

Title 7
AGRICULTURE AND ANIMALS
Part XXIX. Horticultural Commission
Chapter 1. Horticulture

§101. Administration of the Affairs of the Horticulture Commission

- A. In the absence of the chairman, the secretary shall preside at meetings of the commission.
- B. The chairman may designate a hearing officer, who may or may not be a member of the commission, to preside at all adjudicatory proceedings of the commission.
- C. The commission shall serve as a hearing body in all adjudicatory proceedings and shall make the final decision with respect to the disposition of all matters brought to adjudication.
- D. Whenever any member of the commission desires to be represented at any meeting of the commission, the member must give at least five working days prior written notice to the secretary, naming the individual who will represent the member at the meeting of the commission.
- E. Meetings of the commission shall normally be held at the domicile of the commission but may be held at other locations throughout the state upon the determination of the chairman of the commission.
- F. The commission shall be convened upon the call of the chairman.
- G. The commission may act to expel a member under the provisions of R.S. 3:3801(H) only after its intent to do so has been advertised to all members of the commission by placement of the expulsion matter on the agenda for the meeting at which the vote for expulsion will be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3814.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:183 (April 1982).

§102. Definitions

- A. The terms defined in R.S. 3:3803 are applicable to this Part and have the meaning given to them in that statute, except where a regulation or the context expressly indicates otherwise.
- B. The terms defined in this Section are applicable to this Part and have the meaning herein given to them, except where a regulation or the context expressly indicates otherwise.
- C. The following terms are hereby defined for purposes of this Part.

Arborist—any person trained in the care and removal of shade and ornamental trees. Shade and ornamental trees may be defined as those on an existing homesite or commercial property and those on property permitted for development for commercial or residential purposes. This definition shall also apply to any tree within 100 feet of any improvements on these properties.

CLARB—the Council of Landscape Architectural Registration Boards or any successor.

Department—The Louisiana Department of Agriculture and Forestry.

Floral Design—an arrangement of cut flowers, ornamental plants, other living or freshly cut plant materials, or any combination thereof intentionally constructed so as to constitute a planned relationship among them.

Horticulture Law—Louisiana Revised Statutes of 1950, Title 3, Chapter 24, §3801 et seq.

Landscape Architect—any person that applies creative and technical skills and scientific, cultural and political knowledge in the planned arrangement of natural and constructed elements on the land with a concern for the stewardship and conservation of natural, constructed and human resources.¹

LARE—the Landscape Architect Registration Examination.

Stop Order and Notice of Non-Compliance—a directive issued by the commissioner or the department or authorized agent to a person prohibiting that person from continuing a particular course of conduct or prohibiting the advertisement, application, distribution, disturbance, movement, performance, sale or offer for sale of a service or material thing, or both.

¹American Society of Landscape Architects (ASLA) Definition of Landscape Architecture, ASLA Member Handbook, adopted November 18, 1983.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Horticulture Commission, LR 26:627 (April 2000), amended LR 33:1854 (September 2007), LR 34:2547 (December 2008), LR 40:758 (April 2014).

§103. Enforcement

A. Hearings

1. Investigative hearings shall be for the purpose of investigating alleged violations of the Horticulture Law or regulations promulgated by the commission.
2. Investigative hearings may be held upon the call of the commission. Such hearings may be held in any part of the state.
3. The chairman, the secretary, a member designated by the chairman, or a hearing officer designated by the commission who need not be a member of the commission, shall preside at investigative hearings. All witnesses shall be sworn or shall make affirmation.
4. Investigative hearings conducted by the commission shall be open to the general public.
5. If the commission determines that evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person, it shall afford such person, upon request, an opportunity to appear as a witness; receive and dispose of requests from such persons to subpoena additional witnesses; and afford such person, or his attorney, upon request the opportunity to examine or cross-examine witnesses.
6. The director of the horticulture commission, upon approval of the chairman or secretary, is authorized to sign subpoenas which require the attendance and giving of testimony by persons who may possess any knowledge concerning any offense under investigation at an investigative hearing or for investigative purposes. The subpoena shall set forth reasonable grounds therefore, and shall order the person to appear at a designated time and place. The director may also order the issuance of a subpoena duces tecum as described above.
7. Whenever any person summoned under this regulation neglects or refuses to obey such summons or to produce books, papers, records or other data, or to give testimony as required, the commission may apply to the judge of the district court for the district within which the person so summoned resides or is found, for an attachment against him as for a contempt.
8. A subpoena may be served by any person authorized by law to serve civil process, or by any agents of the commission, and the return made in writing by any such person shall be accepted as proof of service.
9. The commission is the sole judge of the pertinency of testimony and evidence adduced at such hearings.
10. The attorney for the commission and that of any public agency which may be participating in the investigation shall have the right to be present at all hearings and shall have the right to examine or cross-examine any witness.
11. Witnesses at investigative hearings may be accompanied by their own counsel.
12. A copy of this regulation shall be made available to any witness and a copy shall be delivered at the time of making service, to each person upon whom a subpoena is served; in addition thereto each person upon whom a subpoena is served shall be informed in writing that the commission suggests that he consult his attorney and that his attorney should attend the hearing to advise him.
13. The commission may, in its discretion, issue a report upon the conclusion of any such investigative hearing.

14. As a result of such investigations, the commission may initiate adjudicatory proceedings against licensees, permittee, or persons engaged in any regulated profession or occupation, may refer matters to other public agencies and may take any other appropriate action.
15. Investigative hearings may be conducted jointly with other interested public agencies.
16. It shall not be necessary to publish any advance notice of any investigative hearing and it shall be necessary that subpoenas disclose the general nature of the investigation.
17. At all investigative hearings the testimony shall be recorded stenographically or otherwise. Upon payment of the costs thereof, and when authorized by the commission, a witness may obtain a transcript copy of his testimony given at a public session.

B. Access to Premises

1. Any authorized representative of the commission or of the commissioner shall have access to, and may enter at all reasonable hours, all places of business operated by license or permit holders or persons engaged in any regulated profession or occupation to perform horticultural inspections and/or investigations. Any information gained through utilization of the authority granted hereinabove in this Subsection shall be treated as confidential and shall be used only for the administration of this Chapter, provided, that such information may be divulged by a person when called upon to testify in any adjudicatory proceeding before the commission or the commissioner or in any court proceedings, and provided further, that nothing contained in this Section shall prevent the use of any information procured by the commission or the commissioner in the compiling and dissemination of general statistical data containing information procured from a number of licensees or permittee and compiled in such a manner as not to reveal individual information of any licensee or permittee.

- C. Cease and Desist.** Upon determination of violation of law or rules and regulations, the commission may issue a cease and desist order describing with particularity the violative action and ordering the immediate cessation of said violative action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:183 (April 1982), amended LR 9:410 (June 1983), LR 34:2547 (December 2008).

§105. Qualifications for Examination and Licensure or Permitting

- A.** All persons applying for an examination for licensure or for a license or permit issued by the commission shall meet the following requirements:

1. An applicant must be 17 years of age or older to take an examination for licensure or apply for a permit, but must be 18 years of age or older before a license or permit will be issued to the applicant.
2. An applicant for licensure shall successfully complete the examination prescribed by the commission for the area in the practice of horticulture for which the license is sought.

- B.** Applicants for the landscape architect license shall also meet the following requirements:

1. pass the LARE or an exam approved by CLARB;
2. submit proof of passage of LARE or an exam approved by CLARB with the application for the Louisiana Landscape Architect Examination;
3. pass the Louisiana Landscape Architect Examination;
4. have at least one year of practical experience under the direct supervision of a licensed landscape architect, landscape horticulturist, engineer, architect, or a licensed professional with a design or contracting firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, R.S. 3:3807, and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 20:639 (June 1994), LR 26:2240 (October 2000), LR 35:1227 (July 2009), LR 40:758 (April 2014).

§107. Application for Examination and Licensure or Permitting

- A. Each applicant must complete the application form prescribed by the commission for the area in the practice of horticulture for which the license or permit is sought and submit the application to the commission at 5825 Florida Boulevard, Baton Rouge, LA 70806 by the deadline date established for applying for the taking of the examination along with any other information required by the commission in this Chapter for an applicant to take the requested examination.
- B. Applicants who desire to take an examination for licensure offered by the commission may apply at any time, in person or by writing, to the commission's state office at 5825 Florida Boulevard, Baton Rouge, LA 70806 or at any district office of the department. Applicants who apply in person, will be allowed, whenever feasible, to complete the written application form at the initial visit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, R.S. 3:3807, and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 18:249 (March 1992), LR 20:639 (June 1994), LR 23:854 (July 1997), LR 29:1460 (August 2003), LR 31:1053 (May 2005), LR 35:1227, 1228 (July 2009), LR 37:3464 (December 2011), LR 40:758 (April 2014).

§109. Examination and Licensure or Permitting Fees

- A. Landscape Architect
 - 1. The initial fee for the Louisiana Landscape Architect Examination shall be \$200.
 - 2. The re-examination fee for the Louisiana Landscape Architect Examination shall be \$100.
- B. Arborist, Landscape Horticulturist, Landscape Irrigation Contractor, Retail Florist, Utility Arborist, Wholesale Florist
 - 1. The fee for examination or re-examination for licensure as an arborist, landscape horticulturist, landscape irrigation contractor, retail florist, utility arborist, or wholesale florist shall be \$114.
 - 2. The fee for issuance or renewal for licensure as an arborist, landscape horticulturist, landscape irrigation contractor, landscape architect, retail florist, utility arborist, or wholesale florist shall be \$100.
 - 3. The fee for issuance or renewal of a nursery stock dealer permit shall be \$150.
 - 4. The fee for issuance or renewal of a cut flower dealer permit shall be \$90.
- C. A late fee of \$25 shall be charged after the fifteenth working day after a license or permit has expired for the renewal thereof
- D. All fees required under this rule must be submitted at the same time as the application; failure to submit any required fees will bar the applicant from taking the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3806, R.S. 3:3805, and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 18:249 (March 1992), LR 20:640 (June 1994), LR 29:2297 (November 2003), LR 31:1053 (May 2005), LR 35:1227 (July 2009), LR 37:3464 (December 2011), LR 40:758 (April 2014), LR 41:2098 (October 2015), LR 41:2578 (December 2015).

§111. Minimum Examination Performance Levels Required

- A. Any person taking an examination for licensure must score a 70 percent or above to pass the examination.
- B. An applicant who fails to complete or pass an examination for licensure must wait at least two weeks before reapplying to take the examination.
- C. A passing score on an examination is valid for five years, after which time the applicant must apply to retake the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3807 and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 20:153 (February 1994), LR 35:1229 (July 2009), LR 37:3464 (December 2011), LR 40:759 (April 2014), , amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Horticulture Commission, LR 44:2127 (December 2018).

§113. Examination Schedule and Administration

- A. Examinations for licensure shall be administered in the commission's state office at 5825 Florida Boulevard, Baton Rouge, LA 70806 and, upon written request, in district offices of the department. Each applicant shall be notified of the date for the examination.
- B. An applicant shall be disqualified from completing an examination or taking any other examination administered under these rules and regulations if the applicant is caught or found to be cheating on an examination . Cheating consists of:
 - 1. Giving or receiving unauthorized assistance to answer examination questions;
 - 2. Bringing unauthorized materials into the exam room or using unauthorized materials to answer examination questions;
 - 3. Using answers from another examinee;
 - 4. Copying questions or answers to examination questions to take from the examination room;
 - 5. Removing an examination booklet, answer sheet, or scratch paper from the examination room; or
 - 6. Any other action which may undermine the integrity of the examination process.
- C. Any applicant caught or found to be cheating shall not be allowed to finish the examination and shall receive a zero. If an applicant finished the examination prior to the discovery of the cheating the applicant's examination shall be voided and the applicant shall receive a score of zero.
- D. Any applicant who is not allowed under this Subsection C to finish an examination, or whose examination is voided, or who is disqualified from taking the examination or any other examination administered under these rules and regulations may appeal the action to the commission.
 - 1. The appeal shall be in writing, state the grounds for the appeal, and filed with the director within 30 days after the date of the examination.
 - 2. The appeal will be placed on the agenda for the next meeting of the commission and the applicant will be notified of the date and place of the next meeting.
 - 3. The appeal will be decided by the commission. The decision of the commission shall be the final administrative decision in the matter.
 - 4. An appeal from the decision of the commission shall be in accordance with the Administrative Procedure Act.
 - 5. The action or administrative decision shall become final if no appeal is timely filed at any step in the proceedings or if the action is upheld on appeal.
- E. During the pendency of any appeal or during the time limit for the filing of any appeal the applicant shall not be allowed to take any examination administered under these rules and regulations.
- F. If the action or administrative decision is not appealed or is upheld on appeal then the applicant shall not be allowed to take or re-take the examination or any other examination administered under these rules and regulations for a period of three years from the examination date without the approval of the commission given at a meeting of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3807 and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 18:250 (March 1992), LR 20:640 (June 1994), LR 31:1053 (May 2005), LR 35:1227 (July 2009), LR 37:3465 (December 2011), LR 40:759 (April 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Horticulture Commission, LR 44:2127 (December 2018), LR 46:1076 (August 2020)

§115. General Requirements for All Licensees or Permittee

- A. All licensees or permittees must cooperate with any representative of the commission in any inspection of the premises and/or any other reasonable request. The giving of a false statement to any representative of the commission by a licensee or permittee shall constitute a violation of this regulation.
- B. A person holding a license in a regulated profession may be the licensee for only one person or business. The licenses of all licensees regularly assigned to work in any outlet shall be prominently displayed at all times in a location accessible to the general public or any representative of the commission.
- C. The permits of cut flower dealers and nursery stock dealers must be prominently displayed at all times in a location accessible to the general public or any representative of the commission.
- D. Licensees must display at least one of their license numbers on both sides of all vehicles that have advertisement or signs and are used for business purposes with lettering at least 2 inches high and legible at the distance of 25 feet. The number to be displayed shall be the last four digits of the license number preceded by two letters indicating the type of license as follows.

- AR—Arborist
- LH—Landscape Horticulturist
- LA—Landscape Architect
- IC—Landscape Irrigation Contractor
- RF—Retail Florist
- UA—Utility Arborist
- WF—Wholesale Florist

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 20:640 (June 1994), LR 21:548 (June 1995), LR 31:1053 (May 2005), LR 34:2547 (December 2008), LR 35:1227 (July 2009). LR 46:1076 (August 2020).

§117. Professional and Occupational Standards and Requirements

- A. Retail Florist
 - 1. Professional Standards
 - a. All cut flowers, ornamental plants, and living or freshly cut plant materials sold or offered for sale shall be fresh, of high quality, and free from injurious insects, diseases, and other pests. No plant material of low quality and no wilted or dead plant materials may be offered for sale to the general public or sold to a consumer except when specifically requested by the consumer.
 - b. Floral designs, cut flowers, ornamental plants, and living or freshly cut plant materials shall be cared for in a manner that, to the extent reasonably possible, maintains their freshness and increases their longevity.
 - c. Coolers where floral designs, cut flowers, ornamental plants, or living or freshly cut plant materials, are kept or stored shall be clean and maintained at a temperature conducive to prolonging the freshness of the said products kept or stored in the coolers.
 - d. Containers holding cut flowers or living or freshly cut plant materials shall be maintained in a manner that does not adversely affect the cut flowers or plant material. Water in containers shall be changed periodically so as to remain clean at all times.

- e. Floral designs shall be prepared in a good and workmanlike manner and shall satisfy the consumer's requests that are objective in nature. All reasonable efforts should be made to satisfy the consumer's requests that are subjective in nature. All floral designs shall be constructed in such a manner as to remain intact during transportation.
- f. All wires, steel picks, corsage pins, and other sharp objects employed in the construction of a floral design shall be used in a manner that will maintain the integrity of the floral design while minimizing the risk of injury to any person handling the floral design.
- g. Compliance with equivalent procedures and techniques set forth in James L. Johnson, William J. McKinley, Jr. and M. Buddy Benz, *Flowers: Creative Design* (San Jacinto Publishing Co. 7th ed. 2001; distributed by Texas A&M Univ. Press) will establish a rebuttable presumption of compliance by the licensee with these professional standards.

2. Requirements

- a. Retail florist shops that lose their licensed florist will be granted a grace period of 90 days of operating without the services of a full-time licensed florist. This grace period shall end 90 days from that date. The purpose of this grace period is to provide the florist shop an opportunity to employ a licensed person. This grace period can only be used once in a 12-month period. Retail florist shops shall cease to engage in the profession of retail florist after the grace period has been exhausted. In the event a retail florist shop, despite reasonable prevention efforts, loses its only or only remaining regularly employed licensed retail florist, the florist shop shall replace the regularly employed licensed retail florist as soon as possible but in no event more than 90 days from the first day the retail florist shop operated without a regularly employed licensed retail florist. Notwithstanding the foregoing, no retail florist shop shall operate without a regularly licensed retail florist for more than a total of 90 days in any 12-month period that follows the first day of operation without a regularly employed licensed retail florist.
- b. Retail florists may rent potted ornamental plants for special events such as weddings, conventions, trade shows, etc., if such plants are normally and customarily sold by florists and such plants do not require maintenance, other than normal watering. Plants rented by retail florists for a special event shall be rented only for the duration of that special event.

B. Landscape Architect

- 1. Without good cause, all designs shall make use of plant materials commonly found growing in Louisiana or which are suitable for growth in Louisiana's growing conditions.
- 2. Licensees shall meet the standards established by the Council of Landscape Architects Registration Board.
- 3. Each landscape architect shall obtain a seal of the design authorized by the commission. The seal shall be placed on all professional documents, including contracts, maps, plans, designs, drawings, specifications, estimates and reports, issued by a licensed landscape architect for use in this state.
 - a. The seal required shall be circular and 1 5/8 inches in diameter. The words "State of Louisiana" shall be along the top circumference and the words "Licensed Landscape Architect" shall be along the bottom circumference. The individual's name shall be placed horizontally in the center of the field with his registration number below. Letters and figures shall be as shown on the example printed herein to insure uniformity.



- b. A rubber stamp facsimile, which conforms to the official design of the seal described in §117.B.3.a, may be obtained and used in place of the seal by a licensed landscape architect.
 - c. The licensee shall sign his or her legal name on each document and shall then affix his or her seal over that signature. The presence of one's seal over the signature on any document constitutes proof that he or she accepts all legal and professional responsibility for the work accomplished. The seal shall be used only by the licensee responsible to this commission for authorship of the documents thus identified. No person other than the licensee represented shall use or attempt to use the prescribed seal, and no unlicensed person shall be authorized to use the prescribed seal. Authorized use of the prescribed seal is an individual act whereby the licensee shall personally inscribe the seal over his or her signature. The licensee is responsible for the security of the seal when not in use.
4. Continuing Education Requirements
- a. Compliance with these continuing education requirements is necessary for a landscape architect, ("licensee"), to maintain a landscape architect license in this state.
 - b. The commission shall administer the continuing education requirements through a standing continuing education committee consisting of not more than two staff members and at least three licensed Louisiana landscape architects elected by mail ballot. The landscape architects on the committee will each serve a term of two years. The call for nominations and balloting for committee service will be conducted concurrent with annual balloting for members of the Louisiana Landscape Architects Selection Board.
 - c. A licensee shall attend, or complete an approved substitute for attendance, a minimum of 8 credit hours of continuing education within each calendar year. If more than 8 credit hours are obtained during a calendar year, a licensee may carry over a maximum of 4 credit hours from one calendar year to the next. Any credit hours carried over into a following calendar year shall apply to that year only and may not be carried forward into subsequent years. A credit hour shall contain at least 50 minutes of actual instruction or education.
 - d. Activities that may be approved for continuing education credits shall contain instructional or educational components. Such activities include annual professional meetings, lectures, seminars, workshops, conferences, university or college courses, in-house training, and self directed activities. The commission's staff shall make the initial determination as to whether an activity qualifies for continuing education credit. If the commission's staff determines that an activity may not qualify, that activity request will be automatically forwarded to the continuing education committee for review and the committee's determination. Any licensee or other applicant for approval of an activity may appeal any committee rejection of an activity for continuing education credit to the commission. However, the commission retains the right to review and approve or disapprove any activity as a qualifying continuing education activity and the number of credit hours arising from such activity, even if there is no appeal. Any appeal from any decision of the commission shall be taken in accordance with the Administrative Procedure Act, (R.S. 49:950 et seq.).
 - e. A licensee shall keep all records showing attendance, or completions of an approved substitute for attendance, at continuing education activities for three years following the year in which attendance or completion was done.
 - f. Each licensee shall annually submit a written certification signed by the licensee that the licensee has, during that calendar year, attended, or completed an approved substitute for attendance, the number of credit hours stated in the certification. If credit hours carried over from the previous year are being used as a substitute for attendance then the certification shall state the number of carried over credit hours that are being used. The certifications shall be attached to the licensee's annual license renewal application. Any renewal application received without this certification shall not be processed for license renewal and the license fees submitted with the application shall be refunded to the licensee.
 - g. The commission shall cause an annual audit of licensees to be conducted. Licensees shall be selected for audit either by cross-section of licensees or by random audit. The provisions of this subsection notwithstanding, an investigation of a licensee for possible violation of these continuing education requirements may be conducted if there is reason to believe that a violation may have occurred. Licensees selected for audit will be required to provide documented proof of their having obtained the

continuing education credits for the year being audited. A licensee's failure to provide documented proof of having attended, or completed an approved substitute for attendance, for each credit hours certified for the year being audited shall be a violation of this Part. In the event that a licensee provides documented proof of having attended, or undertaken an approved substitute for attendance, any credit hour certified for the year being audited and such credit hour is disallowed then the licensee shall have six months from date of notification of the disallowance to attend, or complete an approved substitute for attendance, a sufficient number of approved credit hours to make up for the disallowed credits. The credit hours attended to make up for any disallowed credit hours shall not count toward the minimum credit hours needed for any other year. Failure to timely make up for the disallowed credit hours shall be deemed a violation of this Part. An appeal from a disallowance of any credit hour may be taken as provided in Subparagraph d.

- h. A licensee may submit a written request for an approved substitute for attendance or for a hardship exemption or extension of time in which to obtain the minimum credit hours for the year in which the request is made. The licensee shall detail the reason for the request, such as the benefit of any substitution, any physical disability, illness, or extenuating circumstance, and a specification of the requested substitute for attendance, including number of credit hours, course of study, etc. The licensee shall also provide any additional information asked for in consideration of the request.

C. Wholesale Florist

1. All flowers or greenery sold or offered for sale shall be fresh and of high quality. No wilted or dead plant materials may be offered for sale to persons holding the proper license or permits.
2. All nursery stock sold or offered for sale shall be fresh and of high quality and free from injurious insects, diseases, and other pests. No low quality plant materials may be offered for sale.
3. Coolers from which cut flowers or greenery are sold, or in which cut flowers or greenery are stored prior to sale, shall be kept clean at all times. Water in containers shall be changed regularly and kept clean at all times.

D. Landscape Horticulturist

1. Any nursery stock used in landscaping, leased, or sold, or offered for use in landscaping, lease, or sale, shall be of high quality and free from injurious insects, diseases, and other pests. Nursery stock which is leased shall be maintained in high quality and free from injurious insects, diseases, and other pests.
2. All plant beds shall be properly prepared and shall allow for proper drainage.
3. All recommendations and maintenance and planting practices shall incorporate sound horticultural practices.
4. Recommendations and maintenance and planting practices shall meet the standards outlined in *The Louisiana Manual for the Environmental Horticulture Industry* published by the Louisiana Nursery and Landscape Association.
5. Landscape horticulturists who prepare drawings to indicate the planting and location and arrangement of plant materials by that landscape horticulturist shall place his name, the words "Landscape Horticulturist," and his license number on each drawing prepared by him. Drawings prepared by a landscape horticulturist may be used only by that landscape horticulturist and no one else in connection with the submission of a bid proposal.
6. Licensees shall display their license at all times in a location accessible to the general public or any representative of the commission.

E. Arborist

1. Licensees may not use climbing irons in any trees which are not to be removed except as provided §117.E.3 of this Part hereof.
2. Before the commission issues an arborist's license, the person to be licensed shall first furnish to the commission the following:

- a. a certificate of insurance, written by an insurance company authorized to do business in Louisiana, covering the public liability of the applicant for personal injuries and property damages, providing for not less than \$25,000 per person for personal injuries and not less than \$50,000 for property damages, both limits applicable to each separate accident, provided that the commission may waive the requirement for the stated insurance coverages for any licensed arborist who does not physically work on trees or accept responsibility for work on trees but only provides consultation with respect to work on trees. The certificate of insurance shall provide for 30 days' written notice to the commission prior to cancellation.
 - b. Failure to maintain the required insurance may constitute a violation of this Part.
3. When the characteristics of a tree require the use of climbing irons, the licensee may use climbing irons but only with the prior written permission of the owner of the tree.
 4. Licensees shall enter into a written contract with the property owner employing him for arboricultural work, which contract shall specify the services to be performed and the sum to be paid for the services. Both parties shall receive a copy of the contract.
 5. Licensees may apply pesticides only for the purposes of retarding decay or disease. See also §119.A relative to application of pesticides.
 6. Licensees engaged in the feeding of trees shall follow proper fertilizer schedules and rates according to label directions. Representatives of the commission may take a sample of the nutrients applied during any tree feeding operation for the purpose of verifying its chemical analysis.
 7. Licensees shall display their license at all times in a location accessible to the general public or any representative of the commission.
 8. Prior to renewal of an arborist license, the licensee shall provide the commission with certifiable evidence of completion of a continuing training seminar which was previously approved by the commission.
 9. Recommendations and pruning practices shall meet the standards outlined in the *Arborists' Certification Study Guide* published by the International Society of Arboriculture.
- F. Nursery Stock Dealer
1. All nursery stock sold or offered for sale shall be fresh and of high quality and shall be free from injurious insects, diseases, and other pests. No low quality plant materials may be offered for sale to the general public.
 2. All indoor nursery stock offered for sale shall be displayed or offered for sale under the protection of some type of covering, such as inside a building or under a carport, tent, or canopy, which will protect such plant material from exposure to sun, wind, or rain.
 3. A clean source of water shall be provided at all times when plants are offered for sale.
 4. Nursery stock dealers operating from a mobile unit shall not sell nursery stock within 300 feet of a place of business that holds a nursery stock dealer's permit, nursery certificate permit, horticulture service license, retail florist license or a wholesale florist license.
 5. The permit holder shall display his permit at all times in a location accessible to the general public or any representative of the commission.
- G. Cut Flower Dealer
1. All flowers or greenery offered for sale shall be fresh and of high quality. No wilted or dead plant materials may be offered for sale to the general public, save and except when specifically requested by consumer.
 2. A clean source of water shall be provided for all flowers or greenery that are offered for sale. Water in containers shall be changed regularly and kept clean at all times.
 3. The permit holder shall display his decal and/or permit at all times in a location accessible to the general public or any representative of the commission.

4. The restriction against a cut flower dealer locating within 300 feet of an established retail florist shall not apply to cut flower dealers in permanent locations. In addition, cut flower dealers operating from a mobile unit shall not sell cut flowers, within 300 feet of place of business that holds a cut flower dealer's permit.

H. Utility Arborist

1. Licensees may not use climbing irons in any trees which are not to be removed except in remote utility rights-of-way that are inaccessible to tree trimming equipment where no other practical means of trimming the tree is available or as provided in §117.E.3.
2. Before the commission issues a utility arborist license, the person to be licensed shall first furnish to the commission a certificate of insurance as provided in §117.E.2.
 - a. Failure to maintain the required insurance may constitute a violation of this Part.
3. Licensees shall make their license available to the public or any representative of the commission at all times.
4. Prior to renewal of a utility arborist license, the licensee shall provide the commission with certifiable evidence of completion of a continuing training seminar which was previously approved by the commission.
5. Recommendations and pruning practices shall meet the standards outlined in the *International Society of Arboriculture Certification Manual* and *Best Management Practices—Utility Pruning of Trees*, a publication by the International Society of Arboriculture.

I. Landscape Irrigation Contractor

1. Before the commission issues a landscape irrigation contractor license the person to be licensed shall first furnish to the commission a certificate of insurance, written by an insurance company authorized to do business in Louisiana, covering the public liability of the applicant, as a licensee, for personal injuries and property damages. The insurance policy shall provide for not less than \$25,000 per personal injuries and not less than \$50,000 for property damages, both limits applicable to each separate accident. The certificate of insurance shall provide for 30 days' written notice to the commission prior to cancellation. The commission may, however, waive the requirement for the stated insurance coverage for any licensed landscape irrigation contractor who does not physically work on landscape irrigation systems or accept responsibility for work on landscape irrigation systems but only provides consultation or other associated services with respect to landscape irrigation systems or the work performed on such systems.
2. Failure to maintain the required insurance may constitute a violation of this Part.
3. Licensees are required to attend and complete a commission approved continuing training seminar at least once every three years. Each licensee, prior to renewal of his or her license, shall provide the commission with certifiable evidence that the licensee has timely and successfully completed such a seminar.
4. Licensed landscape irrigation contractors shall enter into a written contract with the property owner, specifying the landscape irrigation services to be performed and the sum to be paid for the services. The contract shall include the following statement: "Any complaints regarding landscape irrigation installation should be directed to the Louisiana Horticulture Commission at 225/952-8100." Both parties shall receive a copy of the contract.
5. Licensees shall display their license at all times in a location accessible to the general public or any representative of the commission.
6. The following clarifications apply to licensed landscape irrigation contractors.
 - a. A licensed landscape irrigation contractor is not required to have a water supply protection specialist endorsement from the State Plumbing Board in order to install an irrigation system up to the point of connecting the irrigation system to a public or private water supply system or installing a backflow prevention device.
 - b. A licensed landscape irrigation contractor shall also have a water supply protection specialist endorsement from the State Plumbing Board before connecting any irrigation system to a public or private water supply system or installing a backflow prevention device, pursuant to R.S. 3:3808(P)(4), (5).

- c. A governing authority, such as a parish or municipality, shall issue all necessary permits, including necessary electrical permits, to a licensed landscape irrigation contractor who does not hold a water supply protection specialist endorsement for the installation of an irrigation system, except for those permits that would allow such a licensed landscape irrigation contractor to connect the irrigation system to a public or private water supply system or install a backflow prevention device.
- d. A governing authority, such as a parish or municipality shall issue all necessary permits to a licensed landscape irrigation contractor who holds a water supply protection specialist endorsement from the State Plumbing Board for the installation of an irrigation system, including necessary electrical permits and those permits that would allow such a licensed landscape irrigation contractor to connect the irrigation system to a public or private water supply system or install a backflow prevention device.
- e. A licensed landscape irrigation contractor who also holds a water supply protection specialist endorsement from the State Plumbing Board is required by R.S. 3:3816(6) to install backflow prevention devices in accordance with ordinances adopted by local governing authorities, such as parishes and municipalities, regulating the installation of backflow prevention devices. If a local governing authority does not have an ordinance regulating the installation of backflow prevention devices, such devices shall be installed in accordance with the requirements of Part XIV (Plumbing) of the Sanitary Code, State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended LR 9:410 (June 1983), LR 11:317 (April 1985), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 20:640 (June 1994), LR 27:1832 (November 2001), LR 31:1054 (May 2005), LR 32:78 (January 2006), LR 32:1010 (June 2006), LR 33:1854 (September 2007), LR 35:1228 (July 2009), LR 36:2520 (November 2010), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Horticulture Commission, LR 42:1645 (October 2016), LR 46:1077 (August 2020).

§119. Prohibition

- A. No licensee or permittee of the commission may apply pesticides to any properties which are not owned, rented, or leased by the licensee or permittee or persons engaged in any regulated profession or occupation unless such licensee or permittee, or persons engaged in any regulated profession or occupation is properly licensed or certified by the department in accordance with the Louisiana Pesticide Law (R.S. 3:3201 et seq.).
- B. Licensees, permittees, or persons engaged in any regulated profession or occupation shall not engage in any fraudulent practices.
- C. Licensees, permittees, or persons engaged in any regulated profession or occupation shall not engage in any false advertisement of any kind.
- D. No licensee, permittee, or persons engaged in any regulated profession or occupation of the commission shall fail to comply with any cease and desist order directed and delivered to said licensee, permittee, or persons engaged in any regulated profession or occupation.
- E. No person, with intent to sell or in any way dispose of merchandise, securities, service, or anything directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title, or an interest therein, shall make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in this state, in a newspaper or other publications, or in the form of a book, notice, hand-bill, poster, bill, circular, pamphlet, or letter, or radio broadcasts, telecasts, wire, wireless, motion picture, or in any other way, an advertisement of any sort regarding merchandise, securities, service, or anything offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading.
- F. No licensee, permittee or person engaged in any profession or occupation regulated by the commission shall use the words "design" or "designer" or any form of these words, whether separately or in combination with other words in any advertisement, solicitation or title, or on any estimate, contract or other document, except for those persons who are licensed as a landscape architect or as a retail florist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:186 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 29:1460 (August 2003), LR 36:2520 (November 2010).

§121. Re-Issuance of Suspended, Revoked or Unrenewed License or Permit

- A. Whenever a license or permit is suspended by the commission, the violations which caused the suspension shall be corrected, to the satisfaction of the commission, prior to re-issuance of the suspended license or permit.
- B. Whenever a license or permit is suspended by the commission, the holder of the suspended license or permit shall pay the fee required under §109 for renewal of the license or permit prior to re-issuance.
- C. Whenever a license or permit is revoked by the commission:
 - 1. the violations which caused the revocation shall be corrected to the satisfaction of the commission prior to re-issuance of the license or permit;
 - 2. the holder of a revoked license shall apply to take and shall successfully complete all phases of the examination prescribed for the license;
 - 3. the holder of a revoked permit shall file a complete application prior to a re-issuance of the permit;
 - 4. the holder of a revoked license or permit who seeks re-issuance thereof shall pay the fees prescribed in §109 for the initial issuance of such license or permit;
 - 5. the relevant requirements of Paragraphs C.1-4 shall be complied with prior to re-issuance of a revoked license or permit.
- D. Whenever a licensee fails to renew a license:
 - 1. if the period of non-renewal is more than three years, but less than or equal to five years, the license may be re-issued upon payment of fees required under R.S. 3:3807(D);
 - 2. if the period of non-renewal is more than five years, he or she shall either retake the appropriate exam or petition the commission for re-issuance of the license. The holder of the un-renewed license shall provide evidence that they have been active in the appropriate profession during the period of non-renewal. If the commission approves the re-issuance of the license, the license will be re-issued only after payment of fees under R.S. 3:3807(D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3811 and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:186 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 26:627 (April 2000).

§123. Stop Orders and Notice of Non-Compliance

- A. A person believed to be in violation of the Horticulture Law or regulations of the commission may be issued a verbal or written stop order or written notice of non-compliance by the department or authorized agent to prevent possible future violations from occurring.
- B. If an alleged violator refuses to accept a written stop order or notice of non-compliance when tendered or refuses or fails to claim such stop order or notice of non-compliance sent by certified mail, the stop order or notice of non-compliance shall be deemed to have been delivered to the alleged violator.
- C. An adjudicatory proceeding before the commission shall commence against an alleged violator for the alleged violations that led to the issuance of the stop order or order of non-compliance, even if he is in compliance, under any of the following circumstances:
 - 1. if the alleged violations involve fraudulent practices or activities;
 - 2. if the alleged violations caused personal injury or economic loss other than payment for services rendered, to another person;
 - 3. if the alleged violator has refused or failed to accept the stop order or order of non-compliance, or has attempted to avoid or evade delivery of the stop order or order of non-compliance.

- D. An adjudicatory proceeding before the commission shall commence against an alleged violator for the alleged violations that led to the issuance of the stop order or order of non-compliance if he refuses or fails to comply with the stop order or order of non-compliance.
- E. No provision of this Section shall prevent the institution of an adjudicatory proceeding against an alleged violator who has not been issued a stop order or notice of non-compliance or for violations that occur after the issuance of a stop order or notice of non-compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Horticulture Commission, LR 34:2547 (December 2008).