

# Oregon Landscape

2<sup>nd</sup> Quarter, 2019



## *Oregon's Landscape Professionals*



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## President's Message

Lisa Walter-Sedlacek, Laurel Bay Gardens, Inc.



I think it's finally summer in Oregon. The cool June and early July have given way to the summers I remember growing up in the Willamette Valley. This is the time of year I love being part of the landscape industry. We create and nurture places that are an integral part of everyone's daily lives. From the scenery that we experience driving by at 60 miles an hour to the quiet spots in a garden for ice tea and a book, our industry creates the frame that surrounds the photos of wonderful moments in all of our lives.

In the midst of our wonderful landscape work, and adding great things to our world, we are constantly having to deal with the business side of life. We can sometimes struggle as an industry to find workers, to be aware of changes in regulations, and remember to get the billing done so we can keep the cash flow going. Balancing home life and work life can be overwhelming at times.

The OLCA board is working on making your membership in OLCA more valuable to you as a business. Information is key in keeping ahead of the curve in regulations and new technologies. The Portland Chapter hosted Landscape Field Day in June. It was a great place to check out new irrigation technology, equipment, tools, and industry-related happenings. Thank you to all our vendors and the Portland Chapter for sponsoring this event. Special thanks to Cascadian Nurseries for hosting Field Day.

Many of our members worked hard with our lobbyists during

the tumultuous legislative session that just ended. SB 935, the landscape license bill, passed with significant modifications that will make its passage better for our industry. While we may feel that our landscape test is an important part of becoming a landscaper, many others have been working hard to get rid of the test. With the passage of this bill, we are hoping that we can move forward with a better system that allows new landscapers an easier entry into landscape work while retaining significant landscape work such as grading, drainage and irrigation work dependent upon passing the written test.

Another bill that the OLCA lobbyists and members worked hard on was passed on the last day of the session. The Equal Access to Roads act will **allow Oregon residents to take the test and obtain a driver's license without the need to provide proof of legal presence in the country. As a state, Oregon cannot fix a broken immigration system but we can address the safety of workers in our industry.** Be sure to read our legislative update in this newsletter for more information.

And most important, be sure to remember to balance your work and play. Take a moment to be with families and friends and to enjoy the landscapes and beauty that we build. Create your own memories this summer.



# OLCA Portland Regional chapter Landscape Field Day 2019 Hosted by Cascadian Nurseries

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# DOL Enforcement Actions up and are Expected to Stay That Way

Provided by LaPorte

U.S. Secretary of Labor Alexander Acosta recently told the House Labor, Health and Human Services, Education and Related Agencies Appropriations Subcommittee that he “fully expects” OSHA inspections to increase once new inspectors are trained. Acosta’s remarks are in line with the significant increase in enforcement actions employers have seen in the past two fiscal years.

## Increased DOL Enforcement Actions

The DOL’s enforcement actions across the vast majority of its offices and agencies have increased in the past two fiscal years. In the 2016 fiscal year, OSHA conducted 31,948 inspections, the Employee Benefits Security Administration (EBSA) recovered \$352 million in enforcement actions and the Wage and Hour Division (WHD) recovered nearly \$266.6 million in back wages.

Comparatively, according to the most recent data, the EBSA recovered \$1.1 billion in enforcement actions, the WHD recovered a record \$304 million in back wages and OSHA conducted more than 32,000 inspections in the 2018 fiscal year. Despite the increased action, DOL guidance on complying with rules and regulations has decreased.

## What Does This Mean for Employers?

Employers should be aware that the uptick of DOL enforcement actions will continue. As such, they should take action to review and evaluate

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their compliance obligations to avoid costly fines and penalties.

In particular, employers should review their OSHA obligations, as the DOL has communicated that inspections will continue to increase. Additionally, employers should take time to review the newly proposed overtime rule to identify which employees may be

affected if the rule becomes final.

## For More Information

For more information on DOL compliance, please contact LaPorte.

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# OSHA's Most Frequently Cited Standards



## Landscaping Services (NAICS 561730)

The Occupational Safety and Health Administration (OSHA) keeps records not only of the most frequently cited standards overall, but also within particular industries. The most recent statistics from OSHA reveal the top standards cited in the fiscal year 2018 for the landscaping industry. This top 10 list comprises establishments that primarily provide landscape care and arborist and maintenance services such as installing trees, shrubs, plants, lawns or gardens and also establishments that provide these services along with the design of landscape plans and/or the construction of walkways, retaining walls, decks, fences, ponds and similar structures.

DESCRIPTION OF VIOLATION	CITED STANDARD NUMBER	ACV*
<b>1. OSH Act General Duty Paragraph</b> - Giving employees a place of employment that is free from recognized hazards that are causing or likely to cause death or serious physical harm.	<a href="#">5A0001</a>	<b>\$4,298</b>
<b>2. Vehicle-mounted Elevating and Rotating Work Platforms</b> - Ensuring the safe usage and design of powered platforms, man lifts and vehicle-mounted work platforms.	<a href="#">29 CFR 1910.67</a>	<b>\$2,928</b>
<b>3. General Personal Protective Equipment (PPE) Requirements</b> - Selecting the correct PPE, providing instruction, monitoring its use and maintaining the PPE to standards.	<a href="#">29 CFR 1910.132</a>	<b>\$1,702</b>
<b>4. Hazard Communication</b> - Properly transmitting information on chemical hazards through a comprehensive program, container labeling, SDS and training.	<a href="#">29 CFR 1910.1200</a>	<b>\$816</b>
<b>5. Reporting Fatalities, Hospitalizations, Amputations, and Losses of an Eye</b> - Following the reporting guidelines set by OSHA following death, hospitalization, amputation, or loss of an eye due to a work-related incident.	<a href="#">29 CFR 1904.39</a>	<b>\$2,258</b>
<b>6. Head Protection</b> - Providing employees with head protection that meets ANSI specifications when they work in areas where there is a possible threat of head injury.	<a href="#">29 CFR 1910.135</a>	<b>\$1,843</b>
<b>7. Eye and Face Protection</b> - General requirements for eye and face protection in the workplace.	<a href="#">29 CFR 1910.133</a>	<b>\$995</b>
<b>8. Safety Requirements for Scaffolding</b> - Providing protection for each employee on a scaffold exposed to fall and falling object hazards.	<a href="#">29 CFR 1910.28</a>	<b>\$2,415</b>
<b>9. Occupational Noise Exposure</b> - Requirements for noise protection when sound levels exceed certain permissible exposure limits.	<a href="#">29 CFR 1910.95</a>	<b>\$1,480</b>
<b>10. Crawler Locomotive and Truck Cranes</b> -	<a href="#">29 CFR 1910.180</a>	<b>\$1,570</b>

\*ACV (Average Cost per Violation) - The dollar amount represents the **average cost per violation** that employers in this industry paid in 2018. To understand the full capacity and scope of each standard, click on the standard number to visit [www.osha.gov](http://www.osha.gov) and view the language in its entirety. Source: OSHA.gov

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# More Landscape Trends Dominating 2019 Spaces

May 15, 2019 | NALP

Now that spring has officially sprung, landscape trend talks have escalated. Horticulture experts across the country are touting the most popular ideas emerging in their local landscapes.

Here are 4 landscape trends people are talking about this year.

## Landscape Trends: Younger Generations Embrace All Things Green

As younger generations become homeowners, customer expectations are changing.

According to Garden Research's 2018 National Gardening Survey,

homeowners between the ages of 18 and 34 have set a record high, making up 29 percent of all gardening households.

Additionally, according to a recent survey by National Association of Landscape Professionals (NALP), "81% of all Americans have a lawn, and a vast majority – 79% – says a lawn is an important feature when renting or buying a home." Interestingly, the research continues, "younger generations of Americans place an even higher value on lawns than their parents and grandparents. For instance, a nice size lawn was the No. 1 home feature priority

among millennials, beating out even an updated kitchen. While young people are so often found glued to their phones (and tablets and laptops), this new research validates that Americans of all ages have a great appreciation for the value healthy lawns bring to their lives."

## Landscape Trends: Low-maintenance Landscapes

A common theme among homeowners, regardless of age, is a majority don't have time to care for their landscapes.

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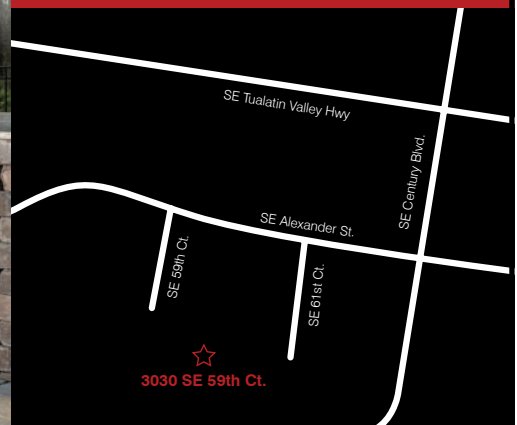
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So they either ask for low-maintenance designs and plants or hire landscape professionals to do their outdoor work.

As a means to simplify their landscapes, the experts Garden Design interviewed suggest the following tips:

- Include mostly perennial plants that will return annually, and group them together based on their watering needs. Some easy-to-grow plant ideas are coming from Proven Winners' 2019 National Plants of the Year list.
- Remove messy trees or shrubs that don't provide benefits. (For instance, a tree that drops leaves in a pool.)
- Invest in an irrigation system that helps keep watering in check.
- Select hardscape materials that don't need regular cleaning or repair.

**Landscape Trends: Privacy & Multipurpose Spaces**

More homeowners today want to have private, secluded nooks in their staycation backyards to create cozy areas for de-stressing.



As NALP member Gachina Landscape Management, Menlo

Park, California, said in Total Landscape Care, "Many residential estates and some commercial properties are asking for small, secluded spaces within the landscape area to celebrate family reunions, meetings, etc.," says William Cruz, the company's senior branch manager. "These areas are normally small Japanese gardens with natural hedges for privacy. We are becoming more familiar with these kinds of secluded areas as we are doing more business with different cultures from different parts of the world."

Landscape professionals are helping homeowners section backyards into multiple spaces for entertainment and relaxation. Capital Landscaping's Phil Glaser says pizza ovens incorporated into fire places are trending in the outdoor kitchen and entertaining space. Mix that with smaller sitting areas so homeowners can entertain two distinct groups. As Glaser says, "Men can have beers in

one area and ladies have cocktails in another."

**Landscape Trends: Including Edibles in Landscape Design**

Sure, growing food isn't a fresh trend, but more homeowners, particularly those with limited spaces, are finding ways to incorporate edibles into containers, as well as weave them into traditional landscape beds.



Garden Design's article suggests adding containers, checking out ornamental edibles that can mesh into current landscape designs and growing herbs on walls via vertical planter

# OLCA 2019 Upcoming Events

## SEPTEMBER

- 4 Portland Regional Chapter Meeting

## OCTOBER

- 2 Portland Regional Chapter Meeting

## NOVEMBER

- 6 Portland Regional Chapter Meeting

## DECEMBER

- 3 Portland Regional Chapter Expo Kick-Off Party
- 3 NW Landscape Expo Pesticide Training
- 4 NW Landscape Expo & Tradeshow

*For more information about these events go to [www.oregonlandscape.org](http://www.oregonlandscape.org)*

# Legislative Report from the Capitol

By Bill Cross & Niki Terzieff, OLCA's Government Affairs Advocates

The final gavel on the 2019 Legislative session must come down by June 30 in accordance with the State's constitution. There will be little pomp or circumstance. At the time this report was written, June 24th, the headlines in the state and nation were all about the shenanigans in Salem. Walkouts, threats, anti-government militia rallies and behind-the-scene negotiations highlighted the last week or two of the session.

For the second time this session, the Senate Republicans walked out

of the Capitol denying the Senate the floor votes for a quorum. The first walkout was intended to delay a Senate vote on the \$2 billion Student Success Act and its commercial activities tax. The second one is aimed at blocking the carbon cap and trade plan, HB 2020, which has become extremely divisive.

If the Governor and the Democrats can't get the Republicans back on the Senate floor, more than a hundred budget and policy bills in addition to the cap and trade proposal are doomed. Included in

that mix is paid family and medical leave, a tobacco tax referral to help fund Oregon's Medicaid program and an OLCA-supported proposal, HB 2015, to allow undocumented immigrants to obtain legal driver's licenses.

Also doomed because of the stalemate is SB 935 which would have put into statute the modified landscape construction professional license. OLCA supported the final version which empowered the LCB by rule to assess application and examination fees for the modified

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license and to limit the scope of work performed by a license holder. The bill, if passed, would have restricted residential or commercial general contractors from being issued this license in an effort to preserve this as a professional development and licensure program for the landscape construction industry.

Another bill that OLCA focused this session was HB 3350 which would prohibit the sale or use of two-cycle gasoline-powered leaf blowers in Oregon. OLCA was successful in keeping the bill in committee this session but the issue will be back

next session. Measures to prohibit the sale or use of pesticide products containing neonicotinoid and chlorpyrifos also failed to get out of committee but will likely return next session as well.

Stay tuned for our final report on the 2019 Legislative session and news as to whether and when the Governor will call a special session to conduct unfinished business if the stalemate continues through June 30. Please feel free to contact us at any time if you have any questions by emailing Bill Cross at [bill@wvcross.com](mailto:bill@wvcross.com) or Niki Terzieff at [niki@leadingedgepublicaffairs.com](mailto:niki@leadingedgepublicaffairs.com).

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# OLCA Association Health Plan

Provided by LaPorte

Navigating the ever-changing environment of employee benefits has become increasingly difficult for our members, regardless of size. Laporte is the longtime endorsed agency for OLCA's health plan...and are the managing general agency for the Merit Construction Alliance Health Plan. Association health plans provide a potential safe harbor for small to medium sized employers from the volatility of the direct market. These multi-employer welfare arrangements allow companies in a similar industry to pool their risk in order to form one large purchasing pool. By creating this purchasing arrangement, OLCA



members can collectively leverage our size for the purposes of buying insurance. In today's competitive hiring environment, our members can take

advantage of this unique opportunity to attract and retain the highest quality talent.

## Expertise & Experience

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### Market Access

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