

TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B

**DEADLINE FOR RECEIPT: December 11, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*In general as to all of these rules, please note:*

*Forms: under the APA an agency need not promulgate forms as rules if the substantive contents of forms are set forth in either Rules or law. If a rule requires the use of a form, the substantive contents of the form must be set forth in either Rules or law or, alternatively, the form must be promulgated as a rule. In addition, the rule should also state, with specificity, where the form may be obtained.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

The North Carolina Landscape Contractors' Licensing Board

**2. Rule citation & name:**

21 NCAC 28B .0101 NAME AND LOCATION OF BOARD

**3. Action:**☒ Adoption☐ Amendment☐ Repeal**4. Was this an Emergency Rule:**☐ Yes☒ No

Effective date:

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: October 15, 2015

b. Proposed Temporary Rule published on the OAH website: October 21, 2015

c. Public Hearing date: November 5, 2015

d. Comment Period: October 22, 2015 to November 20, 2015

e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015

f. Adoption by agency on: December 3, 2015

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016

h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: SL2014-103, s.3(b).  
Effective date: August 1, 2015
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

**Explain:**

Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.

FILED  
 2015 DEC -4 PM 12: 26  
 OFFICE OF  
 ADMIN HEARINGS

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

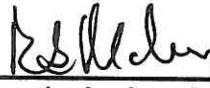
info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

**Action taken:**

**Submitted for RRC Review:**

☐ Date returned to agency:

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**Reset**

1 21 NCAC 28B .0101 is adopted under temporary procedures as follows:

2  
3 **21 NCAC 28B .0101 NAME AND LOCATION OF BOARD**

4 (a) Unless otherwise directed, all communications shall be addressed to the North Carolina Landscape Contractors'  
5 Licensing Board ("Board") at 3901 Barrett Drive, Suite 202, Raleigh, North Carolina 27609. Applications and other  
6 information are available on the Board's website: [www.nclblc.com](http://www.nclblc.com).

7 (b) The Board office is open from 9:00 a.m. until 5:00 p.m., Monday through Friday.

8 (c) The Board office is closed on State and Federal holidays.

9  
10 *History Note: Authority G.S 89D-14; 89D-15(2);*

11 *Temporary Adoption Eff. January 1, 2016.*



12/4/2015



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

<b>1. Rule-Making Agency:</b> The North Carolina Landscape Contractors' Licensing Board	
<b>2. Rule citation &amp; name:</b> 21 NCAC 28B .0102 MEETINGS	
<b>3. Action:</b> <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
<b>4. Was this an Emergency Rule:</b> <input type="checkbox"/> Yes      Effective date: <input checked="" type="checkbox"/> No	
<b>5. Provide dates for the following actions as applicable:</b> a. Proposed Temporary Rule submitted to OAH: October 15, 2015 b. Proposed Temporary Rule published on the OAH website: October 21, 2015 c. Public Hearing date: November 5, 2015 d. Comment Period: October 22, 2015 to November 20, 2015 e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015 f. Adoption by agency on: December 3, 2015 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b>  <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: SL2014-103, s.3(b). Effective date: August 1, 2015 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:	
<b>Explain:</b> Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.	

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 OFFICE OF  
 ADMINISTRATIVE HEARINGS

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

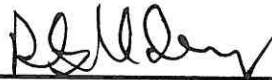
info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



**\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

**Action taken:**

☐ Date returned to agency:

**Submitted for RRC Review:**

**Print**

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**Reset**

21 NCAC 28B .0102 is adopted under temporary procedures as follows:

**21 NCAC 28B .0102 MEETINGS**

(a) Regular meetings of the Board will be held at the Board office or other location chosen by the Chairman.

Additional meetings may be held at such other times and places as the Board deems necessary.

(b) The Board shall hold an annual meeting every January. At that meeting, the Board shall elect a chairman, a vice chairman, a secretary-treasurer, and such other officers as may be deemed necessary by the Board.

*History Note: Authority G.S. 89D-14; 89D-15(2);*

*Temporary Adoption Eff. January 1, 2016.*



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

**OAH USE ONLY**

**VOLUME:**

**ISSUE:**

**1. Rule-Making Agency:**

The North Carolina Landscape Contractors' Licensing Board

**2. Rule citation & name:**

21 NCAC 28B .0103 PRACTICE OF LANDSCAPE CONTRACTING

**3. Action:**

☒ Adoption

☐ Amendment

☐ Repeal

**4. Was this an Emergency Rule:**

☐ Yes

☒ No

Effective date:

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: October 15, 2015

b. Proposed Temporary Rule published on the OAH website: October 21, 2015

c. Public Hearing date: November 5, 2015

d. Comment Period: October 22, 2015 to November 20, 2015

e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015

f. Adoption by agency on: December 3, 2015

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016

h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: SL2014-103, s.3(b).  
Effective date: August 1, 2015
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

**Explain:**

Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.

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**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

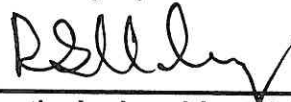
info@nciclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

**Action taken:**

**Submitted for RRC Review:**

☐ Date returned to agency:

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**Reset**

1 21 NCAC 28B .0103 is adopted under temporary procedures as follows:

2  
3 **21 NCAC 28B .0103 PRACTICE OF LANDSCAPE CONTRACTING**

4 An individual who is "readily available to exercise supervision over the landscape construction and contracting  
5 work" as set forth in G.S. 89D-12(a) and G.S. 89D-17(f) is an individual who is physically located no more than 100  
6 miles from where the construction or contract project is located or who is available electronically with the ability to  
7 view the construction or contract project.

8  
9 *History Note: Authority G.S 89D-12(a); 89D-15(2);*  
10 *Temporary Adoption Eff. January 1, 2016.*  
11

TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0201

**DEADLINE FOR RECEIPT: December 11, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 4 – please see general note, above, regarding forms.*

*Line 10 – replace “any criminal convictions” with “all crimes of which the applicant has been convicted”*

*Line 11 – delete “The supporting” and replace “any criminal convictions” with “all crimes of which the applicant has been convicted”*

*Line*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015





# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

<b>1. Rule-Making Agency:</b> The North Carolina Landscape Contractors' Licensing Board	
<b>2. Rule citation &amp; name:</b> 21 NCAC 28B .0201 APPLICATIONS FOR LICENSURE	
<b>3. Action:</b> <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
<b>4. Was this an Emergency Rule:</b> <input type="checkbox"/> Yes <b>Effective date:</b> <input checked="" type="checkbox"/> No	
<b>5. Provide dates for the following actions as applicable:</b> a. Proposed Temporary Rule submitted to OAH: October 15, 2015 b. Proposed Temporary Rule published on the OAH website: October 21, 2015 c. Public Hearing date: November 5, 2015 d. Comment Period: October 22, 2015 to November 20, 2015 e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015 f. Adoption by agency on: December 3, 2015 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b> <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: SL2014-103, s.3(b). Effective date: August 1, 2015 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:	
<b>Explain:</b> Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.	

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OFFICE OF  
ADMIN HEARINGS



**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

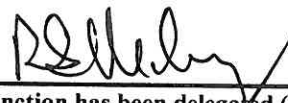
info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

**Print**

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**Reset**

21 NCAC 28B .0201 is adopted under temporary procedures as follows:

**21 NCAC 28B .0201      APPLICATIONS FOR LICENSURE**

(a) All applicants for licensure or examination shall submit an application to the Board. The application form shall be available on the Board website or may be obtained by contacting the Board office. The application shall require the following:

- (1) The Social Security Number of applicant;
- (2) The applicant's contact information;
- (3) The name of business under which licensee will be operating, if any;
- (4) Information about any criminal convictions;
- (5) The supporting documentation regarding any criminal convictions;
- (6) Information indicating whether the applicant has any disciplinary history with any other occupational licensing, registration or certification board or agency;
- (7) Contact information for three personal references;
- (8) Contact information for two professional references;
- (9) The corporate surety bond or an irrevocable letter of credit as prescribed by G.S. 89D-16 (a)(4);
- (10) The application fee as set forth in Rule .0601 of this Subchapter.

(b) Once an applicant has submitted a complete application and has been determined to have met the minimum qualifications set forth in G.S. 89D-16(a), the Board will notify the applicant that the applicant is permitted to take an examination. Prior to taking the examination, the applicant shall submit an examination fee as set out in this Subchapter.

(c) All applications shall be notarized. Incomplete applications shall not be processed. Application fees are non-refundable.

*History Note: Authority G.S. 89D-15(2); 89D-15(4); 89D-16; 89D-2;  
Temporary Adoption Eff. January 1, 2016.*

TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0202

**DEADLINE FOR RECEIPT: December 11, 2015**

**NOTE WELL:** *This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 4 – please see general note, above, regarding forms.*

*Line 13 – revise this using the language you used in .0201(a)(9) (line 16) if that is what you mean.*

*Line 16 – delete “Supporting” and replace “any criminal convictions” with “all crimes of which the applicant has been convicted”*

*Line 17 – delete “any”*

*Line 22 – insert “the Board shall issue a license to the” before “applicant” and delete “shall be licensed”*

*Line 23 – do you intend to require that the application be notarized (see .0201(c))?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

<b>1. Rule-Making Agency:</b> The North Carolina Landscape Contractors' Licensing Board	
<b>2. Rule citation &amp; name:</b> 21 NCAC 28B .0202 RECIPROCITY	
<b>3. Action:</b> <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
<b>4. Was this an Emergency Rule:</b> <input type="checkbox"/> Yes      Effective date: <input checked="" type="checkbox"/> No	
<b>5. Provide dates for the following actions as applicable:</b> a. Proposed Temporary Rule submitted to OAH: October 15, 2015 b. Proposed Temporary Rule published on the OAH website: October 21, 2015 c. Public Hearing date: November 5, 2015 d. Comment Period: October 22, 2015 to November 20, 2015 e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015 f. Adoption by agency on: December 3, 2015 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b> <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: SL2014-103, s.3(b). Effective date: August 1, 2015 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:	
<b>Explain:</b> Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.	

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ADMIN HEARINGS

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

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**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

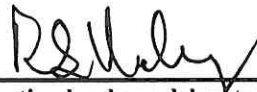
info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

**Action taken:**

**Submitted for RRC Review:**

☐ Date returned to agency:

**Print**

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21 NCAC 28B .0202 is adopted under temporary procedures as follows:

**21 NCAC 28B .0202      RECIPROCITY**

(a) All applicants for licensure by reciprocity shall submit an application to the Board. The application form shall be available on the Board website or may be obtained by contacting the Board office located as described in Rule .0101 of this Subchapter.

(b) All applications shall include the following:

(1) The license by reciprocity application fee as set forth in Rule .0601 of this Subchapter;

(2) Documentation establishing that the applicant holds an active license, certification, or registration as a landscape contractor in another state or country;

(3) Information indicating whether the applicant has any disciplinary history with any other occupational licensing, registration or certification board or agency;

(4) The corporate surety bond as set forth in Rule .0601 of this Subchapter;

(5) Contact information for three personal references;

(6) Contact information for two professional references; and

(7) Supporting documentation regarding any criminal convictions.

If there is any evidence to show that the applicant has been disciplined in any jurisdiction where the applicant is currently or has been licensed, certified, or registered or that the applicant has committed any acts that would constitute a violation under G.S. 89D-22, the applicant shall not be licensed by reciprocity.

(c) Once an applicant has submitted a complete application and the Board has determined that the requirements for licensure, certification, or registration in the applicant's home jurisdiction are substantially equivalent to the requirements in G.S. 89D-16, the applicant shall be licensed.

(d) Incomplete applications shall not be processed. Application fees are non-refundable.

*History Note: Authority G.S. 89D-15(2); 89D-15(3); 89D-15(4); 89D-16; 89D-19; 89D-22;*

*Temporary Adoption Eff. January 1, 2016.*

TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0203

**DEADLINE FOR RECEIPT: December 11, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 7 – as to the application, please see general note, above, regarding forms.*

*Line 9 – replace “G.S. 93B-15.1(a)(1) and (2)” with “G.S. 93B-15.1(a)(1), (2), and (3)”*

*Line 9 – delete “; and” and end this line with a period.*

*Lines 10-12 – delete these lines entirely*

*Line 19 – replace “G.S. 93B-15.1(b)(1) and (2)” with “G.S. 93B-15.1(b)(1), (2), (3), and (4)”*

*Line 19 – delete “; and” and end this line with a period.*

*Lines 20-24 – delete these lines entirely*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

The North Carolina Landscape Contractors' Licensing Board

**2. Rule citation & name:**

21 NCAC 28B .0203 MILITARY-TRAINED APPLICANT; MILITARY SPOUSE

**3. Action:**

☒ Adoption

☐ Amendment

☐ Repeal

**4. Was this an Emergency Rule:**

☐ Yes

☒ No

Effective date:

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: October 15, 2015

b. Proposed Temporary Rule published on the OAH website: October 21, 2015

c. Public Hearing date: November 5, 2015

d. Comment Period: October 22, 2015 to November 20, 2015

e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015

f. Adoption by agency on: December 3, 2015

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016

h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: SL2014-103, s.3(b).  
Effective date: August 1, 2015
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

**Explain:**

Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.

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2015 DEC -4 PM 12:26  
OFFICE OF  
ADMIN HEARINGS



**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

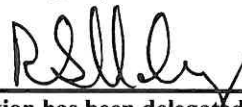
info@nciclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

**Action taken:**

**Submitted for RRC Review:**

☐ Date returned to agency:

Print

Save

Reset

21 NCAC 28B .0203 is adopted under temporary procedures as follows:

**21 NCAC 28B .0203      MILITARY-TRAINED APPLICANT; MILITARY SPOUSE**

(a) Licensure for a military-trained applicant. Upon receipt of a request for licensure pursuant to G.S. 93B-15.1 from a military-trained applicant, the Board shall issue a license to the applicant who satisfies the following conditions:

- (1) submission of a complete application for licensure;
- (2) submission of an application fee in accordance with Rule .0601 of this Subchapter; and
- (3) providing documentation to satisfy conditions set out in G.S. 93B-15.1(a)(1) and (2); and
- (4) providing documentation that the applicant has not committed any act in any jurisdiction that would constitute grounds for refusal, suspension, or revocation of a license in North Carolina at the time the act was committed.

(b) Licensure for a military spouse. Upon receipt of a request for licensure pursuant to G.S. 93B-15.1 from a military spouse, the Board shall issue a license to the applicant who satisfies the following conditions:

- (1) submission of a complete Application for Licensure;
- (2) submission of a license fee in accordance with G.S. 89D-21(a);
- (3) submission of written documentation demonstrating that the applicant is married to an active member of the U.S. military; and
- (4) providing documentation to satisfy conditions set out in G.S. 93B-15.1(b)(1) and (2);
- (5) providing documentation that the applicant has not committed any act in any jurisdiction that would constitute grounds for refusal, suspension, or revocation of a license in North Carolina at the time the act was committed; and
- (6) is in good standing and has not been disciplined by the agency that had jurisdiction to issue the license, certification, or permit.

*History Note: Authority G.S. 89D-15(2); 89D-15(4); 89D-21; 93B-15.1;*  
*Temporary Adoption Eff. January 1, 2016.*

TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0204

**DEADLINE FOR RECEIPT: December 11, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 8 – delete the comma after “dissolution”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

The North Carolina Landscape Contractors' Licensing Board

**2. Rule citation & name:**

21 NCAC 28B .0204 MAINTAIN CURRENT INFORMATION

**3. Action:**

☒ Adoption

☐ Amendment

☐ Repeal

**4. Was this an Emergency Rule:**

☐ Yes

☒ No

Effective date:

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: October 15, 2015

b. Proposed Temporary Rule published on the OAH website: October 21, 2015

c. Public Hearing date: November 5, 2015

d. Comment Period: October 22, 2015 to November 20, 2015

e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015

f. Adoption by agency on: December 3, 2015

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016

h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: SL2014-103, s.3(b).  
Effective date: August 1, 2015
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

**Explain:**

Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.

FILED  
2015 DEC -4 PM 12:27  
OFFICE OF  
ADMINISTRATIVE HEARINGS

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

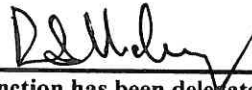
info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

**Action taken:**

☐ Date returned to agency:

**Submitted for RRC Review:**

**Print**

**Save**

**Reset**

21 NCAC 28B .0204 is adopted under temporary procedures as follows:

**21 NCAC 28B .0204      MAINTAIN CURRENT INFORMATION**

(a) Every licensee shall keep the Board advised of the licensee's current mailing address, phone number, email address, and the name or names under which the licensee is practicing. If any change occurs, the licensee shall notify the Board in writing of the change within 60 days.

(b) Upon the dissolution of a professional relationship, the member or members thereof shall notify the Board in writing concerning such dissolution, and of the succeeding status and addresses of the individuals or firm.

(c) Upon the lapse of a surety bond or revocation of a letter of credit prescribed in G.S. 89D-16(a)(4), a licensee shall notify the Board in writing. If a licensee fails to renew the surety bond or obtain a new letter of credit within thirty days after the lapse or revocation, the license shall be revoked.

(d) Failure to notify the Board of the changes described in Paragraphs (a), (b), or (c) of this Rule shall constitute a violation of G.S. 89D-22.

*History Note:      Authority G.S. 89D-15(2), 89D-15(11); 89D-16(a)(4); 89D-17(h); 89D-22(8);  
Temporary Adoption Eff. January 1, 2016.*

TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0301

**DEADLINE FOR RECEIPT: December 11, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Lines 13-14 – delete “Supporting” and replace “any criminal convictions occurring” with “all crimes of which the applicant has been convicted”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

<b>1. Rule-Making Agency:</b> The North Carolina Landscape Contractors' Licensing Board	
<b>2. Rule citation &amp; name:</b> 21 NCAC 28B .0301 LICENSE RENEWAL; WAIVER	
<b>3. Action:</b> <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
<b>4. Was this an Emergency Rule:</b> <input type="checkbox"/> Yes      Effective date: <input checked="" type="checkbox"/> No	
<b>5. Provide dates for the following actions as applicable:</b> a. Proposed Temporary Rule submitted to OAH: October 15, 2015 b. Proposed Temporary Rule published on the OAH website: October 21, 2015 c. Public Hearing date: November 5, 2015 d. Comment Period: October 22, 2015 to November 20, 2015 e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015 f. Adoption by agency on: December 3, 2015 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b> <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: SL2014-103, s.3(b). Effective date: August 1, 2015 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:	
<b>Explain:</b> Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.	

2015 DEC -4 PM 12: 27  
 OFFICE OF  
 ADMIN HEARINGS  
 FILED



**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☒ Yes

Agency submitted request for consultation on: September 29, 2015

Consultation not required. Cite authority:

☐ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

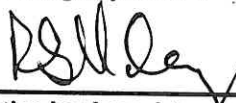
info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

Print

Save

Reset

21 NCAC 28B .0301 is adopted under temporary procedures as follows:

**21 NCAC 28B .0301 LICENSE RENEWAL; WAIVER**

(a) All licensees seeking renewal shall submit annually to the Board a renewal application. The deadline for submission is August 1 in the renewal year. Applications shall be postmarked or received by the Board no later than August 1. If August 1 falls on a Saturday or Sunday, the application shall be postmarked or received no later than the following Monday. The application form is available on the Board website or may be obtained by contacting the Board office.

(b) All renewal applications shall include the following:

(1) The application fee set forth in Rule .0601 of this Subchapter;

(2) Documentation showing that the licensee has met the Board's continuing education requirements as set forth in section .0400; and

(3) Supporting documentation regarding any criminal convictions occurring since the previous licensure or renewal.

(c) Incomplete applications shall not be processed. Application fees are non-refundable.

(d) An individual who is serving in the Armed Forces of the United States shall receive an extension of time to pay the license renewal fee upon submission of the following to the Board:

(1) Written request for waiver; and

(2) Documentation that the licensee is serving in the Armed Forces of the United States and is eligible for an extension of time to file a tax return pursuant to G.S. 105-249.2.

*History Note: Authority G.S. 89D-15(2); 89D-15(4); 89D-20; 93B-15; 105-249.;*

*Temporary Adoption Eff. January 1, 2016.*

TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0302

**DEADLINE FOR RECEIPT: December 11, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 4 – replace “expired” with “been revoked”*

*Line 8 – revise this using the language you used in .0201(a)(9) (line 16) if that is what you mean.*

*Lines 10-11 – delete “Supporting” and replace “any criminal convictions occurring” with “all crimes of which the applicant has been convicted”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

The North Carolina Landscape Contractors' Licensing Board

**2. Rule citation & name:**

21 NCAC 28B .0302 REINSTATEMENT

**3. Action:**

☒ Adoption

☐ Amendment

☐ Repeal

**4. Was this an Emergency Rule:**

☐ Yes

☒ No

Effective date:

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: October 15, 2015

b. Proposed Temporary Rule published on the OAH website: October 21, 2015

c. Public Hearing date: November 5, 2015

d. Comment Period: October 22, 2015 to November 20, 2015

e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015

f. Adoption by agency on: December 3, 2015

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016

h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: SL2014-103, s.3(b).  
Effective date: August 1, 2015
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

**Explain:**

Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.

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2015 DEC -4 PM 12:27  
OFFICE OF  
ADMIN HEARINGS

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

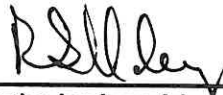
info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

**Action taken:**

☐ Date returned to agency:

**Submitted for RRC Review:**

**Print**

**Save**

**Reset**

21 NCAC 28B .0302 is adopted under temporary procedures as follows:

**21 NCAC 28 .0302 REINSTATEMENT**

(a) Any licensee whose license has expired for no more than one year may request reinstatement by the Board. The licensee shall submit the following to the Board:

(1) Application for Reinstatement;

(2) Reinstatement fee as set forth in Rule .0601 of this Subchapter;

(3) Corporate surety bond or irrevocable letter of credit pursuant to G.S. 89D-16(a)(4);

(4) Documentation showing that the licensee has met the Board's continuing education requirements;

(5) Supporting documentation regarding any criminal convictions occurring since the previous application or renewal was filed with the Board; and

(6) Attestation that the licensee has not engaged in the practice of landscape construction or contracting after the notice of revocation was issued.

(b) Any licensee whose license is suspended for failure to obtain continuing education as required by G.S. 89D-20(b) and this Subchapter may request reinstatement pursuant to G.S. 89D-20(b).

*History Note: Authority G.S. 89D-15(2); 89D-15(4); 89D-2;  
Temporary Adoption Eff. January 1, 2016.*



# TEMPORARY RULE-MAKING FINDINGS OF NEED [Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

<b>1. Rule-Making Agency:</b> The North Carolina Landscape Contractors' Licensing Board	
<b>2. Rule citation &amp; name:</b> 21 NCAC 28B .0401 GENERAL	
<b>3. Action:</b> <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
<b>4. Was this an Emergency Rule:</b> <input type="checkbox"/> Yes      Effective date: <input checked="" type="checkbox"/> No	
<b>5. Provide dates for the following actions as applicable:</b> a. Proposed Temporary Rule submitted to OAH: October 15, 2015 b. Proposed Temporary Rule published on the OAH website: October 21, 2015 c. Public Hearing date: November 5, 2015 d. Comment Period: October 22, 2015 to November 20, 2015 e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015 f. Adoption by agency on: December 3, 2015 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b> <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: SL2014-103, s.3(b). Effective date: August 1, 2015 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:	
<b>Explain:</b> Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.	

FILED  
2015 DEC 4 PM 12:27  
OFFICE OF  
ADMINISTRATIVE HEARINGS



**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

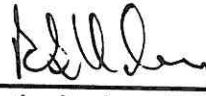
info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

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1 21 NCAC 28B .0401 is adopted under temporary procedures as follows:

2  
3 **21 NCAC 28B .0401 GENERAL**

4 To ensure continuing efforts on the part of licensed contractors to remain current with new developments in  
5 landscape technology and to encourage better business practices and safety in the profession, continuing education is  
6 required as a condition of license renewal. A licensee shall submit, as a part of his or her renewal application,  
7 evidence that he or she has met the Board's continuing education requirements. Renewal applications that do not  
8 contain this information shall be deemed incomplete.

9  
10 *History Note: Authority G.S. 89D-15(2); 89D-15(4); 89D-15(12); 89D-20;*  
11 *Temporary Adoption Eff. January 1, 2016.*  
12

TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0402

**DEADLINE FOR RECEIPT: December 11, 2015**

**NOTE WELL:** *This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 4 – delete “be required to”*

*Line 10 – insert a comma after “89D-11(3)”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

<b>1. Rule-Making Agency:</b> The North Carolina Landscape Contractors' Licensing Board	
<b>2. Rule citation &amp; name:</b> 21 NCAC 28B .0402 CONTINUING EDUCATION UNITS	
<b>3. Action:</b> <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
<b>4. Was this an Emergency Rule:</b> <input type="checkbox"/> Yes      Effective date: <input checked="" type="checkbox"/> No	
<b>5. Provide dates for the following actions as applicable:</b> a. Proposed Temporary Rule submitted to OAH: October 15, 2015 b. Proposed Temporary Rule published on the OAH website: October 21, 2015 c. Public Hearing date: November 5, 2015 d. Comment Period: October 22, 2015 to November 20, 2015 e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015 f. Adoption by agency on: December 3, 2015 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b> <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: SL2014-103, s.3(b). Effective date: August 1, 2015 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:	
<b>Explain:</b> Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.	

2015 DEC -4 PM 12: 27  
 OFFICE OF  
 ADMINISTRATIVE HEARINGS  
 FILED

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

**Action taken:**

**Submitted for RRC Review:**

☐ Date returned to agency:

**Print**

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**Reset**

21 NCAC 28B .0402 is adopted under temporary procedures as follows:

**21 NCAC 28B .0402 CONTINUING EDUCATION UNITS**

(a) A licensee shall be required to complete seven continuing education units (CEUs) during the year preceding renewal. Beginning with renewals filed after August 1, 2016, at least three of the seven CEUs must be technical credits and at least two of the seven CEUs must be business credits. If the information provided to the Board is unclear, the Board may request additional information from a licensee in order to assure compliance with continuing education requirements.

(b) For the purposes of this Rule, "technical credits" are defined as credits relating directly to the subject matter of landscape contracting as described in G.S. 89D-11(3) and "business credits" are defined as credits relating to general business practices, including business planning, contracts, liability exposure, human resources, basic accounting, financial statements, and safety.

(c) CEUs shall be determined as follows:

<u>Type of Qualifying Activity</u>	<u>Minimum time required for 1 CEU</u>
<u>Live course</u>	<u>50 minutes</u>
<u>Online course</u>	<u>50 minutes</u>
<u>Volunteer work</u>	<u>3 hours</u>
<u>Trade Shows, Field Days, and Tours</u>	<u>4 hours</u>
<u>Board Member Service</u>	<u>1 hour</u>
<u>Teaching or instructing</u>	<u>1 hour</u>
<u>In-house or Green Industry training</u>	<u>1 hour</u>

(d) No more than five CEU credits will be given for qualifying volunteer work or board member service in one year. No more than two CEU credits will be given for qualifying teaching or instructing in one year.

(e) Credit shall not be given in increments of less than .5 CEUs. Breaks in courses shall not be counted towards CEU credit.

(f) Requests for pre-approval shall be submitted at least 45 days prior to the first day of the course or event.

*History Note: Authority G.S. 89D-15(2); 89D-15(4); 89D-15(12); 89D-20(b);  
Temporary Adoption Eff. January 1, 2016.*

TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0403

**DEADLINE FOR RECEIPT: December 11, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 11 – replace “all submit” with “submit all”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015

12/4/2015



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

<b>1. Rule-Making Agency:</b> The North Carolina Landscape Contractors' Licensing Board	
<b>2. Rule citation &amp; name:</b> 21 NCAC 28B .0403 CONTINUING EDUCATION RECORDS; AUDIT	
<b>3. Action:</b> <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
<b>4. Was this an Emergency Rule:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <b>Effective date:</b>	
<b>5. Provide dates for the following actions as applicable:</b> a. Proposed Temporary Rule submitted to OAH: October 15, 2015 b. Proposed Temporary Rule published on the OAH website: October 21, 2015 c. Public Hearing date: November 5, 2015 d. Comment Period: October 22, 2015 to November 20, 2015 e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015 f. Adoption by agency on: December 3, 2015 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b> <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: SL2014-103, s.3(b). Effective date: August 1, 2015 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:	
<b>Explain:</b> Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.	

2015 DEC -4 PM 12: 27  
 OFFICE OF  
 ADMIN. HEARINGS  
 FILED



**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

**Action taken:**

☐ Date returned to agency:

**Submitted for RRC Review:**

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Reset

21 NCAC 28B .0403 is adopted under temporary procedures as follows:

**21 NCAC 28B .0403 CONTINUING EDUCATION RECORDS; AUDIT**

(a) A licensee shall maintain records of attendance at continuing education programs for which CEUs have been approved for two years following the renewal approval date to which the CEUs were applied.

(b) Compliance with annual CEU requirements shall be determined through an audit process conducted by the Board. Licensees selected for auditing shall provide the Board with the following documentation of the CEU activities claimed for the renewal period:

(1) Attendance verification records; and

(2) Information regarding course content, instructors, and sponsoring organization.

(c) Licensees selected for audit shall all submit requested information to the Board within 21 calendar days after the date the licensee was notified by the Board of the audit.

*History Note: Authority G.S. 89D-15(2); 89D-15(4); 89D-15(12); 89D-20(b);  
Temporary Adoption Eff. January 1, 2016.*

TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0404

**DEADLINE FOR RECEIPT: December 11, 2015**

**NOTE WELL:** *This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 6 – as to the “written request,” please see general note, above, regarding forms if a form will be required here.*

*Lines 9-10 – delete these lines entirely.*

*Lines 16-17 – On what basis will the Board decide whether a waiver is “appropriate”? State the bases or factors in the rule.*

*Line 19 – On what basis will the Board decide whether, on “a case-by-case basis,” to grant a waiver? State the bases or factors in the rule.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

<b>1. Rule-Making Agency:</b> The North Carolina Landscape Contractors' Licensing Board	
<b>2. Rule citation &amp; name:</b> 21 NCAC 28B .0404 EXTENSION OF TIME	
<b>3. Action:</b> <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
<b>4. Was this an Emergency Rule:</b> <input type="checkbox"/> Yes      Effective date: <input checked="" type="checkbox"/> No	
<b>5. Provide dates for the following actions as applicable:</b> a. Proposed Temporary Rule submitted to OAH: October 15, 2015 b. Proposed Temporary Rule published on the OAH website: October 21, 2015 c. Public Hearing date: November 5, 2015 d. Comment Period: October 22, 2015 to November 20, 2015 e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015 f. Adoption by agency on: December 3, 2015 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b> <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: SL2014-103, s.3(b). Effective date: August 1, 2015 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:	
<b>Explain:</b> Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.	

FILED  
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OFFICE OF  
ADMINISTRATIVE HEARINGS

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

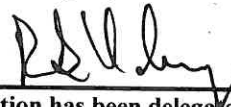
info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

**Action taken:**

☐ Date returned to agency:

**Submitted for RRC Review:**

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21 NCAC 28B .0404 is adopted under temporary procedures as follows:

**21 NCAC 28B .0404      EXTENSION OF TIME**

(a) The Board shall grant a licensee an extension of time to complete CEU requirements during a period of service in the Armed Forces of the United States upon submission of the following to the Board:

(1)      Written request for an extension; and

(2)      Documentation that the licensee is serving in the Armed Forces of the United States and is eligible for an extension of time to file a tax return pursuant to G.S. 105-249.2.

Upon providing the documentation, the licensee shall be granted an extension of time to obtain the CEUs required during that renewal period.

(b) The Board shall grant a licensee an extension of time or waiver to obtain CEU requirements if he or she has a disability or illness that prevents him or her from complying with CEU requirements. In order to receive the waiver, a licensee shall provide the Board with the following:

(1)      Written request for waiver; and

(2)      Documentation that describes the disability or illness and explains how the disability or illness prevents the licensee from complying with the Board's CEU requirements. If the Board deems the waiver appropriate, the licensee shall be granted an extension of time in which to obtain the required CEUs.

(c) All other requests for extensions of time to obtain CEU credits shall be determined on a case-by-case basis. To be considered for an extension of time, a licensee shall submit the following:

(1)      Written request for extension; and

(2)      Documentation that supports the reason for the extension.

(d) The Board shall grant a waiver of CEU requirements upon submission of documentation that a licensee is in active duty while serving in the Armed Forces and is or has been deployed for at least eight months during the twelve-month period during which CEUs were required.

(e) An extension granted under Paragraphs (b) or (c) of this Rule shall not exceed one year.

*History Note:      Authority G.S. 89D-15(2); 89D-15(4); 89D-15(12); 89D-20(b); 93B-15; 105-249.2;  
Temporary Adoption Eff. January 1, 2016.*

TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0405

**DEADLINE FOR RECEIPT: December 11, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 5 – as to the “application,” please see general note, above, regarding forms if a form will be required here.*

*Line 7 – insert a comma after “date(s)”*

*Line 7 – what “board meetings” do you mean – only the Landscape Contractor’s Licensing Board? Please specify.*

*Lines 10 – Insert “a” after “and”*

*Line 20 – replace “materials/handouts” with “materials or handouts”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015





# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

<b>1. Rule-Making Agency:</b> The North Carolina Landscape Contractors' Licensing Board	
<b>2. Rule citation &amp; name:</b> 21 NCAC 28B .0405 REQUESTS FOR APPROVAL	
<b>3. Action:</b> <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
<b>4. Was this an Emergency Rule:</b> <input type="checkbox"/> Yes      Effective date: <input checked="" type="checkbox"/> No	
<b>5. Provide dates for the following actions as applicable:</b> a. Proposed Temporary Rule submitted to OAH: October 15, 2015 b. Proposed Temporary Rule published on the OAH website: October 21, 2015 c. Public Hearing date: November 5, 2015 d. Comment Period: October 22, 2015 to November 20, 2015 e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015 f. Adoption by agency on: December 3, 2015 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b> <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: SL2014-103, s.3(b). Effective date: August 1, 2015 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:	
<b>Explain:</b> Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.	

2015 DEC -4 PM 12:28  
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 OFFICE OF  
 ADMINISTRATIVE HEARINGS

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

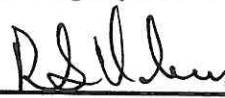
info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

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21 NCAC 28B .0405 is adopted under temporary procedures as follows:

**21 NCAC 28B .0405 REQUESTS FOR APPROVAL**

(a) All requests for CEU approval shall include the following:

- (1) An application for Continuing Education Credit;
- (2) The number of Continuing Education Units (CEUs) requested; and
- (3) The Location, date(s) and time (s) of course, activity, or board meetings attended or to be attended.

(b) For live and online courses and teaching or instructing activity, in addition to the requirements of Paragraph (a) of this Rule, all requests shall include the following:

- (1) The course title(s) and description of course content;
- (2) The name and educational or professional credentials of the instructor;
- (3) The duration of the course or activity; and
- (4) An attestation that the course provider will maintain attendance records for one year after the date of the course.

(c) For volunteer work, requests for approval shall, in addition to the requirements of Paragraph (a) of this Rule, include the following:

- (1) A description of activity performed or to be performed; and
- (2) The time spent or to be spent performing volunteer activity.

(d) For trade shows, field days, and tours, requests for approval shall, in addition to the requirements of Paragraph (a) of this Rule, include materials/handouts promoting or obtained during the event.

(e) For in-house or Green Industry training, requests for approval shall include the following, in addition to the requirements of Paragraph (a) of this Rule:

- (1) A description of training provided; and
- (2) The name(s) of training instructors.

(f) For the purposes of this Rule, "Green Industry" is defined as greenhouse, nursery, floriculture, sod, Christmas tree producers, and related industry trades.

*History Note: Authority G.S. 89D-15(2); 89D-15(4); 89D-20(b);*

*Temporary Adoption Eff. January 1, 2016.*

TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0501

**DEADLINE FOR RECEIPT: December 11, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 5 – insert “in value” after “(\$5,000.00)” (note that this is the term use in line 13)..*

*Lines 7, 9-19 and 21 – begin each line with “The” or “A” as appropriate.*

*Line 11 – insert “the” before “proposal”*

*Line 12 – insert “the” before “work”*

*Line 17 – insert “the” before “party”*

*Line 19 – delete the comma after “Board”*

*Line 22 – replace “pertinent” with “applicable”*

*Line 27 – “reported” by whom – who is required to make this report?*

*Line 29 – replace “per N.C. 811 law” with “pursuant to the N.C. 811 law, G.S. 87-115 et seq.”*

*Line 30 – what is a “safe work site”? What factors, standards, or definition give meaning to this phrase?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015



# TEMPORARY RULE-MAKING FINDINGS OF NEED [Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

<b>1. Rule-Making Agency:</b> The North Carolina Landscape Contractors' Licensing Board	
<b>2. Rule citation &amp; name:</b> 21 NCAC 28B .0501 GENERAL	
<b>3. Action:</b> <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
<b>4. Was this an Emergency Rule:</b> <input type="checkbox"/> Yes      Effective date: <input checked="" type="checkbox"/> No	
<b>5. Provide dates for the following actions as applicable:</b> a. Proposed Temporary Rule submitted to OAH: October 15, 2015 b. Proposed Temporary Rule published on the OAH website: October 21, 2015 c. Public Hearing date: November 5, 2015 d. Comment Period: October 22, 2015 to November 20, 2015 e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015 f. Adoption by agency on: December 3, 2015 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b> <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: SL2014-103, s.3(b). Effective date: August 1, 2015 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:	
<b>Explain:</b> Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.	

FILED  
2015 DEC -4 PM 12:28  
OFFICE OF  
ADMINISTRATIVE HEARINGS

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and intends will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

**Action taken:**

☐ Date returned to agency:

**Submitted for RRC Review:**

**Print**

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**Reset**

21 NCAC 28B .0501 is adopted under temporary procedures as follows:

**21 NCAC 28B .0501      GENERAL**

(a) Prior to commencing work, services performed by a licensed landscape contractor ("licensed contractor") that exceed five thousand dollars (\$5,000.00) shall be described in writing and provided to the client or customer. This agreement may be authored by either party. This document shall contain:

- (1) Business name, license number, business address, and telephone number of the licensed contractor;
- (2) Name and address of client or customer;
- (3) Address or location of work to be performed, if different from the client or customer's address;
- (4) Date of proposal;
- (5) Description of work to be performed;
- (6) Total value in lump sum or time and material price;
- (7) Estimated time of completion;
- (8) Terms of payment;
- (9) Terms of warranty (if any);
- (10) Terms of maintenance, including party responsible for maintenance;
- (11) Signature of all parties by authorized individuals;
- (12) Statement that the licensed contractor is licensed by the Board, and the current address and phone number of the Board; and
- (13) Date of signing.

(b) All work performed by a licensed contractor shall meet all pertinent building codes, local ordinances, and project specifications. All work performed by a licensed contractor shall meet manufacturer's specifications.

(c) If project plans or specifications prepared by someone other than the licensed contractor do not meet pertinent codes and ordinances, the licensed contractor shall bring this to the attention of the client or customer.

(d) If the licensed contractor observes a condition while the work is being performed that requires attention beyond the original scope of work, the condition shall be reported to an immediate supervisor, the owner, or the person responsible for authorizing the work.

(e) The licensed contractor shall call for utility location services per N.C. 811 law.

(f) The licensed contractor shall maintain a safe work site.

*History Note: Authority G.S. 89D-15(2); 89D-15(16);  
Temporary Adoption Eff. January 1, 2016.*



TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0502

**DEADLINE FOR RECEIPT: December 11, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Page 1, line 9 – replace “sufficient” with “sufficiently” and delete “ease of”*

*Page 1, line 10 – insert a comma after “health” and delete “measured at”*

*Page 1, line 11 – revise to read “Scarify the sidewalls of the planting pit.”*

*Page 1, line 15 – replace “on” with “from”*

*Page 1, lines 26-27 – what “specific objective” would justify the use of amendments? If you mean to authorize the use of amendments to make the backfill similar to the soil at the planting site, say so. If instead you wish to authorize the use of amendments to meet other objectives, please state what objectives are acceptable or at least provide factors helpful in describing such objectives.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015



# TEMPORARY RULE-MAKING FINDINGS OF NEED [Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

The North Carolina Landscape Contractors' Licensing Board

**2. Rule citation & name:**

21 NCAC 28B .0502 PLANTING

**3. Action:**

☒ Adoption

☐ Amendment

☐ Repeal

**4. Was this an Emergency Rule:**

☐ Yes

☒ No

Effective date:

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: October 15, 2015

b. Proposed Temporary Rule published on the OAH website: October 21, 2015

c. Public Hearing date: November 5, 2015

d. Comment Period: October 22, 2015 to November 20, 2015

e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015

f. Adoption by agency on: December 3, 2015

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016

h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: SL2014-103, s.3(b).  
Effective date: August 1, 2015
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

**Explain:**

Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.

FILED  
2015 DEC -4 PM 12:28  
OFFICE OF  
ADMINISTRATIVE HEARINGS

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

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21 NCAC 28B .0502 is adopted under temporary procedures as follows:

### **21 NCAC 28B .0502 PLANTING**

When planting, the licensed contractor shall:

- (1) Avoid potential planting conflicts with utilities and sight lines.
- (2) Protect plant material from physical damage and desiccation during transport.
- (3) Maintain plants during landscape construction.
- (4) Consider the cultural requirements of individual plants.
- (5) Excavate the plant hole sufficient to ensure ease of plant establishment and to promote long-term health typically measured at two times the width of the plant ball or container size.
- (6) Sidewalls of planting pit shall be scarified.
- (7) Set plants in an upright, plumb position, unless design intent dictates otherwise.
- (8) Set plants on a firm, solid base.
- (9) Remove all strings, twine, and strapping from around the trunk of trees.
- (10) Remove the top third to top half of burlap or other wrapping material on the rootball of balled and burlapped trees.
- (11) Remove top third to top half of wire baskets on balled and burlapped trees or bend basket wire back to be flush with the side of the ball.
- (12) Set the plant so that the top of root ball is at or slightly above surrounding soil and does not exceed four inches above the surrounding soil.
- (13) Prior to planting, insure that the trunk flare of a tree is not covered with soil, is at or above the surrounding finished grade, and that no soil has been placed on top of the root ball.
- (14) Prior to planting containerized plants, manage the rootball to mitigate problems such as circling roots. Acceptable mitigation methods shall include slicing the rootball, shaving the rootball, or redirecting roots.
- (15) Utilize backfill soil that is similar to the soil at the planting site or is amended to meet a specific objective.
- (16) Not firm backfill to a density that inhibits root growth.
- (17) Install backfill soil in such a manner that it is settled in layered sections to limit future settling.
- (18) Not utilize screened soil as the sole material for backfill.
- (19) When mulching plants, maintain a mulch depth that is beneficial to the health of the plants.
- (20) When mulch is applied, apply mulch so that it does not touch a tree trunk or root flare.
- (21) Water plants thoroughly and immediately after planting.
- (22) Notify client of his or her responsibility to water plants following installation.
- (23) Stake trees only when required due to high winds, extreme slopes, or soft soils;
  - (a) If trees are staked, the guys shall not be installed so as to provide pressure on the trunk.
  - (b) Guys in contact with the tree shall be of a material that will not damage the tree.

1       (24)    Provide plants that are true to name and species.

2       (25)    Provide plants that are healthy and in good condition.

3       (26)    Prune any broken limbs.

4       (27)    Prune co-dominant leaders in shade trees that typically have dominant leaders.

5       (28)    If a condition is observed while the work is being performed that is detrimental to the long-term  
6               health of the plant, the condition shall be reported to the customer or client, an immediate  
7               supervisor, the owner, or person responsible for authorizing the work.

8  
9    *History Note:*    *Authority G.S. 89D-15(2); 89D-15(16);*  
10                    *Temporary Adoption Eff. January 1, 2016.*

TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0503

**DEADLINE FOR RECEIPT: December 11, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 13 – replace “and” with “or” if this is what you mean*

*Line 15 – delete the comma after “slopes”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

<b>1. Rule-Making Agency:</b> The North Carolina Landscape Contractors' Licensing Board	
<b>2. Rule citation &amp; name:</b> 21 NCAC 28B .0503 TURF	
<b>3. Action:</b> <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
<b>4. Was this an Emergency Rule:</b> <input type="checkbox"/> Yes      Effective date: <input checked="" type="checkbox"/> No	
<b>5. Provide dates for the following actions as applicable:</b> a. Proposed Temporary Rule submitted to OAH: October 15, 2015 b. Proposed Temporary Rule published on the OAH website: October 21, 2015 c. Public Hearing date: November 5, 2015 d. Comment Period: October 22, 2015 to November 20, 2015 e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015 f. Adoption by agency on: December 3, 2015 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b>  <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: SL2014-103, s.3(b). Effective date: August 1, 2015 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:	
<b>Explain:</b> Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.	

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ADMIN HEARINGS



**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

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21 NCAC 28B .0503 is adopted under temporary procedures as follows:

**21 NCAC 28B .0503      TURF**

When establishing turf, the licensed contractor shall:

- (1) Notify the owner or the construction manager whether there is adequate time to establish the specified turf from seed within the construction schedule and prior to finish of the job;
- (2) Prior to lawn installation, loosen soil to a minimum depth of three inches;
- (3) Confirm that all lawn seed meets the standards of the NC Seed Law of 1963, as set forth in G.S. 106, Art. 31;
- (4) Evenly distribute seed;
- (5) Apply seed at manufacturer's recommended rates;
- (6) Roll or rake after seeding to insure good soil contact;
- (7) Install sod within 36 hours of harvesting unless weather conditions and turf types dictate a shorter timeframe;
- (8) Lay sod strips in a staggered pattern, horizontal to slopes, and with tight seams;
- (9) Roll sod after installation to provide good soil contact;
- (10) Distribute sprigs evenly;
- (11) Insure that sprigs and sod plugs are in good contact with the soil;
- (12) Water lawn areas thoroughly and immediately after installation; and
- (13) Notify client of his or her responsibility to water turf following installation.

*History Note: Authority G.S. 89D-15(2); 89D-15(16);  
Temporary Adoption Eff. January 1, 2016.*

TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0504

**DEADLINE FOR RECEIPT: December 11, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 5 – replace “shall be” with “is”*

*Line 8 – insert “applicable” before “local”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

<b>1. Rule-Making Agency:</b> The North Carolina Landscape Contractors' Licensing Board	
<b>2. Rule citation &amp; name:</b> 21 NCAC 28B .0504 FINISH GRADE	
<b>3. Action:</b> <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
<b>4. Was this an Emergency Rule:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <b>Effective date:</b>	
<b>5. Provide dates for the following actions as applicable:</b> a. Proposed Temporary Rule submitted to OAH: October 15, 2015 b. Proposed Temporary Rule published on the OAH website: October 21, 2015 c. Public Hearing date: November 5, 2015 d. Comment Period: October 22, 2015 to November 20, 2015 e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015 f. Adoption by agency on: December 3, 2015 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b> <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: SL2014-103, s.3(b). Effective date: August 1, 2015 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:	
<b>Explain:</b> Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.	

2015 DEC -4 PM 12:30  
 OFFICE OF  
 ADMINISTRATIVE HEARINGS  
 FILED

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

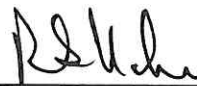
info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

**Action taken:**

**Submitted for RRC Review:**

☐ Date returned to agency:

**Print**

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**Reset**

21 NCAC 28B .0504 is adopted under temporary procedures as follows:

**21 NCAC 28B .0504      FINISH GRADE**

When grading, the licensed contractor shall:

(1) Grade the surface such that the finish grade shall be smooth and free of depressions and debris;

(2) Insure positive water flow through the site, away from structures, and in such a manner that there is no puddling or ponding; and

(3) Comply with all local and national building codes and ordinances regarding slopes and drainage.

*History Note:      Authority G.S. 89D-15(2); 89D-15(16);*

*Temporary Adoption Eff. January 1, 2016.*

TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0505

**DEADLINE FOR RECEIPT: December 11, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 4 – revise as follows: “The licensed contractor shall be permitted to perform design and consultation work as defined in...”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015

12/4/2015



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

<b>1. Rule-Making Agency:</b> The North Carolina Landscape Contractors' Licensing Board	
<b>2. Rule citation &amp; name:</b> 21 NCAC 28B .0505 DESIGN AND CONSULTATION	
<b>3. Action:</b> <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
<b>4. Was this an Emergency Rule:</b> <input type="checkbox"/> Yes      Effective date: <input checked="" type="checkbox"/> No	
<b>5. Provide dates for the following actions as applicable:</b> a. Proposed Temporary Rule submitted to OAH: October 15, 2015 b. Proposed Temporary Rule published on the OAH website: October 21, 2015 c. Public Hearing date: November 5, 2015 d. Comment Period: October 22, 2015 to November 20, 2015 e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015 f. Adoption by agency on: December 3, 2015 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b> <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: SL2014-103, s.3(b). Effective date: August 1, 2015 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:	
<b>Explain:</b> Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.	

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**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

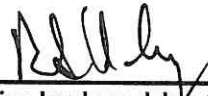
info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

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21 NCAC 28B .0505 is adopted under temporary procedures as follows:

**21 NCAC 28B .0505      DESIGN AND CONSULTATION**

(a) With regard to design and consultation, the licensed contractor shall be permitted to perform work as defined in G.S. 89D-11(3) and G.S. 89D-12 on the following project sites:

(1) A single family residential project of any size;

(2) A non-single family project under one acre in total area;

(3) A residential, institutional, or commercial project over one acre in total area that involves only planting and mulching; and

(4) Any other project not prohibited by, or specifically exempted from, the provisions of G.S. 83A, G.S. 89A, or G.S. 89C.

(b) Additionally, the licensed contractor shall:

(1) Obtain direct knowledge of site conditions by visiting the site;

(2) Insure that designs meet all applicable state and local codes and standards; and

(3) Consider the cultural requirements of individual plants.

*History Note:      Authority G.S. 89D-11(3); 89D-15(2); 89D-15(16);*

*Temporary Adoption Eff. January 1, 2016.*

TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0506

**DEADLINE FOR RECEIPT: December 11, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 5 – replace “per” with “in accordance with”*

*Line 9 – please remove extra spaces or tab(s)*

*Line 11 – what does “includes provisions for” mean – “provide a means for” or “has sufficient capacity for” or something else?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

<b>1. Rule-Making Agency:</b> The North Carolina Landscape Contractors' Licensing Board	
<b>2. Rule citation &amp; name:</b> 21 NCAC 28B .0506 DRAINAGE SYSTEMS AND CISTERNS	
<b>3. Action:</b> <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
<b>4. Was this an Emergency Rule:</b> <input type="checkbox"/> Yes <b>Effective date:</b> <input checked="" type="checkbox"/> No	
<b>5. Provide dates for the following actions as applicable:</b> a. Proposed Temporary Rule submitted to OAH: October 15, 2015 b. Proposed Temporary Rule published on the OAH website: October 21, 2015 c. Public Hearing date: November 5, 2015 d. Comment Period: October 22, 2015 to November 20, 2015 e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15 2015 f. Adoption by agency on: December 3, 2015 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b> <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: SL2014-103, s.3(b). Effective date: August 1, 2015 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:	
<b>Explain:</b> Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.	

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 ADMIN HEARINGS  
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**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

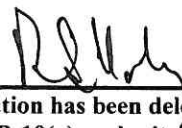
info@ncclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

**Action taken:**

☐ Date returned to agency:

**Submitted for RRC Review:**

**Print**

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**Reset**

21 NCAC 28B .0506 is adopted under temporary procedures as follows:

**21 NCAC 28B .0506 DRAINAGE SYSTEMS AND CISTERNS**

Licensed contractors shall:

- (1) Install drainage systems and cisterns per state and local codes and ordinances;
- (2) Install drainage conveyances in such a way that there is a positive flow;
- (3) Install drainage systems with measures that allow cleaning of the system;
- (4) Install drainage systems with adequate structural integrity so as to prevent crushing of the drainage system;
- (5) Install French drain systems to drain to daylight or into existing storm drainage; and
- (6) Insure that cisterns and closed drywells include provisions for excess water overflow.

*History Note: Authority G.S. 89D-15(2); 89D-15(16);*  
*Temporary Adoption Eff. January 1, 2016.*

TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0507

**DEADLINE FOR RECEIPT: December 11, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 7 – what does “proper” mean – “appropriate,” “within design specifications,” or something else?*

*Line 15 – move “to the client” immediately after “literature” and replace “for” with “about”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

The North Carolina Landscape Contractors' Licensing Board

**2. Rule citation & name:**

21 NCAC 28B .0507 LOW-VOLTAGE LIGHTING; POOLS

**3. Action:**

☒ Adoption

☐ Amendment

☐ Repeal

**4. Was this an Emergency Rule:**

☐ Yes

☒ No

Effective date:

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: October 15, 2015

b. Proposed Temporary Rule published on the OAH website: October 21, 2015

c. Public Hearing date: November 5, 2015

d. Comment Period: October 22, 2015 to November 20, 2015

e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015

f. Adoption by agency on: December 3, 2015

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016

h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: SL2014-103, s.3(b).  
Effective date: August 1, 2015
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

**Explain:**

Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.

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ADMINISTRATIVE HEARINGS



**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

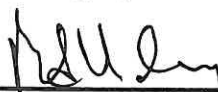
info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

**Action taken:**

**Submitted for RRC Review:**

☐ Date returned to agency:

**Print**

**Save**

**Reset**

21 NCAC 28B .0507 is adopted under temporary procedures as follows:

**21 NCAC 28B .0507      LOW-VOLTAGE LIGHTING; POOLS**

(a) When installing low-voltage landscape lighting systems, the licensed contractor shall:

(1) Insure that all wire connections are waterproof;

(2) Only use weather-proof fixtures;

(3) Supply proper lamps with all fixtures;

(4) Insure that the total lamp wattage of each circuit does not exceed the National Electrical Code (NEC) standard for the size of wire being used;

(5) Not load a wire to more than 80 percent of the wire's capacity;

(6) Connect all exterior low-voltage wiring to a ground fault circuit interrupter (GFCI) circuit;

(7) Mount transformers a minimum of 18 inches above grade;

(8) Perform a post-installation inspection to verify that the lighting system is fully operational as intended; and

(9) Provide literature for the lighting components that lists proper lamps for fixtures to the client.

(b) All garden pools shall be installed per all regional and local codes.

*History Note: Authority G.S. 89D-15(2); 89D-15(16);*

*Temporary Adoption Eff. January 1, 2016.*

TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0508

**DEADLINE FOR RECEIPT: December 11, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Please note that Rule 26 NCAC 02C .0108(9) requires numbers one through nine to be spelled out. Throughout this Rule, single-digit numbers do not follow .0108(9). It is perhaps preferred here to use numerals, but you will need to seek a waiver from the Codifier to do so.*

*Lines 8-11 – Subparagraphs (5) and (6) fail to address a case where a wall is precisely five feet from a structure. Perhaps change one of them to “5 feet or more” or “5 feet or less” or something similar?*

*Line 13 – what does “adequate” mean? What standard or factors would be applied to determine adequacy?*

*Lines 14 and 16 – replace “well compacted” with “well-compacted”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

<b>1. Rule-Making Agency:</b> The North Carolina Landscape Contractors' Licensing Board	
<b>2. Rule citation &amp; name:</b> 21 NCAC 28B .0508 WALLS	
<b>3. Action:</b> <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
<b>4. Was this an Emergency Rule:</b> <input type="checkbox"/> Yes      Effective date: <input checked="" type="checkbox"/> No	
<b>5. Provide dates for the following actions as applicable:</b> a. Proposed Temporary Rule submitted to OAH: October 15, 2015 b. Proposed Temporary Rule published on the OAH website: October 21, 2015 c. Public Hearing date: November 5, 2015 d. Comment Period: October 22, 2015 to November 20, 2015 e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015 f. Adoption by agency on: December 3, 2015 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b> <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: SL2014-103, s.3(b). Effective date: August 1, 2015 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:	
<b>Explain:</b> Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.	

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 ADMIN HEARINGS  
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**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

**Action taken:**

**Submitted for RRC Review:**

☐ Date returned to agency:

**Print**

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21 NCAC 28B .0508 is adopted with changes under temporary procedures as follows:

## **21 NCAC 28B .0508      WALLS**

(a) When installing retaining walls, the licensed contractor shall:

- (1) Adhere to all pertinent codes.
- (2) Adhere to manufacturer's or design professionals specifications.
- (3) Bury the first course of a retaining wall.
- (4) Insure that a retaining wall over 5 feet in height is designed by a professional engineer licensed under G.S. 89C.
- (5) Insure that a retaining wall closer than 5 feet from a structure, regardless of height, is designed by a professional engineer licensed under G.S. 89C.
- (6) Not construct dry-laid stone walls of a height more than 3 feet above grade.
- (7) Include adequate sub-drainage systems behind the wall.
- (8) Construct on a level, well compacted base of granular material at least 6 inches deep.
- (9) Place backfill behind retaining walls in lifts no greater than 6 inches before compacted (each lift shall be well compacted).
- ~~(10) [Insure that when constructing terracing walls not designed by an NC licensed design professional, the horizontal separation between walls shall be at least 50 feet or to current code.]~~
- ~~(11)~~(10) Prevent excessive runoff from passing over a retaining wall.
- ~~(12) [Limit construction of vertically set timber walls to 4 feet in height.]~~
- ~~(13)~~(11) Construct vertically-set timber walls with above-ground heights equal to or less than the depth of timbers below grade
- ~~(14)~~(12) Install deadmen every fourth course on 8 feet centers when constructing horizontally-set timber retaining walls with staggered joints.
- ~~(15)~~(13) Stagger the joints when constructing dry-laid stone walls. If successive vertical joints occur, the licensed contractor shall avoid running vertical joints more than two courses.

(b) When installing freestanding walls, the licensed contractor shall:

- (1) Install footings for masonry and cast-in-place concrete freestanding walls of reinforced concrete. The top of the footing shall be at least 1 foot below grade.
- (2) Reinforce freestanding walls as needed to prevent displacement from wind loads.
- (3) Insure that moisture is prevented from entering a cavity wall during construction.
- (4) Insure that segmental wall construction meets segmental wall manufacturer's specifications.

*History Note: Authority G.S. 89D-15(2); 89D-15(16);  
Temporary Adoption Eff. January 1, 2016.*

TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0509

**DEADLINE FOR RECEIPT: December 11, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Lines 6, 7, 8, and 15 – what does “appropriate,” “suitable,” and “sufficient” mean? What standard or factors would be applied to determine propriety, suitability, and sufficiency?*

*Line 7 – replace “well compacted” with “well-compacted”*

*Line 11 – what does “drop below” mean? Do you mean “if air the temperature ... is less than 35 degrees Fahrenheit”?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015





# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

The North Carolina Landscape Contractors' Licensing Board

**2. Rule citation & name:**

21 NCAC 28B .0509 PAVING

**3. Action:**☒ Adoption☐ Amendment☐ Repeal**4. Was this an Emergency Rule:**☐ Yes☒ No

Effective date:

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: October 15, 2015

b. Proposed Temporary Rule published on the OAH website: October 21, 2015

c. Public Hearing date: November 5, 2015

d. Comment Period: October 22, 2015 to November 20, 2015

e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015

f. Adoption by agency on: December 3, 2015

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016

h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: SL2014-103, s.3(b).  
Effective date: August 1, 2015
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

**Explain:**

Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.

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ADMINISTRATIVE  
HEARINGS

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**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

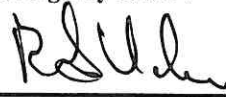
info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

**Action taken:**

☐ Date returned to agency:

**Submitted for RRC Review:**

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**Save**

**Reset**

21 NCAC 28B .0509 is adopted under temporary procedures as follows:

**21 NCAC 28B .0509      PAVING**

When paving, the licensed contractor shall:

- (1) Follow manufacturer's recommendations and specifications;
- (2) Choose paving materials that are appropriate for the project;
- (3) Install paving on a suitable, well compacted base;
- (4) Install paved surfaces with slopes sufficient to allow for surface drainage and to prevent ponding;
- (5) Install reinforcement in concrete slabs so that the reinforcement is suspended within the concrete and not resting on the base course;
- (6) Not pour concrete if air temperatures, away from artificial heat or in the shade, drop below 35 degrees Fahrenheit;
- (7) Not pour concrete if the air temperature in the shade is 90 degrees Fahrenheit and rising or if the concrete temperature is greater than 95 degrees Fahrenheit;
- (8) Use a suitable vibratory compacting device to set unit pavers and after joints are swept; and
- (9) Utilize an edge restraint on unit paver installations.

*History Note: Authority G.S. 89D-15(2); 89D-15(16);  
Temporary Adoption Eff. January 1, 2016.*

TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0510

**DEADLINE FOR RECEIPT: December 11, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line4 – what does “unless to achieve artistic intent” mean? Delete this phrase unless you can define it or explain what factors would help determine whether such an intent would modify the requirements of this Rule.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

The North Carolina Landscape Contractors' Licensing Board

**2. Rule citation & name:**

21 NCAC 28B .0510 PRUNING

**3. Action:**☒ Adoption☐ Amendment☐ Repeal**4. Was this an Emergency Rule:**☐ Yes☒ No

Effective date:

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: October 15, 2015

b. Proposed Temporary Rule published on the OAH website: October 21, 2015

c. Public Hearing date: November 5, 2015

d. Comment Period: October 22, 2015 to November 20, 2015

e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15 2015

f. Adoption by agency on: December 3, 2015

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016

h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: SL2014-103, s.3(b).  
Effective date: August 1, 2015
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

**Explain:**

Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.

FILED  
2015 DEC -4 PM 12:31  
OFFICE OF  
ADMIN HEARINGS

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

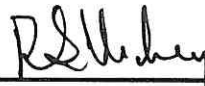
info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

**Action taken:**

☐ Date returned to agency:

**Submitted for RRC Review:**

**Print**

**Save**

**Reset**

21 NCAC 28B .0510 is adopted under temporary procedures as follows:

**21 NCAC 28B .0510 PRUNING**

When pruning, unless to achieve artistic intent, a licensed contractor shall:

(1) Use sharp tools;

(2) When making a pruning cut that removes a branch at its point of origin, make the cut close to the trunk or parent branch without cutting into the branch bark ridge or branch collar or leaving a stub;

(3) Not flush cut;

(4) Not top trees;

(5) Remove branches in such a manner as to avoid damage to other parts of the plant or to other plants or property; and

(6) Precut branches that are too large to support with one hand to avoid splitting the wood or tearing the bark.

*History Note: Authority G.S. 89D-15(2); 89D-15(16);  
Temporary Adoption Eff. January 1, 2016.*

TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0511

**DEADLINE FOR RECEIPT: December 11, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 4 – insert a comma after “grass”*

*Line 5 – replace “During the preconstruction phase of the job” with “Prior to construction” if that is what you mean.*

*Line 5 – delete “lead”*

*Line 6 – replace “if” with “whether”*

*Line 7 – delete “, providing clear expectations”*

*Line 11 – insert “the” before “rates”*

*Line 12 – insert a comma after “crop”*

*Line 12 – do you mean “seasonably” or “seasonally”?*

*Line 14 – insert “a” after “when”*

*Line 16 – replace the semicolon with a comma and insert “and” before “cultipack”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015



# **TEMPORARY RULE-MAKING FINDINGS OF NEED**

[Authority G.S. 150B-21.1]

**OAH USE ONLY**

**VOLUME:**

**ISSUE:**

**1. Rule-Making Agency:**

The North Carolina Landscape Contractors' Licensing Board

**2. Rule citation & name:**

21 NCAC 28B .0511 WILDFLOWER, NATIVE GRASS, AND NO-MOW SEED ESTABLISHMENT

**3. Action:**

☒ Adoption

☐ Amendment

☐ Repeal

**4. Was this an Emergency Rule:**

☐ Yes

☒ No

**Effective date:**

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: October 15, 2015

b. Proposed Temporary Rule published on the OAH website: October 21, 2015

c. Public Hearing date: November 5, 2015

d. Comment Period: October 22, 2015 to November 20, 2015

e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15 2015

f. Adoption by agency on: December 3, 2015

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016

h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: SL2014-103, s.3(b).  
Effective date: August 1, 2015
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

**Explain:**

Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.

2015 DEC -4 PM 12:32  
 OFFICE OF  
 ADMINISTRATIVE HEARINGS  
 FILED



**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

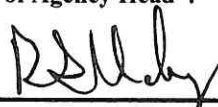
info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

**Action taken:**

**Submitted for RRC Review:**

☐ Date returned to agency:

**Print**

**Save**

**Reset**

21 NCAC 28B .0511 is adopted under temporary procedures as follows:

**21 NCAC 28B .0511 WILDFLOWER, NATIVE GRASS, AND NO-MOW SEED ESTABLISHMENT**

When establishing wildflower, native grass or no-mow seeding, a licensed contractor shall:

- (1) During the preconstruction phase of the job, inform the owner or construction manager of the lead time required to establish native bunch grasses and forbs from seed and if this lead time is compatible with the construction schedule, providing clear expectations.
- (2) Confirm the suitability of the specified seed for the project.
- (3) Select seed that is regionally appropriate and of the geographic ecotype for the location of the project.
- (4) Use pure live seed (PLS) rates for seeding. If bulk seed is utilized, adjust rates accordingly.
- (5) Use a temporary cover, nurse crop or mulch when seeding that is non-allopathic and seasonably appropriate.
- (6) Use highest seed rates on slopes greater than 30 degrees or when dormant seeding schedule is utilized.
- (7) Employ a seeding method that buries seed less than one-quarter inch in depth; cultipack or roll after seed distribution.

*History Note: Authority G.S. 89D-15(2); 89D-15(16);  
Temporary Adoption Eff. January 1, 2016.*



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

The North Carolina Landscape Contractors' Licensing Board

**2. Rule citation & name:**

21 NCAC 28B .0601 FEE SCHEDULE

**3. Action:**

☒ Adoption

☐ Amendment

☐ Repeal

**4. Was this an Emergency Rule:**

☐ Yes

☒ No

Effective date:

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: October 15, 2015

b. Proposed Temporary Rule published on the OAH website: October 21, 2015

c. Public Hearing date: November 5, 2015

d. Comment Period: October 22, 2015 to November 20, 2015

e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015

f. Adoption by agency on: December 3, 2015

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016

h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: SL2014-103, s.3(b).  
Effective date: August 1, 2015
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

**Explain:**

Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.

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OFFICE OF  
ADMIN HEARINGS

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

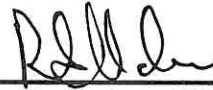
info@ncclcb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

**Action taken:**

**Submitted for RRC Review:**

☐ Date returned to agency:

**Print**

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**Reset**

21 NCAC 28B .0601 is adopted under temporary procedures as follows:

**21 NCAC 28B .0601 FEE SCHEDULE**

(a) The Board shall charge the following fees:

(1) Application: \$75.00;

(2) Examination: \$150.00;

(3) License fee: \$60.00;

(4) License renewal: \$60.00;

(5) Late renewal: \$25.00;

(6) Reinstatement: \$100.00;

(7) License by reciprocity: \$100.00;

(8) Duplicate license: \$25.00.

(b) If the Board elects to use a testing service for the preparation, administration, or grading of examinations, the Board shall charge the applicant the actual cost of the examination services and a prorated portion of the examination fee.

(c) All fees charged by the Board are non-refundable.

*History Note: Authority G.S. 89D-15(2); 89D-15(10); 89D-21;*

*Temporary Adoption Eff. January 1, 2016.*

TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0701

**DEADLINE FOR RECEIPT: December 11, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 4 – Please see general note, above, regarding forms.*

*Line 5 – Please state the web address of the “online complaint process.”*

*Line 5 – replace “shall” with “will” if you are stating the Board’s policy.*

*Line 10 – insert a comma after “staff”*

*Line 10 – what forms the basis for the “recommendation”? What standards or factors would be applied in forming this recommendation?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

<b>1. Rule-Making Agency:</b> The North Carolina Landscape Contractors' Licensing Board	
<b>2. Rule citation &amp; name:</b> 21 NCAC 28B .0701 COMPLAINTS; INVESTIGATIONS	
<b>3. Action:</b> <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
<b>4. Was this an Emergency Rule:</b> <input type="checkbox"/> Yes <b>Effective date:</b> <input checked="" type="checkbox"/> No	
<b>5. Provide dates for the following actions as applicable:</b> <ul style="list-style-type: none"> <li>a. Proposed Temporary Rule submitted to OAH: October 15, 2015</li> <li>b. Proposed Temporary Rule published on the OAH website: October 21, 2015</li> <li>c. Public Hearing date: November 5, 2015</li> <li>d. Comment Period: October 22, 2015 to November 20, 2015</li> <li>e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015</li> <li>f. Adoption by agency on: December 3, 2015</li> <li>g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016</li> <li>h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:</li> </ul>	
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b> <ul style="list-style-type: none"> <li><input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare.</li> <li><input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress.            Cite: SL2014-103, s.3(b).            Effective date: August 1, 2015</li> <li><input type="checkbox"/> A recent change in federal or state budgetary policy.            Effective date of change:</li> <li><input type="checkbox"/> A recent federal regulation.            Cite:            Effective date:</li> <li><input type="checkbox"/> A recent court order.            Cite order:</li> <li><input type="checkbox"/> State Medical Facilities Plan.</li> <li><input type="checkbox"/> Other:</li> </ul> <p><b>Explain:</b>          Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.</p>	

2015 Dec -4 PM 12:32  
 OFFICE OF  
 ADMINISTRATIVE HEARINGS  
 FILED



**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**


info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

**Action taken:**

**Submitted for RRC Review:**

☐ Date returned to agency:

**Print**

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**Reset**



21 NCAC 28B .0701 is adopted under temporary procedures as follows:

**21 NCAC 28B .0701 COMPLAINTS; INVESTIGATIONS**

(a) All complaints filed with the Board shall be filed either on a form provided by the Board or via the Board's online complaint process. All complaints must contain the complainant's contact information. The Board shall not investigate anonymous complaints. Incomplete complaints will not be investigated.

(b) Initial review of a complaint will be conducted by Board staff. If further review and investigation is warranted, the Board will assign an investigator who will conduct an investigation.

(c) Upon completion of the investigation, the investigator's report will be forwarded to a designated Board member and Board staff who will make a recommendation to the full Board as to whether the case should be dismissed or whether further action by the Board is warranted.

*History Note: Authority G.S. 89D-15(2); 89D-15(6); 89D-15(7);*

*Temporary Adoption Eff. January 1, 2016.*



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

<b>1. Rule-Making Agency:</b> The North Carolina Landscape Contractors' Licensing Board	
<b>2. Rule citation &amp; name:</b> 21 NCAC 28B .0801 PROBABLE CAUSE	
<b>3. Action:</b> <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
<b>4. Was this an Emergency Rule:</b> <input type="checkbox"/> Yes      Effective date: <input checked="" type="checkbox"/> No	
<b>5. Provide dates for the following actions as applicable:</b> a. Proposed Temporary Rule submitted to OAH: October 15, 2015 b. Proposed Temporary Rule published on the OAH website: October 21, 2015 c. Public Hearing date: November 5, 2015 d. Comment Period: October 22, 2015 to November 20, 2015 e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015 f. Adoption by agency on: December 3, 2015 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b> <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: SL2014-103, s.3(b). Effective date: August 1, 2015 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:	
<b>Explain:</b> Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.	

ADJ. HEARINGS

2015 DEC -4 PM 12:32

FILED

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

**Action taken:**

**Submitted for RRC Review:**

☐ Date returned to agency:

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1 21 NCAC 28B .0801 is adopted under temporary procedures as follows:

2  
3 **21 NCAC 28B .0801 PROBABLE CAUSE**

4 Upon a determination that there is probable cause to believe a violation of G.S. 89D or the rules of this Subchapter  
5 exists, the Board shall issue a Notice of Hearing pursuant to G.S. 150B-38(b) and (c). Any party served with a  
6 Notice of Hearing may file a written response pursuant to G.S. 150B-38(d).

7  
8 *History Note: Authority G.S. 89D-15(2); 89D-15(7); 89D-15(8); 150B-38;*  
9 *Temporary Adoption Eff. January 1, 2016.*  
10  
11

TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0802

**DEADLINE FOR RECEIPT: December 11, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 9 – replace “timely filed” with “timely”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

<b>1. Rule-Making Agency:</b> The North Carolina Landscape Contractors' Licensing Board	
<b>2. Rule citation &amp; name:</b> 21 NCAC 28B .0802 HEARINGS	
<b>3. Action:</b> <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
<b>4. Was this an Emergency Rule:</b> <input type="checkbox"/> Yes      Effective date: <input checked="" type="checkbox"/> No	
<b>5. Provide dates for the following actions as applicable:</b> a. Proposed Temporary Rule submitted to OAH: October 15, 2015 b. Proposed Temporary Rule published on the OAH website: October 21, 2015 c. Public Hearing date: November 5, 2015 d. Comment Period: October 22, 2015 to November 20, 2015 e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015 f. Adoption by agency on: December 3, 2015 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b> <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: SL2014-103, s.3(b). Effective date: August 1, 2015 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:	
<b>Explain:</b> Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.	

FILED  
 2015 DEC -4 PM 12:33  
 OFFICE OF  
 ADMINISTRATIVE  
 HEARINGS

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

info@nciclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

**Action taken:**

**Submitted for RRC Review:**

☐ Date returned to agency:

Print

Save

Reset

1 21 NCAC 28B .0802 is adopted under temporary procedures as follows:

2  
3 **21 NCAC 28B .0802 HEARINGS**

4 (a) Contested case hearings shall be conducted by a majority of the Board unless the Board requests the designation  
5 of an administrative law judge pursuant to G.S. 150B-40(e). The Board chairman shall serve as the presiding officer  
6 unless he or she is absent or disqualified, in which case the vice-chairman shall preside. Hearings shall be conducted  
7 pursuant to G.S. 150B-40.

8 (b) An affidavit seeking disqualification of any Board member, if filed in good faith and in a timely manner, shall  
9 be ruled on by the remaining members of the Board. An affidavit is considered timely filed if it is filed:

10 (1) Prior to the hearing; or

11 (2) As soon after the commencement of the hearing as the affiant becomes aware of facts that give  
12 rise to his or her belief that a Board member should be disqualified.

13  
14 *History Note: Authority G.S. 89D-15(2); 89D-15(8); 150B-38; 150B-40;*  
15 *Temporary Adoption Eff. January 1, 2016.*  
16  
17



TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0803

**DEADLINE FOR RECEIPT: December 11, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*What is the purpose of this Rule? To give notice that the Board will allow consent orders? Do you feel that you need to state this in light of the language in G.S. 150B-41? This Rule does not appear to meet the necessity requirement of G.S. 150B-21.9(a)(3).*

*Line 4 – replace “consider disposing” with “dispose”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

<b>1. Rule-Making Agency:</b> The North Carolina Landscape Contractors' Licensing Board	
<b>2. Rule citation &amp; name:</b> 21 NCAC 28B .0803 SETTLEMENT	
<b>3. Action:</b> <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
<b>4. Was this an Emergency Rule:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <b>Effective date:</b>	
<b>5. Provide dates for the following actions as applicable:</b> <ul style="list-style-type: none"> <li>a. Proposed Temporary Rule submitted to OAH: October 15, 2015</li> <li>b. Proposed Temporary Rule published on the OAH website: October 21, 2015</li> <li>c. Public Hearing date: November 5, 2015</li> <li>d. Comment Period: October 22, 2015 to November 20, 2015</li> <li>e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 13, 2015</li> <li>f. Adoption by agency on: December 3, 2015</li> <li>g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016</li> <li>h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:</li> </ul>	
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b> <ul style="list-style-type: none"> <li><input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare.</li> <li><input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: SL2014-103, s.3(b). Effective date: August 1, 2015</li> <li><input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change:</li> <li><input type="checkbox"/> A recent federal regulation. Cite: Effective date:</li> <li><input type="checkbox"/> A recent court order. Cite order:</li> <li><input type="checkbox"/> State Medical Facilities Plan.</li> <li><input type="checkbox"/> Other:</li> </ul> <p><b>Explain:</b> Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.</p>	

2015 DEC -4 PM 12:33  
OFFICE OF  
ADMINISTRATIVE HEARINGS  
FILED

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



**\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

Print

Save

Reset

1 21 NCAC 28B .0803 is adopted under temporary procedures as follows:

2  
3 **21 NCAC 28B .0803 SETTLEMENT**

4 The Board may consider disposing of any contested matter by consent order agreed to by the petitioner and  
5 respondent in that matter. The Board may approve or reject any proposal to dispose of a contested matter by  
6 consent.

7  
8 *History Note: Authority G.S. 89D-15(2); 89D-15(8); 150B-38; 150B-41(c);*  
9 *Temporary Adoption Eff. January 1, 2016.*  
10  
11

TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0804

**DEADLINE FOR RECEIPT: December 11, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 5 – delete “investigation or” – the Board has authority to issue subpoenas for discovery in accord with G.S. 150B-39(c), but not to issue subpoenas for “investigations.”*

*Line 11 – what does “full” mean? Why do you need this word?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015



# TEMPORARY RULE-MAKING FINDINGS OF NEED [Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

<b>1. Rule-Making Agency:</b> The North Carolina Landscape Contractors' Licensing Board	
<b>2. Rule citation &amp; name:</b> 21 NCAC 28B .0804 SUBPOENAS	
<b>3. Action:</b> <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
<b>4. Was this an Emergency Rule:</b> <input type="checkbox"/> Yes <b>Effective date:</b> <input checked="" type="checkbox"/> No	
<b>5. Provide dates for the following actions as applicable:</b> a. Proposed Temporary Rule submitted to OAH: October 15, 2015 b. Proposed Temporary Rule published on the OAH website: October 21, 2015 c. Public Hearing date: November 5, 2015 d. Comment Period: October 22, 2015 to November 20, 2015 e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015 f. Adoption by agency on: December 3, 2015 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b> <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: SL2014-103, s.3(b). Effective date: August 1, 2015 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:	
<b>Explain:</b> Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.	

2015 DEC -4 PM 12:33  
OFFICE OF  
ADMINISTRATIVE HEARINGS  
FILED

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



**\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

**Action taken:**

**Submitted for RRC Review:**

☐ Date returned to agency:

**Print**

**Save**

**Reset**

21 NCAC 28B .0804 is adopted under temporary procedures as follows:

**21 NCAC 28B .0804 SUBPOENAS**

(a) Pursuant to G.S. 150B-39, the Board may issue subpoenas for the appearance of witnesses or the production of documents or information, either at the hearing or for the purposes of investigation or discovery.

(b) After a notice of hearing in a contested case has been issued and served upon a licensee or, in a case concerning an application for licensure, the applicant, the respondent may request subpoenas for the attendance of witnesses and the production of evidence.

(c) Requests by a licensee or applicant for subpoenas shall be made in writing to the Board and shall include the following:

(1) the full name and home or business address of all persons to be subpoenaed; and

(2) the identification of any documents or information being sought.

Upon submission of a written request containing the information in Subparagraphs (1) and (2) of this Paragraph, the Board shall issue the subpoenas to the requesting party within three business days of the Board's receipt of the request.

(d) Subpoenas shall be served by the party requesting the subpoena as provided by the Rules of Civil Procedure, G.S. 1A, Rule 45. The cost of service, fees, and expenses of any witnesses or documents subpoenaed is prescribed by G.S. 150B-39.

*History Note: Authority G.S. 89D-15(2); 89D-15(8); 150B-39; 150B-40(c);*

*Temporary Adoption Eff. January 1, 2016.*



TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0805

**DEADLINE FOR RECEIPT: December 11, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*What is the purpose of this Rule? It merely refers to G.S. 150B-42. This Rule does not appear to meet the necessity requirement of G.S. 150B-21.9(a)(3).*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

The North Carolina Landscape Contractors' Licensing Board

**2. Rule citation & name:**

21 NCAC 28B .0805 DECISION OF THE BOARD

**3. Action:** ☒ Adoption ☐ Amendment ☐ Repeal

**4. Was this an Emergency Rule:** ☐ Yes ☒ No **Effective date:**
**5. Provide dates for the following actions as applicable:**

- a. Proposed Temporary Rule submitted to OAH: October 15, 2015
- b. Proposed Temporary Rule published on the OAH website: October 21, 2015
- c. Public Hearing date: November 5, 2015
- d. Comment Period: October 22, 2015 to November 20, 2015
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15, 2015
- f. Adoption by agency on: December 3, 2015
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: SL2014-103, s.3(b).  
Effective date: August 1, 2015
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

**Explain:**

Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.

2015 DEC -4 PM 12:38  
OFFICE OF  
ADMIN HEARINGS  
FILED

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

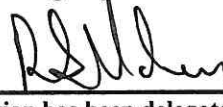
info@nciclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

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1 21 NCAC 28B .0805 is adopted under temporary procedures as follows:

2  
3 **21 NCAC 28B .0805      DECISION OF THE BOARD**

4 The form, content, and service of the Board's Final Decision in a contested case shall be prescribed by G.S. 150B-  
5 42(a). The Final Decision shall be served upon the parties as prescribed by that statute.

6  
7 *History Note:      Authority G.S. 89D-15(2); 89D-15(8); 150B-42;*  
8 *Temporary Adoption Eff. January 1, 2016.*  
9

TEMPORARY RULES  
REQUEST FOR TECHNICAL CHANGE

AGENCY: Landscape Contractor's Licensing Board

RULE CITATION: 21 NCAC 28B .0806

**DEADLINE FOR RECEIPT: December 11, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Lines 4-5 – At best, this Paragraph (a) restates G.S. 150B-3(c); at worst, it appears to violate other law by foreclosing hearings after the suspension. Either delete the Paragraph or replace it with “The Board may summarily suspend a license pursuant to G.S. 150B-3(c).”*

*Line 9 – delete this entire line. The Board cannot by rule decide an issue of law that is determined by a court of competent jurisdiction.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: December 9, 2015



# TEMPORARY RULE-MAKING FINDINGS OF NEED [Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

The North Carolina Landscape Contractors' Licensing Board

**2. Rule citation & name:**

21 NCAC 28B .0806 SUMMARY SUSPENSION

**3. Action:**

☒ Adoption

☐ Amendment

☐ Repeal

**4. Was this an Emergency Rule:**

☐ Yes

☒ No

Effective date:

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: October 15, 2015

b. Proposed Temporary Rule published on the OAH website: October 21, 2015

c. Public Hearing date: November 5, 2015

d. Comment Period: October 22, 2015 to November 20, 2015

e. Notice pursuant to G.S. 150B-21.1(a3)(2): October 15 2015

f. Adoption by agency on: December 3, 2015

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: January 1, 2016

h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: SL2014-103, s.3(b).  
Effective date: August 1, 2015
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

**Explain:**

Because of the recent effective date of SL 2014-103, s.3(b), August 1, 2015, the N. C. Landscape Contractors Licensing Board is adopting temporary rules necessary to regulate licensees who provide landscape contracting services governed by these laws.

FILED  
2015 DEC -4 PM 12:34  
OFFICE OF  
ADMINISTRATIVE HEARINGS

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

All landscape contractors who wish to conduct landscaping contracting work as defined in N.C. Gen. Stat. §89D-11 (effective August 1, 2015) must now be licensed by the Board and are required to maintain licensure. This recently established licensing Board does not yet have rules in place to implement these statutes. The Board has adopted temporary rules to remedy this situation and will begin the permanent rulemaking process in a timely manner.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Calvin Kirven

**Phone:**

919-266-8070

**E-Mail:**

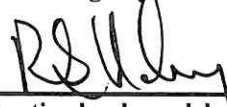
info@nclclb.com

**Agency contact, if any:**

**Phone:**

**E-Mail:**

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

**Typed Name:**

Scott Makey

**Title:**

Chairman

**E-Mail:** scott@oldmillstream.com

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

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**Reset**

21 NCAC 28B .0806 is adopted under temporary procedures as follows:

21 NCAC 28B .0806

(a) If the Board finds that the public health, safety, or welfare requires emergency action, pursuant to G.S. 150B-3(c), it may summarily suspend a license without a hearing or opportunity for the licensee to be heard.

(b) Upon the issuance of an order summarily suspending a license, the Board shall schedule a hearing to occur at the earliest practicable date. The order of summary suspension shall remain in effect until the proceedings are determined.

(c) An order of summary suspension is not a final agency decision.

*Authority* G.S. 89D-15(2); 89D-15(4); 150B-3(c);

*Temporary Adoption Eff. January 1, 2016.*