

## DESIGN GUIDELINES IN CENTRAL OREGON

THE FOLLOWING COMMUNITIES DESIGN GUIDELINES AND MUNICIPALITY CODES ARE INCLUDED IN THIS LIST:

Aspen Lakes, Awbrey Butte, Brasada Ranch, Broken Top, Caldera, City of Bend, City of Redmond, Crosswater, Highlands, North Rim, Northwest Crossing, Pronghorn, Ranch at the Canyons, River Meadows, River Rim, Shevlin Commons, Skyliner Summit, Sunriver, Tetherow

The definition of the practice of landscape architecture in Oregon

Landscape architect: A person engaged in the practice of landscape architecture. Landscape architecture or practice of landscape architecture: The performance of, or offer to perform, professional services that have the dominant purpose of landscape preservation, development and enhancement, including but not limited to reconnaissance, research, planning, landscape and site design, the preparation of related drawings, construction documents, specifications and responsible construction observation. Includes the location, arrangement and design of tangible objects and features that are incidental and necessary for landscape preservation, development and enhancement. Landscape preservation, development and enhancement: The preservation and aesthetic and functional enhancement of land uses and natural land features; location and construction of aesthetically pleasing and functional systems, approaches and settings for structures, roadways and walkways or other improvements for natural drainage and erosion control; design for trails, pedestrian systems, plantings, irrigation, site lighting, grading and drainage and other site features; investigation, selection and allocation of land and water resources for appropriate uses; feasibility studies; formulation of graphic and written criteria to govern the planning and design of land conservation programs; preparation, review and analysis of master plans for land use and development; production of overall site plans, plans for grading, drainage, irrigation and planting, and related construction details; development specifications, cost estimates and reports; collaboration in the design of roads, bridges and structures with respect to the functional and aesthetic requirements of the areas where the roads, bridges and structures are to be placed; negotiation and arrangement for execution of land area projects; and field observation of land area construction, restoration and maintenance.

The following list of landscape design criteria is listed in community guidelines:

Preservation of existing trees and native landscape, Enhancement of native landscaping, Irrigation, Firewise standards, Stormwater/Water Run-off from Impervious Surfaces/Grading and Drainage/Retention facilities, Significant site features/Native Rimrock/Natural Drainage Ways, Landscape Lighting, Fences/Decks/Pergolas/Outdoor Structures, Hardscape/Impervious Surfaces/Driveway/Paths/Patios, Materials Samples/Cutsheets/Construction Details, Grading/Retention/Berms/Swales, Plant selection and Planting Zones.

The following list is representative of the requirements for landscape design submittal in these communities:

1. Preliminary, Schematic or Conceptual Design

- a. Plan shall include property address/ boundaries and site plan/survey information, scale, north arrow, existing trees and indicate trees to be removed, topography or contours, significant site features like native rock outcrops, edges of building or construction impact, anticipated grade of proposed building or constructed feature, estimated quantity of stormwater from impervious surfaces and proposed area for retention, and designation of planting zones (example: interior or ornamental, transition or restoration, native area or preserved area, and defensible space for fire)
2. Final Landscape Plan/ Design Development Plan
    - a. Plan shall include: location, type and size of proposed plantings and required street trees, hardscape or impervious surfaces including: paths, patios, covered outdoor areas, driveways, roofs, etc., irrigation plan, materials board/cut sheets/samples/construction details, drainage arrows, stormwater calculations for 24 hour 100 year storm for all impervious surfaces and required retention facilities or alternative calculation dictated by HOA, proposed grading and retention, finished grades within 2' of structure/retaining wall height/materials and finished appearance, designated dimensions, dripline and elevation of trees to be preserved, landscape lighting (mostly night sky friendly), indicate how plan meets firewise/defensible space/ HB 360 criteria.

One can interpret that all landscape design in these communities constitutes the practice of landscape architecture.

There are two distinct design phases in these communities. The first phase is pre-construction where the design demonstrates alignment with design standards and guidelines set forth by the community or municipality.

The first phase can be quite involved with a great deal of adjusting the design to both meet the design standards, criteria and guidelines while also meeting the project budget. Phase one may require 40 plus hours of design.

The second phase is "show time" where rakes meet the soil. The design at this phase is responsive to actual site conditions and budgetary constraints at the time of installation. Phase 2 may be quick with the result of a very stripped down and simplified version of the first phase design. Phase 2 is what landscape contractors have been historically providing.

If landscape contractors can design with the intent to install- can they bill for their time to develop the design to the levels required in these communities including:

1. The project is a potential future job? What if the job falls through or they are not awarded the installation contract?
2. What can a landscape contractor design with the intent to install? Does the Oregon LA practice law prohibit or allow landscape contractors to provide and develop the design that meets the criteria required in these communities?
3. How does a landscape contractor maintain authority over the design of a project when they are not allowed to provide the full scope of design service?

I believe it is imperative for landscape contractors to maintain authority and control over the design of their projects.

1. The design criteria, standards and guidelines dictates the level of professionalism needed for the project.
2. The reality of rural Oregon is that few PLA's are available to meet these standards.
3. Landscape Contractors should be held accountable for their own design and install. Who is responsible when an implemented design stamped by an RLA fails in the field?
- 4.

## Maintaining Authority and Control Over Your Designs

(Please sign the OLCA sheet and provide your email)

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I am a licensed landscape contractor, owner of a licensed landscape business, studied landscape architecture at OSU, currently on the City of Bend Stormwater Advisory Committee, actively promote, sustainability through water conservation, stormwater management, rain garden design, rainwater harvesting and reuse for irrigation and permaculture.

I have been designing landscapes and irrigation systems professionally for 35 years.

A few years ago- I was investigated by OSLAB Oregon State Landscape Architecture Board to determine whether the professional services I performed were considered “practicing Landscape Architecture” and whether these services warranted fines levied against me or my business.

I was careful to not call myself a landscape architect because my understanding was that only licensed registered landscape architects could use that title. What I did not know at the time was that Oregon had recently transitioned from a “title law” to a “practice law” state. Suddenly the professional services my business was built on for 30 years were considered “the practice of Landscape Architecture” and I could no longer legally provide them professionally without becoming a licensed registered landscape architect. In spite of my education, training and experience I did not meet the eligibility requirements to take the LA licensing exam.

I shared my issue with the OLCB board in Salem and with OLCA both in Portland and Bend. The OLCB is in the process of crafting language with the intention to define the scope of acceptable professional landscape contracting services while protecting the public. The process involves negotiations with OSLAB and working with existing laws where professions of landscape architecture and design overlap with landscape contracting. Molly McDowell Dunston- Owner of North of South Landscapes and previously manager of Ewing Irrigation at Robal Rd. currently sits on the OLCB board and is an active leader on this ongoing issue. Molly has been actively working to advocate that irrigation design should remain within the legal design scope of a landscape contractor.

We are discussing this tonight because of a recent issue in Portland. I was notified of the issue by Amy Whitworth an active member of APLD who monitors and responds to legislation and issues between APLD designers and OSLAB. APLD (Association of Professional Landscape Designers). Amy and Molly are both advocates for our industry in the ongoing dialogue around legislation in Oregon.

OSLAB levied a fine against a landscape designer in Portland who designed a single family residential rain garden.

The designer is not a landscape contractor nor a landscape architect. OSLAB investigated and levied the fine because the design was considered to be the “practice of landscape architecture”.

Why does this affect landscape contractors? Following OSLAB’s investigation of my design/contracting business, OSLAB’s interpretation of the practice act was that if a landscape contractor offers to design with the intent to install- it would be considered acceptable and not the practice of landscape

architecture. The basis for the interpretation: If a design is presented to 3 landscape contractors so clearly that all 3 will build it the same way then it is considered a design that is the practice of landscape architecture. This interpretation is based on the prohibition of construction documents outside the practice of landscape architecture.

Plans or designs developed by designers need to remain conceptual in nature. Once notes are added to define the specifics of the plan- the plan is considered “the practice of landscape architecture”.

So what’s the problem?

For one thing- intellectual ideas have value. Experience in the field has value. Combining artistry, creativity and field experience is where landscape contractors excel. The idea that a landscape contractor can only design with the intent to install insinuates there is no value in the design...just the install.

Essentially one can interpret this as meaning landscape contractors can design for free but install professionally. If the contractor is not awarded the installation contract then the design is free.

Oregon’s LA practice law is quite restrictive and prohibitive to other professional design services within the landscape industry. Oregon’s LA law is worded in a way that is far reaching and encompasses other professional disciplines that have historically operated with impunity. Most other states have a similar law for landscape architecture while not restricting other professional disciplines that overlap.

For example:

**Washington State: (excerpted from a document prepared by an APLD member)**

The preparation of construction documents including planting plans, landscape materials, or other horticulture-related elements. [Landscape design on residential properties.](#)

Why do landscape contractors care and what’s the trend for design in the near future?

1. There are few licensed landscape architects in Oregon and many work for public entities and are not available to design residential or commercial projects. Especially outside of Portland. Why is it necessary to hire a licensed LA to design a project that does not require a permit (a sign that the design affects the public’s health safety and welfare)?
2. LA Licensing in Oregon is very restricted. While other states consider work experience to qualify to sit for the licensing exam- Oregon does not consider any amount of work experience unless it is “under the direct supervision” of a licensed registered landscape architect. Double whammy- very few licensed landscape architects equates to very few work experience opportunities under their direct supervision.
3. Current landscape design trends to meet market demand includes mandatory design standards. Examples: HOA Design Guidelines, Building Permit Design Criteria, Municipal Stormwater Design Performance Criteria, LEED Building and other sustainable design standards (see attached sheet). Who is going to provide this? What will the landscape contracting industry look like if licensed landscape architects are the only profession allowed to provide these design needs? Currently home designers, excavators, builders and architects routinely submit this info.

4. Accountability is confusing. Who is responsible if a licensed landscape architects planting plan and accompanied irrigation design is implemented as per plan by a licensed landscape contractor and there is failure. For example: Plants die because the irrigation system either doesn't work or the different plants need significantly different moisture within the same zone? Who pays to replace the plants?
5. Water issues are a driving force in our industry. Water issues may include: water conservation, irrigation efficiency, rainwater harvesting and reuse, stormwater management and raingardens, reuse of graywater for irrigation and much more. Our hands and intellectual design input will be in great need but perhaps now allowed. This is about whether we have value and can professionally offer services for which we are trained, experienced and poised to design.
6. Would you rather design these landscape infrastructure elements yourself or have a licensed landscape architect or engineer design them? Which makes the most sense to meet the greatest public demand?
7. Do landscape contractors want to retain authority over areas of design that may have significant liability attached? For example: stormwater management in residential landscapes. Does our license and liability insurance adequately cover us if a large storm event causes property damage? Do our contracts adequately cover us from others involved in the installation of the stormwater retention?

What action will ensure Landscape Contractors will maintain authority and control over their design now and in the future?

Are you willing to show support of defining acceptable parameters of design for landscape contractors?

Are you willing to join OLCA, offer direction, time, energy and \$\$ to support an effort to correct a law that is hostile to the rest of the landscape industry in Oregon?

Are you willing to sign a petition or write a letter showing your support for creating industry law that is based on equality and collaboration?

Do you want an exemption added to the existing law to more closely match other states with more collaborative approaches to interdisciplinary landscape professions?

Thank you for listening

Please make sure you sign the OLCA attendance sheet and your email address if you are interested in receiving more information regarding this subject.

**CENTRAL OREGON CHAPTER MEETING SEPTEMBER 22, 2015**  
**11 LANDSCAPE CONTRACTORS & 1 SUPPLIERS RESPONSES TO THE FOLLOWING QUERY**

**CURRENT OLCA MEMBER**                      YES **7**                      NO **5**

1. Does your business provide landscape design?                      YES **10**                      NO **2**
2. Do you want to stay informed about landscape design issues both locally and at the state level?  
YES **100%**

**PLEASE CONTINUE IF YOU ANSWERED YES ABOVE**

3. Is the design generally provided and developed by someone in your company?  
YES **9**                      NO **2**                      SOMETIMES **1**
4. Is there a fee for the design?                      YES **9**                      NO **2**                      SOMETIMES **1**
5. Does your company offer free design with the installation regardless of complexity or cost to your company?  
YES/SOMETIMES **3**                      NO **8**
6. Do you feel design is a service that has value to your company and to your clients?                      YES **100%**
7. Does your company install landscapes in communities with design guidelines?                      YES **100%**
8. If yes- Do you find the guidelines and standards require more design time to meet than a typical "in house" design?                      YES **10**                      NO **1**
9. Does your company install your own designs or do you bid project installations based on designs completed by others?                      INHOUSE DESIGN/INSTALL ONLY **4**                      BOTH **7**

**When your company installs a project designed by others:**

10. How often are significant adjustments to the plan needed prior or during construction due to budget, improper design or actual site conditions?
- Most of the time **4**                      About half the time **2**                      Adjustments are typical in the field **4**

**When your company designs and installs a project:**

11. How often are significant adjustments to the plan needed prior or during construction due to budget, improper design or actual site conditions?
- Most of the time **1**                      About half the time **1**                      Adjustments are typical in the field **8**