



VIA EMAIL ONLY

Governor Tony Evers
Office of the Governor

March 25, 2020

RE: Request Landscape Exemption from Wisconsin COVID-19 Shelter-in-Place Order

Dear Governor Evers:

The Wisconsin Green Industry contributes over 2.9 billion dollars to the WI economy that includes over 4,900 businesses with over 43,000 workers.

The Wisconsin Chapter of the American Society of Landscape Architects, Wisconsin Landscape Contractors Association, and the Wisconsin Nursery and Landscape Association members are committed to doing our part to combat the coronavirus, or COVID-19, in Wisconsin in a responsible and careful manner. We were very disappointed to see that segments of the landscape profession were deemed not to be essential in the Governor's Safer at Home FAQ document.¹

With all due respect, we believe this decision is not in alignment with federal guidance on essential services as outline in the CISA memo², nor with decisions made in neighboring states or states that have seen fit to explicitly mention landscaping services.

The purpose of this memo is to outline the rationale for including landscape contractors as members of the list of essential businesses.

According to the CISA memo the following businesses are essential:

Workers such as plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences³

Services performed by landscape contractors go well past the obvious weekly maintenance of lawns and flower beds.

¹ <https://evers.wi.gov/Documents/COVID19/Safer%20at%20Home%20FAQ%203.24.20.pdf>

² <https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce>

³ <https://www.cisa.gov/sites/default/files/publications/CISA-Guidance-on-Essential-Critical-Infrastructure-Workers-1-20-508c.pdf> pp.9

- Landscape maintenance contractors are responsible for removal of trash and debris that gathers and attract disease-causing vermin, as well as clearing pathways for safe passage.
- Landscape contractors are quite often responsible for snow and ice removal at both residential and commercial sites. While it is early spring, chances are that accumulating snow can still occur for another month.
- Landscape contractors are also tasked with performing pesticide applications to mitigate mosquito, flea and tick infestations – all of which are well known vectors for devastating human disease such as West Nile Virus, Lyme Disease and a host of others.
- Landscape contractors are keeping public and private pathways free from obstruction and potential hazard.
- Landscape contractors removing hazardous trees from roadways and structures and are reducing other overhead hazards from wind effects.

Without the assurance of being an essential business, landscape contractors will be forced to lay off employees and not be capable of performing these important tasks.

As the language of the memo invites other service providers to be included in this list, we can turn to other government agencies to contemplate what those businesses might be. The U.S. Bureau of Labor Statistics gathers like occupations together in the Building and Grounds Clearing and Maintenance Occupations Group.⁴ This major group comprises the following occupations:

- First-Line Supervisors of Housekeeping and Janitorial Workers
- First-Line Supervisors of Landscaping, Lawn Service, and Groundskeeping Workers
- Janitors and Cleaners, Except Maids and Housekeeping Cleaners
- Maids and Housekeeping Cleaners
- Building Cleaning Workers, All Other
- Pest Control Workers
- Landscaping and Groundskeeping Workers
- Pesticide Handlers, Sprayers, and Applicators, Vegetation
- Tree Trimmers and Pruners
- Grounds Maintenance Workers, All Other

It is our contention that there is sufficient overlap between the CISA memo and the BLS grouping to logically conclude that landscape contractors and overall services can legitimately qualify to be listed under the “other service provider” heading.

Indeed, using this logic, neighboring states have concluded that landscape contractors are essential. For instance, the State of Illinois concluded that:

“Many landscape projects will fit under an exemption such as construction, agriculture, or public works. Outdoor landscape projects generally will provide for good social distancing that poses little

⁴ <https://www.bls.gov/oes/current/oes370000.htm>

risk of transmission, but it still is important to ensure the ability to wash or sanitize hands and take other precautions”⁵

Indiana also relied upon CISA guidance in establishing their own guidance, concluding:

“Building, construction, and other trades, including, but not limited to, plumbers, electricians, exterminators, operating engineers, cleaning and janitorial staff for commercial and governmental properties, security staff, HVAC, painting, moving and relocation services, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, Essential Activities, and Essential Businesses and Operations.”⁶

Other states have reached similar conclusions. For example, New York issued guidance stating the following:

“For purposes of Executive Order 202.6/PAUSE Executive Order, "Essential Business" states “agriculture/farms,” which includes the horticulture industry. As outlined in Agriculture and Markets Law Article 25-AA Section 301, horticulture is a key component of agriculture and New York State farms.⁷

In Georgia, Commissioner of Agriculture, Gary Black, said in a press release outlining his state’s critical infrastructure:

“Georgia is blessed to have an incredibly diverse agricultural sector that includes everything from food producers and processors to landscape and green industries,” Black said. “We encourage local governments and decision makers to consider the central role all these industries and businesses play in our state and local economies as they make key decisions during this response.”⁸

These examples are but a few of many that we are aware of that have come forward in the past few days. In fact Wisconsin is the ONLY state to date that has deemed landscape services as non-essential. It’s quite clear that the health and safety of all Wisconsinites is protected and enhanced when landscape contractors are allowed to go about their tasks.

That said, landscape contractors are mindful and are prepared to follow any and all public safety guidance necessary such as social distancing to protect themselves and the public from the proliferation of COVID-19, including, but not limited to, the Guidance on Preparing Workplaces for COVID-19 as published by the Occupational Safety and Health Administration.⁹

⁵ <https://www2.illinois.gov/dceo/SmallBizAssistance/Documents/Essential%20Business%20Checklist3-22.pdf>

⁶ <https://www.in.gov/coronavirus/2496.htm>

⁷ <https://agriculture.ny.gov/system/files/documents/2020/03/guidanceforthehorticultureindustry.pdf>

⁸ <https://blog.landscapeprofessionals.org/wp-content/uploads/2020/03/3-19-20-Agriculture-Recognized-as-Critical-Infrastructure-During-COVID-19-Response.pdf?fbclid=IwAR1psLnmcX1GUylsaJhKIA81q632fUJIH8jOhszSUthldObiyhXNMKZ-PQ>

⁹ <https://www.osha.gov/Publications/OSHA3990.pdf>

We would greatly appreciate the reversal of the decision outlined in the FAQ document and a definitive statement of the essential nature of the landscape profession as we all work together to overcome this public health crisis.

Respectfully,

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