

Form #3

~~OFFICE WEST VIRGINIA~~
~~SECRETARY OF STATE~~

Roger J. Kennedy
Authorized Signature



STATE BOARD OF LANDSCAPE ARCHITECTS

Post Office Box 1355, St. Albans, West Virginia 25177
<http://www.wvlicensingboards.com/landscape>
(304) 727-5501, (304) 727-5580 FAX

July 28, 2006

The Honorable Betty Ireland
Secretary of State
Building 1, Suite 157-K
1900 Kanawha Boulevard
Charleston, West Virginia 25305-0770

RE: Agency Approved Rule Revisions

Dear Secretary Ireland:

Attached please find the agency approved rule revisions following the public comment period. No comments were received during this period. As previously stated, the revisions to the existing Rule are extensive so we propose to repeal and replace the Rule and its title. The new title is Registration of Landscape Architects.

The proposed revisions include: 1) adding definitions; 2) adding requirements for inactive and retired licensees; 3) adding requirements for digital signatures; 4) adding requirements for certificates of authorization of business entities; 5) removing continuing education requirements and creating a new Legislative Rule; 6) removing fee requirements and creating a new Legislative Rule; and, 7) removing the hearing requirements and creating a new Procedural Rule.

If you have any questions or need more information please do not hesitate to contact me.

Sincerely,

**West Virginia State Board of
Landscape Architects**

Roger J. Kennedy, Chairman

APPENDIX B
FISCAL NOTE FOR PROPOSED RULES

Rule Title: Registration of Landscape Architects

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: West Virginia State Board of Landscape Architects

Address: P.O. Box 1355
St. Albans, West Virginia 25177

Phone Number: 304-727-5501 Email: rkennedy@chaptech.com

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure
will have on costs and revenues of state government.

The changes to Series 1 are budget neutral.
It is proposed to repeal and replace Series 1 "Rules of the West Virginia State Board of Landscape Architects" with "Registration of Landscape Architects". The fee schedule, continuing education requirements, and hearing procedures would be removed and a new rule series created for them.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of
Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "--")	Next Increase/Decrease (use "--")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: _____

Rule Title:

Registration of Landscape Architects

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Date: July 28, 2006

Signature of Agency Head or Authorized Representative

Roger J. Kennedy

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 28, 2006

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Board of Landscape Architects
P.O. Box 1355
St. Albans, West Virginia 25177
(304) 727-5501

LEGISLATIVE RULE TITLE: ~~REPEALS AND REPLACES "Rules of the West Virginia State~~
Board of Landscape Architects" with "Registration of Landscape
Architects"

1. Authorizing statute(s) citation ~~§30-22-7~~

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

Comment period began: June 28, 2006

b. What other notice, including advertising, did you give of the hearing?

Notified members of the American Society of Landscape Architects, West Virginia Chapter.

c. Date of Public Hearing(s) *or* Public Comment Period ended:

Comment period ended: July 28, 2006

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received X

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 28, 2006

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Roger Kennedy, Chairman

P.O. Box 1355

St. Albans, West Virginia 25177

(304) 727-5501, (304) 727-5580 FAX

Email: rkennedy@chapttech.com

- g. **IF DIFFERENT FROM ITEM 'f',** please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached

**TITLE 9
LEGISLATIVE RULE
WEST VIRGINIA STATE BOARD OF LANDSCAPE ARCHITECTS**

FILED

2006 JUL 28 P 1:46

**SERIES 1
REGISTRATION OF LANDSCAPE ARCHITECTS**

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§9-1-1. General.

1.1. Scope. -- This Rule sets forth standards for the regulation and conduct of persons or firms wanting to become licensed as a landscape architect or to offer landscape architectural services. This Rule is binding upon persons applying and registered under W. Va. Code §§30-22-1 et seq. and is applicable to persons or firms providing landscape architectural services and holding a certificate of authorization.

1.2. Authority. -- W. Va. Code §§30-22-1 et seq.; 29A-5-1 et seq.; and 6-9A-3.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Repeal of Former Rules. -- This legislative Rule repeals and replaces West Virginia 9CSR1 "Rules of the West Virginia State Board of Landscape Architects" filed May 3, 2004 and effective July 1, 2004.

§9-1-2. Definitions.

2.1. Terms Defined by Statute -- Terms defined in W. Va. Code §30-22-4 have the same meanings when used in this Rule unless the context or subject matter clearly requires a different interpretation.

2.2. Terms Defined -- As used in this Rule, the following terms have the following meanings unless the context or subject matter clearly requires a different interpretation:

2.2.a. Applicant -- Means a person making application for a license or permit to the Board.

2.2.b. Applicant Record -- Verified documentation of an individual's education, experience, examination, licensure and professional conduct.

2.2.c. CLARB -- The Council of Landscape Architectural Registration Boards, or its successor.

2.2.d. CLARB Certificate -- A record compiled by CLARB consisting of verified documentation of the certificate holder's education, experience, examination and professional conduct which meet or exceed CLARB's certification standards.

2.2.e. CLARB Uniform Continuing Education Standards -- Standards for content, structure and duration of continuing education that are approved by CLARB's member boards and adopted by the board as the minimum standards for licensure renewal.

2.2.f. COA -- Means Certificate of Authorization, issued under the provisions of W. Va. Code §30-22-19, to a firm providing landscape architectural services.

2.2.g. Direct Control and Personal Supervision -- That degree of supervision by a landscape architect overseeing the work of another whereby the supervisor has been directly involved in all judgments affecting the health, safety and welfare of the public.

2.2.h. Fiscal Year -- Means the West Virginia fiscal year, which operates July 1 of the current year through June 30 of the following year.

2.2.i. Good Cause -- Circumstances which prohibit an applicant from executing his or her obligations to the Board. Such circumstances may include personal illness, auto accident, child delivery, death or severe illness in the immediate family or other severe physical or emotional hardship.

2.2.j. L.A.R.E. -- The Landscape Architect Registration Examination. An examination prepared by CLARB, designed to determine whether an applicant possesses sufficient knowledge, skills and abilities to provide landscape architectural services without endangering the health, safety and welfare of the public.

2.2.k. Principal -- An individual who is a landscape architect and is in charge of a firm's landscape architectural practice.

2.2.l. Registrant -- A current licensee or COA holder.

2.2.m. Responsible Charge -- The direct control and/or having personal supervision of the practice of landscape architecture.

2.2.n. Seal -- A symbol, image, or information in the form of a rubber stamp, embossed seal, computer generated data, or other form acceptable to the board that is applied or attached to a document to verify authenticity of the document's origin.

2.2.o. State Examination (West Virginia Section) -- A written and/or oral examination that shall include, but not limited to the aspects of plant material usage, aspects of the practice of landscape architecture in West Virginia, including laws and regulations.

§9-1-3. Administration.

3.1. The Board will provide reasonable accommodation to a qualified applicant with a disability in accordance with the Americans with Disabilities Act (ADA), 42 USC Section 12101 et seq. Requests for accommodations must be made in writing and received by the Board by the application deadline along with the appropriate documentation.

3.2. The Board shall retain membership in CLARB and at least one (1) member of the Board may attend meetings of CLARB when approved, as required by the State procedures. Expenses at such meeting shall be borne by the Board.

3.3. Regular meetings of the West Virginia State Board of Landscape Architects shall be held at least once a year at a time and place to be determined by the Board and notice of these regular meetings shall be given to the Secretary of State at least fourteen (14) days in advance to be made available to the public and news media.

3.4. Notice of time, place and purpose of all special meetings of the Board shall also be given to the Secretary of State at least fourteen (14) days in advance or as soon as practicable, to be made available to the public and news media.

3.5. Meeting notices shall appear in the West Virginia Register as published by the Secretary of State at least five (5) calendar days before the meeting. Notice of all regular and special meetings will be provided directly to the Secretary of other organizations upon written request from the Secretary of such organizations.

3.6. As provided by statute, the notice provisions of this Rule are not required in the event of an emergency requiring immediate official action.

§9-1-4. Applications.

4.1. Applications for registration as a landscape architect will be received at any time during regular business hours at the office of the Board. Applications for written examination shall be filed with the prescribed examination fee in such office at least ninety (90) days prior to the date of the examination.

4.2. All fees payable by applicants shall accompany the applications and are non-refundable. Where the CLARB certificate is transferred to the Board for reciprocity, such forms may be used, in part of the normal forms prescribed by the Board.

4.3. The Board reserves the right to request additional information and/or documentary evidence of qualifications. The Board may request personal appearance by the applicant before the Board and shall be at a time and place designated by the Board.

4.4. The Board reserves the right to retain any and all documents submitted as evidence of qualifications for registration. Photocopies of original documents may be submitted if notarized as true copies.

4.5. Failure to comply with a written request from the Board for additional evidence or information or to appear before the Board, when deemed necessary, within sixty (60) days of such notice, may be sufficient and just cause for the disapproval of the application.

4.6. All applicants must be endorsed by four (4) other persons not related by blood or marriage to the applicant. Two (2) of those endorsing must be landscape architects. No more than one (1) of these landscape architects shall be from the applicant's place of employment. The two (2) non-landscape architects may be general character references. An applicant shall not use a relative or a current Board member as a reference. Persons unable to obtain endorsements by two (2) landscape architects may use an architect, professional engineer or professional surveyor, licensed in this State, provided that the applicant obtains Board approval for such an endorsement.

4.7. Those persons applying for registration under the reciprocity provisions per W. Va. Code §30-22-11, will be accepted only:

4.7.a. If they have been licensed by examination from another jurisdiction, or

4.7.b. hold CLARB certification, and

4.7.c. if they demonstrate by examination that they have adequate knowledge of the aspects of plant material usage, aspects of the practice of landscape architecture in West Virginia, including laws and regulations; and

4.7.d. if they submit satisfactory proof that they are registered in good standing in another State.

4.8. The Board reserves the right to exercise its discretion provided in the Act by requiring reciprocal applicants to qualify by passing the State Examination.

4.9. All applicants shall be considered individually by the Board and passed or rejected by a roll call vote. The action taken by the Board shall be recorded in the minutes. Approval of an applicant will require a majority vote of the Board.

4.10. An outline of the action taken by the Board shall be placed with each application.

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

4.12. Persons applying under the provisions of W. Va. Code §30-22-9(a) may use military experience to fulfill the required experience, provided, that such military experience has been spent in the practice of landscape architecture as defined by the Act.

4.13. An applicant may take the examination upon acceptance of his or her application but shall not receive a license until successful completion of requirements specified under W. Va. Code §30-22-9(a).

4.14. Unless otherwise provided by law, any appeal from the actions of the Board shall be filed with the Board within thirty (30) days from the date of receipt of the notice of such decision. Such correspondence shall be sent by certified or registered mail.

4.15. If an applicant receives a degree in landscape architecture from an accredited foreign institution, the Board may review the applicant's transcripts and waive the need to submit a foreign degree evaluation.

4.16. Work experience. An applicant who is not licensed in any other jurisdiction shall demonstrate to the Board's satisfaction that he or she has met the experience requirements outlined in W. Va. Code §30-22-9(a). The Board may require evidence to support the adequacy of the work experience required. Periods of full time employment of less than ten (10) weeks may not be considered as valid work experience. Work experience received outside the United States or Canada is limited to one (1) year maximum. Work experience verifications are the responsibility of the applicant and shall be submitted on forms supplied by the Board as part of the completed application package.

4.17. Certificates of Registration. The Board shall issue a certificate of registration and similar wallet card to an applicant who has met the requirements of this State and who has paid the certificate fee prescribed by the Board. The certificate signed by the Board members shall show the applicant's license number and seal of the Board.

§9-1-5. Examinations.

5.1. An applicant qualifying under W. Va. Code §30-22-6(a), shall submit to and pass the L.A.R.E. plus the State Examination.

5.2. The examination will be given at the dates, time and place determined by the Board. The examination shall be conducted in accordance with the instructions issued by the Board and a copy of the instructions shall be furnished to each applicant.

5.3. The minimum passing grade for the examination shall be established for each section of the examination. All sections must be passed before the applicant is eligible for licensure, including the State Examination.

5.4. Applicants who fail may retake those portions of the examination not passed at the next regularly scheduled examination period. Those portions failed must be retaken within a two (2) year period. If not

retaken during this two (2) year period, the Board may require the applicant to retake the entire examination unless they can show good cause to the Board.

5.5. Applicants must complete, successfully, all sections of the examination within a five (5) year period. Applicants not so doing may be required to retake the entire examination.

5.6. Cost of the examination or reexamination shall be borne by the applicant over and above the application fee. The fee shall be forfeited in the event that the applicant fails to take the examination. Should an applicant show good cause for failure to appear for examination, the Board shall maintain a credit of 75% of the examination fees towards the purchase of future examinations of said applicant. The remaining 25% of the examination fee will be charged as a handling fee. Examination credit for said applicant shall be used within one (1) year of the original examination date after which the remaining credit is forfeit.

5.7. The applicant shall be notified of the examination cost when notified of the dates, time and place of the examination.

5.8. The examination fee will be based on the sections of the examination to be taken or retaken.

5.9. The Board shall notify the applicant of the examination grade on a pass/fail basis only. All examination documents shall be retained by the Board. The applicant may inspect the graded examination in the presence of a Board member.

§9-1-6. Temporary Permits.

6.1. Requirements.

6.1.a. The Board may grant a temporary permit to an applicant who desires to practice or offer to practice in this State for a period of time not to exceed one (1) year.

6.1.b. To obtain a temporary permit, an applicant shall make application on forms prescribed by the Board and pay the required fee.

6.1.c. The temporary permit shall not be renewed nor another temporary permit issued to the same applicant.

§9-1-7. Renewal, Reinstatement and Replacement.

7.1. It is the responsibility of the registrant to notify the Board of any change in information previously submitted to the Board within thirty (30) days of the change, such as name change, change of address, change of employer, or similar matter requiring current information.

7.2. Expiration. Licenses expire on June 30th of each year without hearing. Expired licenses may be reinstated after June 30th, under the provisions of subdivision 7.5 of these rules.

7.3. Renewals.

7.3.a. The Board shall annually, during the month of April, mail a renewal notice to the last known address of every current registrant. The notice shall indicate the expiration date of the license, the amount of the renewal fee and required continuing education requirements as established by the Board.

7.3.b. The registrant shall submit the renewal application, the required fee, certification of

compliance with continuing education requirements and with the Standards of Practice and Conduct to the Board on or before June 30th of each year.

7.3.c. A late fee shall accompany renewals postmarked after June 30th, along with such non-refundable fees as required in subsection §9-3-4 of these rules.

7.4. Inactive or retired registrant.

7.4.a. A current registrant desiring to have his or her license placed on inactive or retired status shall submit a written request to the Board. Upon receipt of such notification and review by the Board, inactive or retired status may be granted.

7.4.b. License Numbers. The Board shall reserve the original assigned license number for any registrant who elects to convert to inactive or retired status. This number will remain on file in the event that the registrant should choose to reinstate his or her license as long as the registrant maintains his or her inactive or retired status.

7.4.c. The Board shall issue an appropriate wallet card to a retired registrant who has met the requirements of this State and who has paid appropriate fees.

7.4.d. The Board may not issue any documentation to the inactive registrant but shall maintain the records of the registrant and note the status of the registrant's license on the annual roster.

7.4.e. Registrants who are granted inactive or retired status are exempt from meeting continuing education requirements.

7.4.f. Registrants who elect inactive status shall not hold themselves out as licensed landscape architects or practice landscape architecture in this State.

7.4.g. Registrants who elect retired status must retire their seal and certify that they are no longer receiving remuneration from providing professional landscape architectural services.

7.4.h. Inactive or retired registrants desiring to have his or her license reinstated shall submit a completed reinstatement application on forms prescribed by the Board, along with the current renewal fee. The registrant shall also complete a minimum of sixteen (16) and no more than thirty two (32) continuing education PDH's.

7.4.i. Inactive or retired registrants who fail to renew their inactive or retired status shall be subject to late renewal fees as established by the Board.

7.4.j. The inactive or retired registrant whose status has been expired for four (4) or more years may be required to submit a new application as prescribed in §9-1-4 of these rules.

7.5. Reinstatement of a license.

7.5.a. A former registrant whose license has been expired less than four (4) years, desiring to renew his or her license shall submit a completed reinstatement application on forms prescribed by the Board, along with the current renewal and late fees, and the renewal fee for the previous year.

7.5.b. A former registrant, whose license has been expired for four (4) years or more may be required to submit a new application, as prescribed in §9-1-4 of these rules. The Board may require the

applicant to submit to all or parts of the L.A.R.E., and other written and/or oral examinations prepared and/or adopted by the Board.

7.5.c. The former registrant shall complete all delinquent continuing education PDH's up to a maximum of thirty two (32) PDH's, as determined by the Board.

7.5.d. The Board may, at its discretion, waive the continuing education requirements if the former registrant submits to taking all or parts of the L.A.R.E., and other written and/or oral examinations as a requirement for reinstatement.

7.5.e. A registrant whose license has been reinstated shall be regarded as having been continuously licensed without interruption.

7.6. Replacement of a certificate. Any current registrant may obtain replacement for a lost, destroyed or damaged current certificate upon submission of a fee and a written Statement indicating the nature of the loss, destruction or damage.

§9-1-8. Seal Requirements.

8.1. All final professional documents, including maps, plans, designs, drawings, specifications, estimates and reports issued by a landscape architect shall contain a seal, signature and date whenever they are presented to a client, the public or governmental agency. A landscape architect's license must be in full force and effect in order to seal documents.

8.2. A signature shall be:

8.2.a. A handwritten message containing the name of the person who applied it; or

8.2.b. A digital signature that is an electronic authentication process, approved by the Board, attached or logically associated with an electronic document. The digital signature must be:

8.2.b.1. Unique to the person using it;

8.2.b.2. capable of verification;

8.2.b.3. under the sole control of the person using it;

8.2.b.4. linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.

8.3. No landscape architect shall affix his or her seal or signature to documents that were developed by others not under the direct control and personal supervision of the landscape architect for the use in the State of West Virginia.

8.4. A seal shall contain the following information:

8.4.a. The words "State of West Virginia";

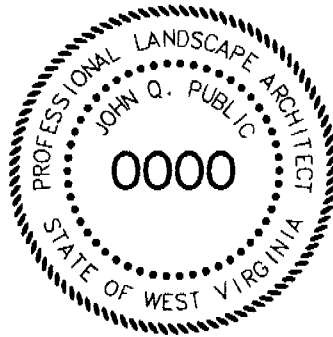
8.4.b. the licensee's full name;

8.4.c. the license number;

8.4.d. the words "Professional Landscape Architect".

8.5. Each licensee shall obtain a rubber stamp or embosser seal and shall be 1-3/4" in diameter. Minor modifications as to size and marginal lines may be approved by the Board as long as the seal is easily legible.

8.6. The seal shall follow the wording and format as shown here:



8.7. An impression of any seal, rubber stamp or embossing, must be filed with and approved by the Board before it may be used.

8.8. It is the responsibility of each registrant to report the loss or theft of his or her seal to the Board as soon as practical after the loss or theft.

8.9. The use of one's seal on any plans, drawings, specifications, reports or other instruments of service which were not prepared by the licensee or under his or her immediate and responsible supervision, or permitting one's name to be used for the purpose of assisting any person to evade the provisions of W. Va. Code §30-22-1 et seq., shall subject such person to suspension or revocation of license or temporary permit.

8.10. The seal or reproducible facsimile shall be applied on all original drawings to produce a legible reproduction on all copies or prints made from said drawings.

8.11. The registrant signing and sealing documents submitted for landscape architectural services in this State shall be the firm's landscape architect in responsible charge or the project landscape architect.

8.12. Revisions shall be numbered, dated, initialed, and sealed by the licensee responsible for the revision.

8.13. The licensee is responsible for the improper use of his or her seal on work not prepared either by the licensee or under his or her direct supervision.

8.14. When a landscape architect registered in another State has a temporary permit to practice in this State, that person shall use his or her seal and affix his or her signature along with the temporary permit number to documents submitted for landscape architectural services performed in this State.

§9-1-9. Certificates of Authorization.

9.1. A COA is required to practice or offer to practice landscape architecture in West Virginia. The Board shall issue a COA to firms who have met the provisions of W.Va. Code §30-22-19 and these rules promulgated under the Act. The certificate signed by the Board Chairperson and Secretary shall show the firm's COA number and seal of the Board.

9.2. COA for sole proprietor is optional. A sole proprietorship firm is not required to obtain a COA.

9.3. Application and Fees. A firm desiring to obtain a COA shall submit a completed application on forms prescribed by the Board, along with such non-refundable fees as required in subsection §9-3-4 of these rules. Each application, including renewal and reinstatement, shall include the names and titles of the corporate officers, the name of the landscape architect, licensed in this State, in responsible charge and the name or names of any employed landscape architect as set forth in §30-22-19.

9.4. Issuance of Certificate of Authorization. Upon satisfactory completion of all application requirements, the Board shall issue a COA. The Certificate shall be displayed at the firm's principal place of business where the public can readily view it.

9.5. COA number. The Board shall assign each firm a number at the time a COA is granted by the Board. Numbers are issued consecutively in the order in which a firm is granted a COA.

9.6. Expiration, Renewal and Reinstatement.

9.6.a. COA's expire on June 30th of each year and are voided without hearing after that date unless renewed in accordance with the following:

9.6.a.1. The Board shall annually, during the month of April, mail a renewal notice to the last known address of every firm currently holding a COA. The notice shall indicate the expiration date of the COA and the amount of the renewal fee as required in subsection §9-3-4 of these rules.

9.6.a.2. COA's expire on June 30th of each year and are void without hearing after that date.

9.6.a.3. A late fee shall accompany COA renewals postmarked after June 30th as required in subsection §9-3-4 of these rules.

9.6.a.4. A firm who is no longer doing business in this State may request inactive status. A firm on inactive status is prohibited from practicing or offering to practice landscape architecture until the COA is reinstated.

9.7. Reinstatement. A firm desiring to reinstate a COA shall submit a completed application on forms prescribed by the Board, along with such non-refundable fees as required in subsection §9-3-4 of these rules.

9.8. Replacement of Certificate. The firm shall notify the Board when a COA is lost, destroyed or mutilated, and, if the firm is in good standing, the Board shall replace it, upon presentation of a statement of the loss along with such non-refundable fees as required in subsection §9-3-4 of these rules.

9.9. Updated Information. It is the firm's responsibility to notify the Board of any change in information previously submitted to the Board, such as name change, change of address, change of the landscape architect in responsible charge, or similar matter requiring current information.

9.10. Limited liability firms. The landscape architect in responsible charge on the COA is responsible for compliance with W.Va. Code §30-22-1 et seq. and this Rule notwithstanding any limitations of liability provided by W.Va. Code §§47B-3-6 and 31B-13-1305.

§9-1-10. Professional Ethics.

10.1. Knowledge of Rules. All registrants are charged with having knowledge of the Rules governing the practice of landscape architecture in this State. The Board shall notify every registrant in writing of amendments to the rules. The Rules as amended shall also be published on the Board website.

10.2. The landscape architect shall conduct his or her practice in order to protect the health, safety, interest and welfare of the public in the performance of his or her professional duties. If his or her judgment is overruled under circumstances where the health, safety, interest and welfare of the public are endangered, he or she shall inform his or her employer, in writing, of the possible consequences and notify such other proper authorities of the situation, as may be appropriate.

10.3. The landscape architect shall perform his or her services only in the areas of his or her competence.

10.3.a. The landscape architect shall perform landscape architectural assignments only when qualified by education or experience in the specific technical field of professional landscape architecture involved.

10.3.b. The landscape architect may accept an assignment requiring education or experience outside his or her own field of competence, but only to the extent that his or her services are restricted to those phases of the project in which he or she is qualified. All other phases of such project shall be performed by qualified associates, consultants or employees.

10.3.c. In designing a project, the landscape architect shall take into account all applicable construction laws, zoning codes and other applicable laws or regulations. The landscape architect shall not knowingly design a project in violation of such laws and regulations.

10.3.d. The landscape architect shall not affix his or her signature and/or seal to any plan or document dealing with subject matter to which he or she lacks competence by virtue of education or experience, not to any such plan or document not prepared under his or her direct supervisory control.

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

10.4. The landscape architect shall recognize his or her responsibility to the public and shall represent his or herself before the public only in an objective and truthful manner.

10.4.a. The landscape architect shall disclose whenever he or she is being compensated for making public Statements concerning landscape architectural issues.

10.4.b. The landscape architect shall solicit work only on the basis of his or her qualifications.

10.4.c. The landscape architect shall accurately represent to a prospective or existing client or employer the landscape architect's qualifications and clearly define the scope of his or her responsibility in connection with work for which the landscape architect is claiming responsibility.

10.4.d. If a landscape architect becomes aware of a decision made by his or her employer or clients against the landscape architect's advice, that violates applicable construction laws, zoning codes or other applicable regulations and that will, in the landscape architect's judgment, materially and adversely affect the public health, safety, interest and welfare, the landscape architect shall notify his or her

employer or client, in writing, of the possible consequences and notify such other proper authority of the situation, as may be appropriate.

10.4.e. The 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 found 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 his or her testimony.

10.4.f. In circumstances where the landscape architect reasonably believes that other such decisions will be made notwithstanding his or her objection, then the landscape architect shall terminate services with reference to the project. In the case of a termination in accordance with this paragraph of this Rule, the landscape architect shall have no liability to the client on account of such termination.

10.4.g. The landscape architect shall not deliberately make a materially false Statement or deliberately fail to disclose a material fact requested in connection with an application for licensure or renewal.

10.4.h. The landscape architect shall not assist in the application for licensure of a person known by the landscape architect to be unqualified with respect to education, examination, experience or character.

10.4.i. The landscape architect possessing knowledge of a violation of these rules by another landscape architect shall report such knowledge to the Board.

10.5. The landscape architect shall avoid conflicts of interest with his or her employer or client, but when unavoidable, the landscape architect shall forthwith disclose the circumstances to his or her employer or client.

10.5.a. The landscape architect shall promptly notify his or her employer or client of any business association interests or circumstances which could influence his or her judgment or the quality of his or her services.

10.5.b. The landscape architect shall not accept compensation, financial or otherwise, from more than one (1) party for services pertaining to the same project, unless the circumstances are fully disclosed to and agreed to by all interested parties.

10.5.c. The landscape architect shall not solicit or accept financial or other valuable considerations from material or equipment manufacturers or suppliers for specifying their products.

10.5.d. The landscape architect shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents or other parties dealing with his or her client or employer in connection with work for he or she is responsible.

10.5.e. The landscape architect shall not solicit or accept a professional contract from a governmental body on which a principal or officer of their organization serves as a member. Conversely, landscape architects serving as members, advisors, or employees of a governmental body or department, who are the principals or employees of a private concern, shall not participate in decisions with respect to professional services offered or provided by the private concern to the governmental body which they serve unless their participation is approved by the West Virginia Ethics Commission.

10.5.f. The landscape architect shall not offer, give, solicit or receive, either directly or indirectly, any commission, or gift, or other valuable consideration in order to secure work, and shall not make any political contribution with the intent to influence the award of a contract by a public authority.

10.5.g. The landscape architect shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of other landscape architects, nor indiscriminately criticize other landscape architects' work.

10.6. The landscape architect shall not falsify or permit misrepresentation of his or her, or his or her associates' academic or professional qualifications. He or she shall not misrepresent or exaggerate his or her degree 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 his or her or their past accomplishments with the intent and purpose of enhancing his or her qualifications and his or her work.

10.7. The landscape architect shall not knowingly associate with or permit the use of his or her name or firm in a business venture by any person or firm which he or she knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature.

10.8. If the landscape architect has knowledge or reason to believe that another person or firm may be in violation of any of these provisions or of W. Va. Code §30-22-1 et seq., he or she shall present such information 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.

10.9. Conviction of a felony or the revocation or suspension of a professional landscape architect's license by another jurisdiction, if for a cause which the State of West Virginia would constitute a violation of W. Va. Code §30-22-1 et seq. or this Rule, shall be grounds for a charge of violation of this Rule.

§9-1-11. Severability.

11.1. If this Rule, or any part of this Rule is found by the courts to be invalid for any reason, the remainder of the Rule continues in full force and effect and each and every part of the Rule is severable.