



Defining a Bona Fide Contractor

Landscape / Hardscape / Irrigation

www.mnla.biz

651-633-4987

The Minnesota Nursery & Landscape Association provides the following information to wholesale suppliers and consumers as a set of consistent guidelines for identifying legitimate landscape professionals who install, design or maintain landscape features such as plants, paver patios, retaining walls, and irrigation systems.

General Definition of a Landscape Contractor

A "landscape contractor" is any person or entity who for compensation engages in the business requiring the art, experience, ability, knowledge, science and skill to design, construct, install, plant, repair and maintain gardens, lawns, shrubs, vines, bushes, trees and other vegetation including the grading and preparation of plots and areas of land for environmental or aesthetic treatment and arrangement; or who constructs or installs garden pools, fountains, retaining walls, patios, fences, walks, and drainage. Specialties within this designation include design, lighting, hardscapes, management, gardening services, and lawn care.

General Definition of a Hardscape Contractor

A "hardscape contractor" is a any person or entity who for compensation engages in the business requiring the art, experience, ability, knowledge, science and skill to design, construct, install, repair and maintain garden pools, fountains, retaining walls, patios, fences, walks, and drainage. By MNLA's definition, all hardscape contractors are landscape contractors, although not all landscape contractors are hardscape contractors.

General Definition of an Irrigation Contractor

An "irrigation contractor" is any person or entity who for compensation engages in the business requiring the art, experience, ability, knowledge, science and skill to design, construct, install, manage, repair, maintain or audit landscape irrigation systems.

You are an independently established contractor if you meet 4 out of the 6 below:

- Maintain a business location that is (a) separate from the business or work location of the service recipient; or (b) is in a portion of their own residence that is used primarily for business.
- Bear the risk of loss, shown by factors such as:
 - i. Entering into fixed price contracts;
 - ii. Being required to correct defective work;
 - iii. Warranting the services provided; or
 - iv. Negotiating indemnification agreements.
- Purchase at least \$500,000 of general liability insurance; performance bonds, or errors and omissions insurance.
- Provide contracted services for two or more different persons within a 12-month period, or routinely engage in business advertising, solicitation or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.
- Make a significant investment in the business through means such as:
 - a. Purchasing or leasing tools or equipment necessary to provide the services;
 - b. Paying for the premises or facilities where the services are provided;
 - c. Paying for licenses, certificates or specialized training required to provide the services. (applicable licenses are listed on following page)
 - d. Maintain membership in a professional organization such as the Minnesota Nursery & Landscape Association, the American Nursery & Landscape Association; the Professional Landcare Network; the Irrigation Association; the Interlocking Concrete Pavement Institute; the National Concrete Masonry Association; the Tree Care Industry Assoc.; the Association of Professional Landscape Designers or the Association of Outdoor Lighting Professionals.
- Have the authority to hire and fire other persons that provide assistance in performing the services.

*These guidelines have been created by the Minnesota Nursery & Landscape Association, including its Landscape Contractors Committee, Hardscapes Committee, and Irrigation Industry Committee. However, the guidelines are not legal definitions. www.mnla.biz. 651-633-4987.

Legal Requirements for Landscape / Hardscape / Irrigation Contractors

- Comply with all government mandated environmental requirements.
- Comply with all applicable local, state and federal requirements regarding materials, methods of work, and disposal of excess and waste materials.
- Obtain and pay for all required inspections, permits, and fees. Provide notices required by governmental authorities.
- Locate and identify existing underground and overhead services and utilities within contract limit work areas. In Minnesota, contact Gopher State One Call at 651-454-0002 or 800-252-1166. Provide adequate means of protection of utilities and services designated to remain.

Legal Requirements and Licenses specific to Landscape Contractors

- Buy plants from certified suppliers. Minnesota state law requires that all plants sold as nursery stock in the state must be inspected and certified by the Minnesota Department of Agriculture (MDA) or respective department at the state of origin. Trees or perennials dug from the wild may not be sold or installed as nursery stock. A landscape contractor who sells (even with no net profit) and installs plants is required to hold a Nursery Stock Dealer Certificate issued by the MDA. The only exception is if the contractor is hired solely as construction or installation labor on a project. Contact the Nursery Inspection Program at 651-201-6507 with questions or to obtain an application form.
- Use phosphorus-free fertilizer. Minnesota state law prohibits the application of fertilizer containing phosphorus to lawns except when applying phosphorus as a starter nutrient when establishing new lawns via seeding or sodding; or except when an accredited soil test demonstrates a need for phosphate nutrients. Help protect lakes from algae growth by using no-phosphorus fertilizer and by sweeping up grass clippings and collecting leaves and animal waste.
- Employ licensed pesticide applicators. Minnesota state law requires that all persons applying lawn care pesticides commercially must have a pesticide applicator license. Licensed applicators employ best management practices to protect the environment. Contact MDA at 651-201-6546.

Legal Requirements specific to Irrigation Contractors

- Install rain sensing technology with new landscape irrigation systems. Minnesota state law requires all newly-installed automatically operated landscape irrigation systems to include technology that inhibits or interrupts operation of the landscape irrigation system during periods of sufficient moisture. A "rain sensor" will pay for itself in water savings.

Licenses specific to Irrigation Contractors and Landscape Contractors who specialize in Low Voltage Lighting

- Landscape irrigation contractors and landscape contractors specializing in low voltage lighting shall hold a Technology System Contractor license. Minnesota state law requires that companies who install low voltage wiring as part of an irrigation system or landscape lighting system hold a Technology System Contractor (TSC) license and that each company must have licensed Power Limited Technician (PLT) on staff. An alternative is to sub-contract the electrical portion of this work to a TSC or to hire a licensed electrician to supervise the work. Contact the Minnesota Department of Labor & Industry at 651-284-5064 or email DLI.Electricity@state.mn.us