

## LANDSCAPE CONSTRUCTION PROFESSIONALS AND LANDSCAPE CONTRACTING BUSINESSES

(Generally)

**671.510 Short title.** ORS 671.510 to 671.760 may be cited as the Landscape Contractors Law. [1971 c.764 §1; 1973 c.832 §25]

**671.520 Definitions for ORS 671.510 to 671.760.** As used in ORS 671.510 to 671.760, unless the context requires otherwise:

(1) “Landscape construction professional” means an individual who for compensation or with the intent to be compensated performs or supervises activities requiring the art, ability, experience, knowledge, science and skill to:

- (a) Plan or install lawns, shrubs, vines, trees or nursery stock;
- (b) Prepare property on which lawns, shrubs, vines, trees or nursery stock is to be installed;
- (c) Install, maintain or repair ornamental water features and landscape drainage systems;
- (d) Maintain irrigation systems with the use of compressed air and as otherwise provided by the State Landscape Contractors Board by rule;
- (e) Install or repair landscape irrigation systems as provided by the board by rule; or
- (f) Plan, install, maintain or repair fences, decks, arbors, patios, landscape edging, driveways, walkways or retaining walls.

(2) “Landscape contracting business” means a business that for compensation or with the intent to be compensated arranges, submits a bid, or otherwise offers or contracts, for the performance of activities described in subsection (1) of this section.

(3) “Licensee” means a person that is licensed under ORS 671.510 to 671.760 as a landscape construction professional or landscape contracting business.

(4) “Nursery stock” means nursery stock:

- (a) As defined by ORS 571.005 other than stock grown for commercial resale or reforestation; or
- (b) As defined by the board by rule.

(5) “Ornamental water features” means fountains, ponds, waterfalls, man-made streams and other decorative water-related constructions as identified by the board by rule. [1971 c.764 §2; 1973 c.832 §26; 1975 c.757 §1; 1981 c.536 §22; 1983 c.452 §1; 1985 c.565 §91; 1987 c.414 §45; 1997 c.785 §1; 1999 c.32 §1; 2001 c.48 §1; 2005 c.609 §10; 2007 c.541 §11; 2009 c.483 §1; 2015 c.672 §6]

**671.522 Artificial turf.** (1) As used in this section, “sports field” means one or more areas of a property that total more than 30,000 square feet of artificial turf and are designed to be used primarily for sport or other athletic activities.

(2) Notwithstanding ORS 701.005 and 701.021, except as provided in this section, a landscape contracting business may prepare a site for, install and repair artificial turf at an outdoor location. This section does not authorize a landscape contracting business to prepare a site for, install or repair artificial turf at a sports field. [2015 c.672 §2]

**671.524 Landscape irrigation systems.** A landscape construction professional may prepare plans and drawings for a landscape irrigation system, including, but not limited to, plans and drawings that identify the positioning, number, type and model of pumps, piping, valves, sprinklers, nozzles emitters, filters, controllers and other components for the system, if the landscape construction professional:

(1) Holds a license issued by the State Landscape Contractors Board that authorizes the landscape construction professional to install irrigation systems; and

(2) Has any other specialized qualifications required by the board by rule. [2015 c.672 §5]

(Licensure)

**671.525 Applicant for landscape contracting business license required to be independent contractor; classes of licensees.** (1) An applicant for a landscape contracting business license must qualify as an independent contractor, under ORS 670.600, to be licensed with the State Landscape Contractors Board.

(2) The board shall establish two classes of independent contractor licensees:

(a) The nonexempt class is composed of the following entities:

(A) Sole proprietorships, partnerships, corporations and limited liability companies with one or more employees; and

(B) Partnerships, corporations and limited liability companies with more than two partners, corporate officers or members if any of the partners, officers or members are not part of the same family and related as parents, spouses, siblings, children, grandchildren, sons-in-law or daughters-in-law.

(b) The exempt class is composed of all sole proprietorships, partnerships, corporations and limited liability companies that do not qualify as nonexempt.

(3) All partnerships, corporations and limited liability companies applying for a landscape contracting business license must have a federal tax identification number.

(4) If a licensee who qualifies under subsection (2)(b) of this section hires one or more employees, or falls into any of the categories set out in subsection (2)(a)(B) of this section, the licensee is subject to penalties under ORS 671.997 and must submit proof that the licensee qualifies under subsection (2)(a) of this section.

(5) The decision of the board that a licensee is an independent contractor applies only when the licensee is performing work of the nature described in ORS 671.520 and 671.530. [1991 c.533 §6; 1997 c.337 §2; 2007 c.541 §12]

**671.527 Applicant for landscape contracting business license workers' compensation coverage.** (1) An applicant for a landscape contracting business license that qualifies under ORS 671.525 to be classified as a nonexempt independent contractor must provide workers' compensation insurance coverage for all employees of the landscape contracting business.

(2) An applicant for a landscape contracting business license that qualifies under ORS 671.525 to be classified as an exempt independent contractor, and that has entered into a contract with a worker leasing company or temporary service provider for the supplying of workers to the landscaping business, must verify that all leasing company or service provider employees supplied for use by the business are covered by workers' compensation insurance. As used in this subsection, "worker leasing company" and "temporary service provider" have the meanings given those terms under ORS 656.850. [2011 c.283 §2]

**671.530 Licensing requirements; use of title; scope of landscape construction professional license.** (1) A person may not operate as a landscape construction professional in this state without a valid landscape construction professional license issued pursuant to ORS 671.560.

(2) A person may not represent in any manner that the person is a landscape construction professional unless the person has a valid landscape construction professional license issued pursuant to ORS 671.560. The prohibition in this subsection includes, but is not limited to:

(a) Using the title of landscape contractor, landscape construction professional, landscape gardener or landscaper or any other title using a form of the word "landscape" that indicates or tends to indicate that the person is a landscape construction professional; and

(b) Using any sign, card or device that indicates or tends to indicate that the person is a landscape construction professional.

(3) A person may not operate as a landscape contracting business in this state unless the person has a valid landscape contracting business license issued pursuant to ORS 671.560.

(4) A person may not advertise or represent in any manner that the person is a landscape contracting business unless the person has a valid landscape contracting business license issued pursuant to ORS 671.560. The prohibition in this subsection includes, but is not limited to:

(a) Using the title of landscape business, landscaping business or landscape contracting business; and

(b) Using any title, sign, card or device that indicates or tends to indicate that the person is a landscape contracting business.

(5) A landscape maintenance business may use a form of the word “landscape” in the title of the business only if the title clearly indicates the maintenance nature of the business. For purposes of this subsection, the term “landscape gardening” does not indicate the maintenance nature of a landscape maintenance business.

(6) A landscape construction professional may perform landscaping work only while in the employ of a landscape contracting business licensed and bonded as required by ORS 671.510 to 671.760. If the landscape construction professional is the sole proprietor, the landscape construction professional must also obtain a license as a landscape contracting business. [1971 c.764 §3; 1973 c.832 §27; 1975 c.757 §2; 1979 c.840 §1a; 1983 c.452 §2; 1989 c.944 §1; 2003 c.659 §1; 2007 c.541 §13]

**671.540 Application of ORS 671.510 to 671.760.** (1) Except as provided in subsection (2) of this section, ORS 671.510 to 671.760 and 671.990 (2) do not apply to:

(a) Any federal or state agency or any political subdivision performing landscaping work on public property.

(b) Any landscape architect registered under ORS 671.310 to 671.459 and practicing as provided under ORS 671.310 to 671.459.

(c) Landscaping work performed by a landscape maintenance business if:

(A) The landscaping work is performed for a customer that in a calendar year receives primarily landscape maintenance services from the business;

(B) The value of all labor, materials or other items supplied for landscaping work at a job site does not exceed \$500 in a calendar year; and

(C) The landscaping work is of a casual, minor or inconsequential nature, as those terms are defined by the State Landscape Contractors Board by rule.

(d) Installation of fences, decks, arbors, driveways, walkways or retaining walls if performed by a person or business licensed with the Construction Contractors Board.

(e) Rough grading of plots and areas of land performed in conjunction with new or remodeling construction if performed by a person or business licensed with the Construction Contractors Board.

(f) Any owner of property, or employee of an owner of property, who contracts for landscaping work on the property to be performed by a person licensed under ORS 671.560. The exception provided by this paragraph does not apply to a person who, in pursuit of an independent business, performs or contracts for the performance of landscaping work with the intent of offering for sale before, upon or after completion of the landscaping work the property upon which the landscaping work is performed.

(g) Any landscaping work performed by a person on property that the person owns or in which the person has a legal interest. The exception provided by this paragraph does not apply to a person who, in pursuit of an independent business, performs or contracts for the performance of landscaping work with the intent of offering for sale before, upon or after completion of the landscaping work the property on which the landscaping work is performed.

(h) A residential general contractor licensed under ORS chapter 701 who performs landscaping work if the total value of the landscaping is less than \$2,500 per residential dwelling and the landscaping work is performed on residential property for which the contractor is under contract for the construction of a new dwelling. The exception provided by this paragraph does not apply to the performance of irrigation work by a residential general contractor. The State Landscape Contractors Board shall revise the amount specified in this paragraph every five years, beginning in 2003, based on changes in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor.

(i) A residential general contractor licensed under ORS chapter 701 who performs landscaping work on residential property that is directly related to local building code requirements or occupancy ordinances including, but not limited to, the placement of street trees. The exception provided by this paragraph does not apply to the performance of irrigation work by a residential general contractor.

(j) A person engaged in making plans or drawings for the selection, placement or use of plants or other site features, unless the plans or drawings are for the purpose of providing construction details and specifications.

(k) Use by a person other than a landscape construction professional of the title “landscape designer” when engaged in making plans or drawings described in paragraph (j) of this subsection.

(L) A person providing recommendations or written specifications for soil amendments or planting media if the recommendations or specifications are solely for the purpose of plant installation.

(m) A plumbing contractor licensed under ORS 447.010 to 447.156 when engaged in superintending installation work on piping for an irrigation system designed by a landscape contracting business or by a person registered under ORS 671.310 to 671.459.

(n) A plumbing contractor licensed under ORS 447.010 to 447.156 when engaged in superintending repair or maintenance work on piping for an irrigation system.

(o) A journeyman plumber licensed under ORS chapter 693 when performing an installation for a plumbing contractor described in paragraph (m) of this subsection or performing repair or maintenance work on piping for an irrigation system.

(p) An employee, as defined in ORS 657.015, of a residential general contractor licensed under ORS chapter 701 when performing work that the contractor may perform under paragraph (h) or (i) of this subsection.

(q) An employee of a licensed landscape contracting business when performing work for the business under the direct supervision of a licensed landscape construction professional.

(r) An employee of a worker leasing company or temporary service provider, both as defined in ORS 656.850, when performing work for a licensed landscape contracting business under the direct supervision of a licensed landscape construction professional.

(2) ORS 671.530 (2), (4) and (5) apply to a person described under subsection (1) of this section. [1971 c.764 §4; 1973 c.832 §28; 1979 c.840 §2; 1981 c.536 §17; 1983 c.452 §3; 1997 c.785 §2; 1999 c.32 §2; 1999 c.402 §10; 2001 c.49 §1; 2001 c.660 §54; 2003 c.14 §424; 2003 c.659 §2; 2005 c.609 §11; 2007 c.541 §14; 2007 c.836 §50; 2009 c.483 §§2,3; 2019 c.57 §32]