

# NCLCLB Enewsletter

Your source for North Carolina Landscape Contractor information.



HAPPY  
*Holidays*

## Focus On: Retaining Walls and the Law

Over the years there has been an increasing confusion and misinterpretation of section 89D-11 relative to retaining walls in the NC Landscape Contractors' Licensing Law ( N.C. General Statute 89D). Apparently, the wording in the original law was such that a puzzling grammatical interpretation of the language created, at best, uncertainty. The apparent primary focus of the debate centered around whether a retaining wall was "decorative" or "structural", although there has never been a formal classification of a "decorative" retaining wall as opposed to a "structural" retaining wall. It could be argued that a "decorative" retaining wall is "structural" and/or a "structural" retaining wall can be "decorative". It would seem that the issue has been only a matter of semantics.

Increasingly, local permitting authorities have been inadvertently circumventing the intention of the NC General Assembly and North Carolina law by establishing or interpreting standards that were more or less restrictive than the NC General Assembly intended. The confusion has caused considerable problems for licensed landscape contractors.

The original misinterpreted wording in the NC Landscape Contractors' Licensing Law read: *Engages in the construction of garden pools, retaining walls, walks, patios, **or other decorative** landscape features.* The misinterpretation was ignoring that retaining walls, walks, etc. were standalone features and not necessarily tied to "or other decorative" landscape features.

On October 3, 2023 Session Law 2023-134 was enacted by the NC General Assembly. In that law, on page 563, was a modification to Chapter 89D-11 (3)(e) of the Landscape Contractor's Licensing Law. The often misinterpreted clause, "**or other decorative...**" was deleted. The language of the Landscape Contractors' law now reads [*Engages in the*

construction of garden pools, retaining walls, walks, patios and landscape features.] This modification of the law went into effect retroactively as of October 1, 2023.

This change clarifies the original intention of the NC General Assembly to grant licensed landscape contractors the authority to build retaining walls in the course of their business regardless of the cost.

Needless to say, construction of retaining walls by licensed landscape contractors are to comply with the NC Landscape Contractors' Licensing Board Minimum Standards (21 NCAC 28B .0508 pertaining to "Walls"); NC Department of Insurance requirements, and State and local code. As a licensed landscape contractor, should you be questioned as to whether you are licensed to build retaining walls, regardless of the cost, you can refer them to the law, NC General Statute 89D, 89D-11 (3)(e) which may be found on the Board website under "LAWS/ENFORCEMENT" on the website menu bar.

This is great news for licensed landscape contractors.

[CLICK HERE TO DOWNLOAD ALL MINIMUM STANDARDS](#)

## Follow Leaf Disposal and Water Quality Protocols

It is important to follow proper collection and disposal of leaves this time of year. This includes keeping leaves, vegetation, and other landscape debris out of storm drains.

Additionally, the overapplication of pesticides, herbicides, and fertilizer can drastically affect our water quality and is subject to violations of municipality ordinances.

Keep you and your crews in compliance and from getting any possible violations.

You can find city, town, and county ordinances on these matters on their respective websites.

## Did You Know...

**...you can avoid complaints against you and your business** for not following the requirements in Administrative Rule 12 NCAC 28B .0501

### 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) in value shall be described in a written agreement. This agreement may be authored by either party and shall contain:

- (1) The business name, license number, business address, and telephone number of the licensed contractor;
- (2) The name and address of client or customer;
- (3) The address or location of work to be performed, if different from the client or customer's address;
- (4) The date of the proposal;
- (5) The description of the work to be performed;
- (6) The total value in lump sum, unit price, or time and material price;
- (7) The estimated time of completion unless already identified in an original prime contract, if applicable;
- (8) The terms of payment;
- (9) The terms of warranty (if any);
- (10) The terms of maintenance, including the party responsible for maintenance;
- (11) The signatures of all parties by individuals legally authorized to act on behalf of the parties;
- (12) Affixation of a seal described in G.S. 89D-12(d) or a statement that the licensed contractor is licensed by the Board and the current address and phone number of the Board; and
- (13) The date of signing. Contracts that are lump sum and have no breakout of cost

# Maintaining Your License



## Continuing Education Available for 2023-2024 Licensing Year

Landscape Contractor Licensees must complete seven (7) continuing education (CE) hours from August 1, 2023 - July 31, 2024.:

- Three (3) CEs must be technical (landscape)
- Two (2) CEs must be business
- The remaining two (2) credits can be technical or business.

**You must personally attend** the approved webinar/course/activity to obtain credit. **Filing false information is a violation of North Carolina law N.C.G.S.89D and can jeopardize your license.**

You can search the easy-to-use list of approved courses by course#, sponsor, date, hours of credit, or location.

[CLICK HERE to Search for Approved Education Classes](#)



## CE Audits

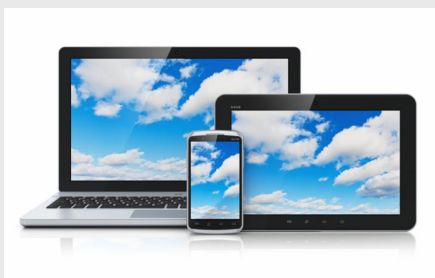
The Board is auditing licensees for continuing education (CE) compliance. License audits are conducted randomly.

To ensure your license is in compliance, make sure you maintain CE attendance records for two years following the processing date of the renewal application to which the CEs were applied.

Licensees selected for an audit shall submit all requested information to the Board within 21 calendar days after the date the licensee is notified.

Failure to maintain compliance with the Board's CE requirements shall result in the licensee's status being changed to inactive per 21 NCAC 28B .0403.

[CLICK HERE for Audit Requirements and Processes](#)



## NCLCLB Portal

Our portal allows NC Licensed Landscape Contractors to easily keep track of their continuing education credits, renewal status, license history, and personal information 24/7/365.



## Reinstatement

If you missed the license renewal deadline, reinstate today!

If you do not reinstate your license by July 31, 2024, as stipulated in

Your login id and password may be found in your renewal reminder email notifications. Contact the NCLCLB office at [info@nclclb.com](mailto:info@nclclb.com) or (919) 266-8090 if you need assistance with your login ID and password.

**LOG IN to the NCLCLB Portal**

N.C.G.S. § 89D-20\*, you will be required to submit a new application, pay all applicable fees and take the 3-part exam to become licensed again.

Need help?:  
[landscape.licensing@nclclb.com](mailto:landscape.licensing@nclclb.com) or (919) 266-8070.

**CLICK HERE to Reinstatement**



**CONTACT NCLCLB**

NC Landscape Contractors' Licensing Board | 3901 Barrett Drive, Suite 202, Raleigh, NC 27609

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