on those terms. Acceptable terms may include, but are not limited to, a requirement for additional professional education, limitations on practice, civil penalties, and assessment of fees and/or costs as outlined in Neb. Rev. Stat. § 81-8,208.
- 7.2.7 The Board may separate issues within a complaint into those that can be resolved with an informal process from those that must be resolved under a formal process.
- 7.2.8 The respondent's participation in the informal process is voluntary, not mandatory.

7.3 Formal Process

The procedure for hearings in matters not resolved by informal process will be in accordance with Title 53, Nebraska Administrative Code, Chapter 4 of the Nebraska Department of Justice.

- 7.3.1 The formal process will be initiated by the filing of a petition in accordance with the Nebraska Administrative Code. The Board's receipt of a complaint does not constitute the initiation of a formal process.
- 7.3.2 Any person aggrieved by a final decision in a formal process is entitled to judicial review under the Administrative Procedures Act, or resort to such other means of review as may be provided by law.

7.4 Failure to Comply with Board Orders

If any person refuses to obey any decision or order of the Board, enforcement proceedings may be commenced in the appropriate district court in accordance with Neb. Rev. Stat. §81-8,202.