

LANDSCAPE ARCHITECTS LICENSING ACT

Part 1 - General Provisions

58-53-101. Title.

This chapter is known as the "Landscape Architects Licensing Act."

58-53-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) "Board" means the Landscape Architects Board created in Section 58-53-201.
- (2) "Fund" means the Landscape Architects Education and Enforcement Fund created in Section 58-53-103.
- (3) "Practice of landscape architecture" means rendering or offering to render any of the following services:
 - (a) production of a site plan which may include the design of any of the following:
 - (i) sprinkler irrigation systems;
 - (ii) landscape grading and drainage plans; or
 - (iii) parking lots;
 - (b) design of any of the following structures incidental to the production of a site plan:
 - (i) retaining walls; or
 - (ii) raised platforms, decks, and walkways;
 - (c) design of any of the following structures incidental to the production of a site plan when the structure does not exceed 1,000 square feet:
 - (i) covered pavilions;
 - (ii) gazebos;
 - (iii) restrooms;
 - (iv) storage and maintenance facilities; or
 - (v) other accessory structures; or
 - (d) collaboration with architects and professional engineers in the design of roads, bridges, buildings, and structures with respect to the functional and aesthetic requirements of the area in which they are to be placed.
- (4) "Principal" means a licensed landscape architect having responsible charge of a landscape architectural practice.
- (5) "Supervision with respect to the supervision of an employee of a landscape architect, means that a licensed landscape architect is responsible for and personally reviews, corrects when necessary, and approves work performed by any employee under the direction of the landscape architect, and may be further defined by rule of the division in collaboration with the board.
- (6) "Unlawful conduct" is as defined in Section 58-1-501 and 58-53-501.
- (7) "Unprofessional conduct" is as defined in Section 58-1-501 and as may be further defined by rule of the division in collaboration with the board.

58-53-103. Education and enforcement fund.

- (1) There is created a restricted special revenue fund known as the "Landscape Architect Education and Enforcement Fund."
- (2) The fund consists of monies from:
 - (a) a surcharge placed on application fees for initial, renewal, and reinstatement licensure under this chapter, in an amount established by the division with the collaboration of the board in accordance with Section 63J-1-504, not to exceed 50% of the respective fee; and
 - (b) administrative penalties collected pursuant to this chapter.

- (3) The fund shall earn interest and all interest earned on fund monies shall be deposited into the fund.
- (4) The director may, with concurrence of the board, make distributions from the fund for the following purposes:
 - (a) education and training of licensees under this chapter;
 - (b) education and training of the public or other interested persons in matters concerning landscape architectural laws and practices; and
 - (c) enforcement of this chapter by:
 - (i) investigating unprofessional or unlawful conduct; and
 - (ii) providing legal representation to the division when the division takes legal action against a person engaging in unprofessional or unlawful conduct.
- (5) If the balance in the fund exceeds \$100,000 at the close of any fiscal year, the excess shall be transferred to the General Fund.
- (6) The division shall report annually to the appropriate appropriations subcommittee of the Legislature concerning the fund.

Part 2 - Board

58-53-201. Creation of board - Duties.

- (1) There is created the Landscape Architects Board consisting of four landscape architects and one member of the general public.
- (2) The board shall be appointed and serve in accordance with Section 58-1-201.
- (3) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203.
- (4) The board shall designate one of its members on a permanent or rotating basis to:
 - (a) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and
 - (b) advise the division in its investigation of these complaints.
- (5) A board member who has, under Subsection (4), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

Part 3 - Licensing

58-53-301. Licensure required - License classifications.

- (1) A license is required to engage in the practice of landscape architecture except as specifically provided in Section 58-53-304 or 58-1-307.
- (2) The division shall issue a license under this chapter to a qualified person in the classification of landscape architecture.

58-53-302. Qualifications for licensure.

- (1) Each applicant for licensure as a landscape architect shall:
 - (a) submit an application in a form prescribed by the division;
 - (b) pay a fee as determined by the department under Section 63J-1-504;
 - (c) provide satisfactory evidence of good moral character;
 - (d) (i) have graduated and received an earned bachelors or masters degree from a landscape architecture program meeting criteria established by rule by the division in collaboration with the board; or

- (ii) have completed not less than eight years of supervised practical experience in landscape architecture which meets the requirements established by rule by the division in collaboration with the board; and
 - (e) have successfully passed examinations established by rule by the division in collaboration with the board.
- (2) Satisfactory completion of each year of a landscape architectural program described in Subsection (1)(d)(i) is equivalent to one year of experience for purposes of Subsection (1)(d)(ii).

58-53-303. Term of license - Expiration - Renewal.

- (1) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by rule. The division may by renewal extend or shorten a license expiration date by as much as one year to stagger the renewal cycles it administers.
- (2) Each license automatically expires on the expiration date shown on the license unless renewed by the licensee in accordance with Section 58-1-308.

58-53-304. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following may engage in the stated limited acts or practices without being licensed under this chapter:

- (1) a person preparing a site plan as defined in Subsection 58-53-102(3), for a one-, two-, three-, or four-family residence not exceeding two stories in height, exclusive of the basement;
- (2) a person designing sprinkler irrigation systems when licensed as a landscape contractor under Title 58, Chapter 55, Utah Construction Trades Licensing Act;
- (3) a person licensed to practice professional engineering or professional structural engineering under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;
- (4) a person licensed to practice architecture under Title 58, Chapter 3a, Architects Licensing Act;
- (5) unlicensed employees of a person licensed under this chapter while preparing site plans as defined in Subsection 58-53-102(3), under the supervision of a landscape architect; and
- (6) an organization engaged in the practice of landscape architecture, provided that:
 - (a) the organization employs a principal; and
 - (b) all individuals employed by the organization, who are engaged in the practice of landscape architecture, are licensed or exempt from licensure under this chapter.

Part 4 - License Denial and Discipline

58-53-401. Grounds for denial of license - Disciplinary proceedings.

Grounds for refusing to issue a license to an applicant, for refusing to renew the license of a licensee, for revoking, suspending, restricting, or placing on probation the license of a licensee, for issuing a public or private reprimand to a licensee, and for issuing cease and desist orders shall be in accordance with Section 58-1-401.

Part 5 - Unlawful and Unprofessional Conduct - Penalties.

58-53-501. Unlawful conduct.

"Unlawful conduct" includes:

- (1) using the title landscape architect or any other description, word, letters, or abbreviation indicating that the person is a landscape architect if the person has not been licensed under this chapter; and
- (2) engaging in or representing oneself as engaging in the practice of landscape architecture as a corporation, proprietorship, partnership, or limited liability company unless exempted from licensure under Section 58-1-307 or 58-53-304.

58-53-502. Citations - Penalty for unlawful conduct.

- (1) (a) If upon inspection or investigation, the division concludes that a person has violated Subsections 58-1-501(1)(a) through (d), Section 58-53-501, or Section 58-53-603 or any rule or order issued with respect to Section 58-53-501, and that disciplinary action is appropriate, the director or the director's designee from within the division for each alternative respectively, shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulation settlement, or notify the persons to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.
 - (i) A person who violates Subsections 58-1-501(1)(a) through (d) or Section 58-53-501 or any rule or order issued with respect to Section 58-53-501, as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to Subsection (3)(i) and may, in addition to or in lieu of, be ordered to cease and desist from violating Subsections 58-1-501(1)(a) through (d) or Section 58-53-501 or any rule or order issued with respect to Section 58-53-501.
 - (ii) Except for a cease and desist order, the licensure sanctions cited in Section 58-53-401 may not be assessed through a citation.
- (b) A citation shall:
 - (i) be in writing;
 - (ii) describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;
 - (iii) clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and
 - (iv) clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.
- (c) The division may issue a notice in lieu of a citation.
- (d) Each citation issued under this section, or a copy of each citation, may be served upon any person whom a summons may be served in accordance with the Rules of Civil Procedure and may be made personally or upon the person's agent by a division investigator or by any person specially designated by the director or by mail.
- (e) If within 20 calendar days from the service of the citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review. The period to contest a

- citation may be extended by the division for cause.
- (f) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.
 - (g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.
 - (h) No citation may be issued under this section after the expiration of six months following the occurrence of any violation.
 - (i) The director or the director's designee shall assess fines according to the following:
 - (i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to \$1,000;
 - (ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000; and
 - (iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000 for each day of continued offense.
- (2) An action initiated for a first or second offense which has not yet resulted in a final order of the division does not preclude initiation of any subsequent action for a second or subsequent offense during the pendency of any preceding action. The final order on a subsequent action shall be considered a second or subsequent offense, respectively, provided the preceding action resulted in a first or second offense, respectively.
- (3) Any penalty which is not paid may be collected by the director by either referring the matter to a collection agency or bringing an action in the district court of the county in which the person against whom the penalty is imposed resides or in the county where the office of the director is located. Any county attorney or the attorney general of the state shall provide legal assistance and advice to the director in any action to collect the penalty. In any action brought to enforce the provisions of this section, reasonable attorney's fees and costs shall be awarded to the division.

Part 6 - Seals

58-53-601. Seal - Design and implementation.

Every landscape architect shall have a seal, the design and implementation of which shall be established by rule by the division in collaboration with the board.

58-53-602. Site plans to be sealed.

- (1) Any site plan prepared in this state shall bear the seal of a landscape architect licensed under this chapter, except as provided in Section 58-53-304, in Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act, in Title 58, Chapter 3a, Architects Licensing Act, or by the codes adopted under Title 58, Chapter 56, Utah Uniform Building Standards Act.
- (2) Any final site plan prepared by or under the supervision of the licensed landscape architect shall bear the seal of the landscape architect when submitted to a client, or when submitted to a building official for the purpose of obtaining a building permit, even if the practice is exempt from licensure under Section 58-53-304.

58-53-603. Seal - Authorized use.

A landscape architect may only affix the landscape architect's seal to a site plan when the site plan:

- (1) was personally prepared by the landscape architect;
- (2) was prepared by an employee, subordinate, associate, or drafter under the supervision of a licensee, provided the licensee or a principal affixing the seal assumes responsibility;
- (3) was prepared by a licensed landscape architect in this state or any other state provided that the licensee in this state affixing the seal:
 - (a) performs a thorough review of all work for compliance with all applicable laws and rules and the standards of the profession; and
 - (b) makes any necessary corrections before submitting the final site plan:
 - (i) to a building official for the purpose of obtaining a building permit; or
 - (ii) to a client who has contracted with a landscape architect for the production of a site plan, when the landscape architect represents, or could reasonably expect the client to consider, the site plan to be complete and final;
- (4) was prepared by a person exempt from licensure as a landscape architect, provided that the licensee in this state affixing the seal:
 - (a) performs a thorough review for compliance with all applicable laws and rules and the standards of the profession; and
 - (b) makes any necessary corrections before submitting the final site plan:
 - (i) to a building official for the purpose of obtaining a building permit; or
 - (ii) to a client who has contracted with a landscape architect for the production of a site plan, when the landscape architect represents, or could reasonably expect the client to consider, the site plan to be complete and final; or
- (5) meets any additional requirements established by rule by the division in collaboration with the board.

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