

Nursery Licensing – Frequently Asked Questions



Q: What is “nursery stock”?

A: Nursery stock means “plants and plant parts that can be propagated or grown, excluding seeds, sod, cranberry cuttings, annuals and evergreens grown for eventual harvest and sale as Christmas trees.” Therefore; nursery stock would include bulbs, shrubs, trees, and perennials. Basically, it is any plant that can overwinter in Wisconsin.

Q: What about the products that are excluded as nursery stock?

A: Christmas trees are covered under a Christmas Tree Grower License. A nursery license is not required for annuals, cranberry cuttings or sod. If you are growing sod, and would like more information about the Turf & Sod Program, please contact Liz Meils at 608-224-4572. If you are labeling seed, contact Greg Helmbrecht at 608-224-4596 for more information regarding the Seed Labeler’s Licensing Program. You do not need a license with the Department to sell annuals, cut flowers, vegetables or annual herbs.

Q: What, exactly, is the difference between the license types?

A: Nursery Dealer - An applicant who buys nursery stock from a wholesaler or distributor, and re-sells the nursery stock. The nursery stock is usually sold that year, and is not split, propagated, re-potted, planted in the ground, or changed from the way it was purchased. A nursery dealer can also be someone like a landscaper who purchases, re-sells and installs nursery stock.

Nursery Grower - An applicant who grows, plants, splits, or propagates nursery stock. This can be from seeds, seedlings, or adult plant material. The nursery stock is usually held at the grower’s location for at least a year. A nursery grower is usually someone who has fields, but it can also include applicants who grow plants in greenhouses or in containers.

Christmas Tree Grower - An applicant who grows and maintains evergreen trees for eventual sale as Christmas trees.

Q: I sell evergreen trees for both landscaping and for sale as Christmas trees. What license(s) do I need?

A: You would need both a Nursery Grower License for the trees sold for landscaping, and a Christmas Tree Grower License for the Christmas trees sold. You would calculate your fees for each license based on only the sales of each type of tree sold. This way, you are not overpaying or paying twice to license the same trees.

Q: I own a field that another person leases to grow Christmas trees. I do not maintain the evergreens grown there. I have nothing to do with the Christmas trees other than that I own the leased land. Do I need to hold the Christmas Tree Grower License, or does the person who takes care of the trees need to hold the license?

A: The person who maintains the evergreen trees that will eventually be sold as Christmas trees needs to hold the license.

Q: In the past, I held a Nursery Grower License and was able to sell Christmas trees under this license. Can I still do this?

A: Not under a single license. You would now need to obtain a Christmas Tree Grower License as well as a Christmas Tree Grower License.

Q: How do I calculate my fees if I am applying for both a Nursery Grower License and Nursery Dealer License?

A: You would only use the sales of nursery stock that you grew last year to calculate the fees of the Nursery Grower License. You would use only the purchase amount of nursery stock that you bought for re-sale last year to calculate the fees for the Nursery Dealer License. Remember when calculating your license fees to NOT include the sales or purchases of annuals, cut flowers, vegetables, mulch, stone, or other supplies. If you are a first time applicant, you may use your “best faith estimate” of the upcoming year’s sales or purchases of nursery stock.

Q: I had nursery sales of less than \$250.00 last year. Does that mean that I do not need a Nursery Grower License this year?

A: No. If you plan to sell more than \$250.00 in nursery stock that you grew this year, then you need to obtain a license. Your previous year’s sales only help you to determine the cost of your license, not whether or not you need one. If you know for sure that you will not have more than \$250.00 in sales this year, then you do not need a license this year.

Q: Can I get a Plant Health Certificate without a license?

A: Yes. If your sales of nursery stock for last fiscal year were under \$250 and you are not planning on having more than \$250 in nursery sales for this year, then you are not required to obtain a nursery license and you will not be issued one. However; if you need to ship plant materials out of Wisconsin, you may still apply for a Plant Health Certificate (PHC), and may pay the regular fee of \$50.00 for the certificate. Simply complete a nursery license application as usual, indicate in Section 6 that no license is needed, and write "\$50.00" in the fee box in Section 6 next to the type of PHC. Enclose your application and payment in the return envelope, or send to: WDATCP, Box 93479, Milwaukee WI 53293-0479.

Q: When will I receive my PHC?

A: Nursery stock PHC's are issued and mailed after spring inspections, and the Christmas Tree PHC's are usually issued and mailed in the autumn. Most nursery stock PHC's are sent out in March-April, and most Christmas Tree PHC's are sent out in September.

Q: How do I apply for a PHC?

A: You may apply for a PHC in Section 6 on your 2011 license application form. (Just above the "Total Amount Due" heading.) Add the \$50.00 PHC fee to your applicable license fees and send all forms, attached sheets, if any, and payment to: WDATCP, Box 93479, Milwaukee WI 53293-0479. You may also apply by calling 608-224-4574 at any time of year.

Q: I am a Nursery Dealer who holds a few of my nursery stock plants over winter. Do I need a Nursery Grower License?

A: No. It is acceptable for Nursery Dealers to hold some stock over winter, or even to "heel-in" the stock for the winter. (Heeling-in means to place a small amount of dirt over a plant, keeping the nursery stock shallow and not fully rooting the plants. This keeps the plants from drying out during the storage time, and is not considered growing or propagation, but merely keeping the nursery stock alive.)

Q: Do I need a Christmas Tree Grower License to just buy and re-sell Christmas trees?

A: No. You only need the Christmas Tree Grower License if you are growing and selling Christmas trees. You do not need any license to buy and re-sell Christmas trees.

Q: Now that I need another license, do I need to resubmit my Social Security information for a new nursery license when I already gave it for the first license I obtained?

A: No. You should not need to resubmit this information if it is already on file and encrypted in our system.

Q: My wife and I are applying together as partners, and I checked the partnership box as our business type. Do I need to supply more information? And, have I done this correctly?

A: The partnership box is for legally formed partnerships only. Two married persons applying for a license would still apply as joint applicants. Only married couples can apply jointly. Make sure to list both names on the form, and send each applicant's Social Security information when first applying or changing your applicant in any way. Legally formed partnerships will have to provide the first and last page of a legally drafted partnership agreement as documentation. (Pages with partnership name, applicants and signatures.)

Q: I sell evergreen wreaths or roping. Do I need any of the nursery licenses?

A: No. You are not required to hold a license for this type of business, but many people who ship out of state will still need a Plant Health Certificate (PHC) for this.

Q: Do I need a license if I replant cuttings from my own plants?

A: Yes. If you propagate, reproduce, split, or grow nursery stock either from cuttings, bulbs, splittings, seeds or seedlings, and your annual sales exceed \$250, you need a Nursery Grower License.

Q: I don't have fields. I have all my plants in containers and in a greenhouse. Do I still need a license? And if so, how do I list my "acreage" on the form when I have no acres?

A: Yes. You still need a license if you grow and sell nursery stock. Section 5 of the 2009 Nursery Grower License application lists items that you could grow and an area to list the number of acres for each item. If you have container stock or a greenhouse, you can list the number of acres as .001.

Here is a table of conversions to help you:

¾ acre= .75
½ acre= .50
¼ acre= .25
1/8 acre= .125
1/16 acre= .0625

Q: How do I know which licenses I need?

A: You **need** a Nursery Grower License to grow and sell more than \$250.00 annually of:

Bulbs	Trees	Fruit trees	Rhizomes	Shrubs	Perennial herbs
Perennials	Aquatic plants	Native grasses			

You **do not** need a Nursery Grower License to grow or sell any amount of:

Annuals	Fruits	Vegetables	Most herbs	Cut flowers
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You **need** a Nursery Dealer License if you **buy** more than \$250.00 annually for re-sale: (And if you **install** any of the following for landscaping!)

Bulbs	Trees	Fruit trees	Rhizomes	Shrubs	Perennial herbs
Perennials	Aquatic plants	Native grasses			

You **do not** need a Nursery Dealer License to buy and re-sell any amount of:

Annuals	Fruits	Vegetables	Most herbs	Cut flowers
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You **need** a Christmas Tree Grower License to **grow and sell** more than \$250.00 annually of:

Evergreen trees for eventual harvest and sale as Christmas trees
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You **do not** need a Christmas Tree Grower License to grow and sell, or buy and re-sell any amount of:

Evergreen wreaths	Evergreen roping	Evergreen cuttings
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You **do not** need a Christmas Tree Grower License to **buy and re-sell** any amount of:

Cut Christmas trees

Q: I cannot read legal jargon. What does the nursery law say in plain English?

A:

Definitions -

- "Christmas Tree Grower": a person who grows evergreens that will be sold as Christmas trees.
- "Nursery": a place in Wisconsin where a person grows or propagates nursery stock for sale.
- "Nursery Grower": someone who operates a nursery, and grows or propagates nursery stock. This includes stock grown from seed, seedlings, in containers, in greenhouses, in plots, in fields, or cuttings.
- "Nursery Dealer": anyone who purchases nursery stock for resale. This includes landscapers who supply and install nursery stock.
- "Nursery Stock": any plant or plant part that grown or propagated and is not seeds, sod, cranberry cuttings, annuals, or Christmas trees. In plain English, this would basically be any plant that can live over a winter in Wisconsin.
- "Officially Inspected Source": a licensed Nursery Grower or Nursery Dealer in Wisconsin, or a source outside of Wisconsin that the Department recognizes.

Requirements -

- **Get a license if you need one.** Nursery Dealers, Nursery Growers and Christmas Tree Growers are required to obtain an annual license from the Department each year if they are not exempt. (See exemptions.) Nursery licenses expire on February 20th each year. Licenses are nontransferable.
- **Use our forms, please.** License applicants must apply for a license on a form provided by the Department.
- **Complete your application.** Applicants must provide the following:
 1. Legal name
 2. Address
 3. Any other name under which the applicant does business
 4. The address of each location where nursery stock is found, grown or held
 5. License fees, any applicable late fees, any applicable surcharges
 6. Any other information reasonably required by the Department for licensure
 7. Any new fields, holding areas, growing areas, sales locations, and heeling-in grounds
- **Keep good records.** It is required for nursery license applicants to retain records of the receiver, quantity and type of nursery stock in shipments for at least 3 years. These records should be made available to the Department upon request.
- **Label it.** Retail nursery stock must contain the common or botanical name of the nursery stock.
- **Don't buy nursery stock from unlicensed sources, and don't accept unlabeled shipments.** Nursery Growers and Nursery Dealers may not ship out or accept shipments of nursery stock unless they are labeled with the name and address of the seller or distributor, and certification that they are an officially inspected source. Nursery licensees must immediately report all unlabeled shipments to the Department.
- **Take care of your plants.** Nursery Growers and Nursery Dealers must maintain the facilities or grounds where all nursery stock is held for sale, to ensure the healthy condition of nursery stock prior to sale.
- **Don't sell sick or infested plants.** Nursery Dealers and Nursery Growers must make reasonable examinations of their nursery stock to be sure that it is free from injurious pests or diseases, and that it is capable of reasonable growth.

Fees-

A surcharge equal to one year's license fee is required when the Department determines that any nursery applicant was actively operating as an unlicensed Nursery Dealer, Nursery Grower or Christmas Tree Grower 365 days before an application was submitted to the Department.

Nursery Dealer fees are based on the applicant's gross annual purchases of nursery stock during the previous fiscal year. If it is the applicant's first year in business, they must make a good faith estimate of the purchases for the year in which they are applying.

Nursery Grower and Christmas Tree Grower License fees are based on the applicant's gross annual sales of nursery stock during the previous fiscal year. If it is the applicant's first year in business, they must make a good faith estimate of the sales for the year in which they are applying.

Exemptions-

- An applicant does not need a nursery license if their retail sales of nursery stock total less than \$250 annually.
- An applicant does not need a nursery license if they sell nursery stock for the benefit of a nonprofit organization, for no longer than 7 consecutive days.

Recommendations For Nursery Dealers:

- **Make sure you have good sources.** Nursery Dealers may not buy, sell, hold, or offer to sell nursery stock from anyone other than an officially inspected source.
- **Be honest.** Nursery Dealers may not misrepresent that they are a Nursery Grower or vice versa.

Recommendations for both Nursery Dealers and Nursery Growers:

- **Don't spread diseases or pests!** Nursery Dealers and Nursery Growers may not sell, offer for sale, or distribute nursery stock that they know, or have reason to suspect, is infested with any plant pests or diseases that could be spread to other plants.
- **Only sell healthy plants.** Nursery Dealers and Nursery Growers may not sell, offer for sale, or distribute plants that they know or suspect will not survive or grow.
- **Be honest.** Do not make false claims in advertising or sale of your nursery stock. Make sure that the name, variety, origin, grade, quality or hardiness are exactly what you represent them to be.
- **Be forthright.** Do not conceal any nursery stock to avoid inspection by the Department, do not falsify any records or make any misleading statements to the Department.

Inspections-

The Department may inspect the premises in which you grow, hold, heel-in, or sell your nursery stock or Christmas trees.

Orders-

An authorized agent of the Department can order a Nursery Grower or Nursery Dealer to do any of the following:

1. Temporarily hold nursery stock until inspection.
2. Remedy any violations of Wis. Stats regarding nursery stock.
3. Refrain from importing weeds or pests that could harm the environment in Wisconsin.
4. Permanently withhold nursery stock from sale or distribution if the sale or distribution goes against Wisconsin Statutes or department orders regarding nursery stock licensure.
5. Destroy or return, without compensation, any nursery stock that is sold or distributed which may violate Wisconsin Statutes or department orders, if the violation cannot be remedied otherwise.

Hearings-

Any person, who has been issued an order by the Department, can request an informal hearing regarding the order within 10 days, unless the recipient of the order agrees to a later date. If a contested matter is not resolved at the informal hearing, the recipient of the order is entitled to a class 2 contested case hearing under Ch. 227, Wis. Stats.

Reciprocal Agreements-

The state of Wisconsin has reciprocal agreements with other states. This means that other states in the US will recognize you as an officially inspected source if you hold a valid Wisconsin Nursery Grower License, Nursery Dealer License or Christmas Tree Grower License, and that the Department may recognize licensed sources of nursery stock in other states as officially inspected sources.