

CHAPTER 7-04-02 NURSERIES

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7-04-02-01. Definitions.

Repealed effective July 1, 2019.

7-04-02-02. Shipping tag required.

Repealed effective January 1, 1988.

7-04-02-03. License to be posted.

The nursery license must be posted conspicuously in each place of business. A person offering nursery stock for sale from a vehicle shall have the license in that vehicle.

History: Amended effective January 1, 1988.

General Authority: NDCC 4.1-22-02

Law Implemented: NDCC 4.1-22-06

7-04-02-04. Labeling of nursery stock.

1. No person may sell or offer for sale any nursery stock which is not securely labeled in accordance with the "International Code of Nomenclature for Cultivated Plants" with the complete correct botanical or approved recognized common name as recognized by the latest edition of one of the following:
 - a. Hortus Third, Liberty Hyde Bailey Hortorium.
 - b. Manual of Woody Landscape Plants and Dirr's Encyclopedia of Trees and Shrubs, Michael A. Dirr.
 - c. Hilliers' Manual of Trees and Shrubs.
 - d. Manual of Cultivated Conifers, Den Oudem and Boon.
 - e. Plant names recognized and accepted by AmericanHort cultivar.
 - f. Plant-name listings of well-recognized, nonprofit horticultural societies and organizations.
2. Fruit trees, evergreens, shade trees, flowering trees, and shrubs must be labeled as to variety or cultivar.

3. All collected wild plants offered for sale must be labeled "collected from the wild" unless the stock has been grown under cultivation for at least one year.
4. The statement "nonhardy in North Dakota" must be easily visible to the consumer and printed in minimum twelve-point font. The commissioner's nonhardy list must be updated and accessible on the department website.

History: Amended effective August 1, 1978; January 1, 1988; July 1, 2019.

General Authority: NDCC 4.1-22-02

Law Implemented: NDCC 4.1-22-07

7-04-02-05. Storage and display requirements.

All nursery stock offered for sale must be stored and displayed as follows:

1. Roots of balled and burlapped stock must be kept moist at all times and should be kept in sawdust, shingle tow, peat, sphagnum moss, or other nonphytotoxic moisture-holding material of sufficient depth to cover one-half of the ball of earth.
2. Container stock must be watered sufficiently to maintain the viability and vigor of the stock. Potting media must be maintained at a depth so as to cover all roots of the plants.
3. Bare-root stock must be kept under conditions of temperature and moisture to retard growth and maintain viability. Moisture must be supplied to the root system by high humidity conditions in storage or by covering the roots with soil, sawdust, peat, wood shavings, or other moisture-holding material not toxic to plants. The material is to be kept moist at all times. Roots of heeled-in stock must be covered with well-packed soil at least one inch [2.54 centimeters] above the crown of the plant.
4. Prepackaged stock with roots packaged in moisture-retaining plastic, peat, wood shavings, or other material must be stored and displayed under conditions that will retard etiolated (nongreen) or otherwise abnormal growth and will ensure an adequate supply of moisture to the roots at all times.

History: Amended effective January 1, 1988.

General Authority: NDCC 4.1-22-02

Law Implemented: NDCC 4.1-22-07

7-04-02-06. Minimum standards of viability.

All nursery stock offered for sale must meet these minimum standards of viability or be removed from public view and not offered for sale.

1. Woody-stemmed deciduous stock must have moist, green cambium tissue in the stems and branches and must have viable buds or normal green, unwilted growth sufficient to permit the stock to live and grow in a form characteristic of the species when planted and given reasonable care.
2. Nursery stock when in a wilted, rotted, or other such condition indicative of subnormal vitality may not be sold or offered for sale.
3. Bare-rooted or prepackaged woody-stemmed stock having more than two inches [5.08 centimeters] of etiolated (nongreen) growth from individual buds may not be sold or offered for sale.
4. Balled and burlapped stock in a weakened condition as evidenced by dieback or dryness of foliage or stock having broken or loose soil balls or soil balls of a size smaller than that

specified by AmericanHort's "American Standard for Nursery Stock" may not be sold or offered for sale.

5. Colored waxes or other materials used to coat the aerial parts of plants that change the appearance of the plant surface so as to prevent adequate inspection are prohibited.

History: Amended effective January 1, 1988; July 1, 2019.

General Authority: NDCC 4.1-22-02

Law Implemented: NDCC 4.1-22-07

7-04-02-07. Exemptions.

The following plant species are exempt from all provisions of North Dakota Century Code chapter 4.1-22:

1. All clematis species.
2. All rosa species.
3. All yucca species.
4. Soil conservation districts are exempt from the requirements if the districts abide by the following:
 - a. Only sell nursery stock limited to a caliper of one inch at flare of root, base of tree.
 - b. Bare root or one gallon or less container size.
 - c. No grafted trees.

History: Amended effective August 1, 1978; January 1, 1988; July 1, 2019.

General Authority: NDCC 4.1-22-02

Law Implemented: NDCC 4.1-22-10

7-04-02-08. Misrepresentation.

Repealed effective January 1, 1988.

7-04-02-09. Certification of nursery stock.

1. An inspection certificate will not be issued for any deciduous nursery stock unless the stock has been inspected during active growth.
2. Persons growing Christmas trees and persons with overgrown trees or shrubs that will no longer be sold as nursery stock may be required to declare which trees are to be inspected for certification.
3. All field-grown nursery stock must be maintained by mechanical or chemical, or both, vegetation control.

History: Effective January 1, 1988; amended effective July 1, 2019.

General Authority: NDCC 4.1-22-02

Law Implemented: NDCC 4.1-22-05

7-04-02-10. License fees.

A person with more than one place of business must operate all of the locations as one business to qualify for the ten dollar fee for additional licenses. The name and address of the principal place of

business must be the same on all licenses issued to the person. The address of the other place of business must be on the license.

History: Effective January 1, 1988.

General Authority: NDCC 4.1-22-02

Law Implemented: NDCC 4.1-22-06

7-04-02-11. Application for license.

1. Each application for an initial license or annual renewal must set forth the applicant's business name, phone number, the name of the manager or owner, the principal location where nursery stock will be sold, the address or location of additional sales locations, the mailing address, the location of the growing area, the number of acres [hectares] in the growing area, the number and type of plant species being grown, and a map of the growing area.
2. The application must also include the names and addresses of the nurseries of the sources of their stock.
3. The applicant must certify that only officially inspected and certified nursery stock will be offered for sale.

History: Effective January 1, 1988; amended effective July 1, 2019.

General Authority: NDCC 4.1-22-02

Law Implemented: NDCC 4.1-22-06