

48. TALL GRASS AND WEED REGULATION

48.01. Legislative Intent. It is declared to be the purpose and intent of this chapter to protect and preserve this city's neighborhoods and the public health, safety and welfare of those who live there. The Rochester Common Council determines that keeping the city free of tall grass and noxious weeds improves the quality of life of city residents by improving the aesthetics of the city, by eliminating harbor for rodents and insects, and by eliminating fire hazards. At the same time the Council recognizes that requiring the mowing of grasses and noxious weeds is under certain circumstances impractical and unreasonable. The exemptions contained within this chapter are intended to cover these circumstances.

The City Council also determines that a variety of properly maintained landscapes in the City add diversity and a richness to the quality of life, and does not want to discourage the preservation, restoration and maintenance of diverse biologically stable natural plant communities or environmentally sound practices. The City Council finds that the establishment of native or naturalistic plant communities is an acceptable landscape treatment in the City. However, as a protection for the larger community, this change in vegetation must be properly planned, managed and maintained, and the length of transition period must be minimized or the property is likely to create a public nuisance.

48.02. Definitions. The following definitions shall apply to words used in this chapter.

Subd. 1. "Boulevard" shall mean that portion of the street outside the roadway that may contain sidewalks, landscaped area, infrastructure, or amenities.

Subd. 2. "Buffer" or "buffer strip" shall mean a unit of yard together with the plantings required thereon designed to mitigate nuisance between adjacent land uses or between a land use and a public street.

Subd. 3. "Developed" shall mean improvements to property including roads, paths, sidewalk, any buildings, driveways, or out buildings.

Subd. 4. "Landscaping" shall mean the active involvement in the encouragement of selected plants to grow on a site.

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Subd. 5. “Native and Naturalistic Vegetation” shall mean grasses and flowering broad-leaf plants that are native to, or adapted to, the State of Minnesota, and that are commonly found in meadow and prairie plant communities, except weeds.

Subd. 6. “Native grasses” shall mean grasses (Beach Grass, Wood Chess Grass, Sand Reed Grass, Wheat Grass, Bluestem Grass, Grama Grass, Brome Grass, Buffalo Grass, Switch Grass, Indian Grass, Wild Rye)) that existed in the area prior to European settlement.

Subd. 7. “Native plants” shall mean plants that existed in the area prior to European settlement.

Subd. 8. “Natural landscaping” shall mean the use of groups of plants native to the area.

Subd. 9. “Naturalistic landscaping” shall mean the use of native and non-native plants.

Subd. 10. “Noxious weeds” shall mean plants so designated by the Commissioner of Agriculture pursuant to Minnesota Statute, those identified by Olmsted County, or USDA-APHIS.

Subd. 11. “Prairie” shall mean a plant community dominated by a diversity of native perennial herbaceous plants and grasses.

Subd. 12. “Regularly cut” shall mean mowing or otherwise cutting vegetation so that the dimension of the vegetation measured from the ground to the top of the vegetation(as extended upright) regardless if that is the blade of the vegetation or any other part of the plant does not exceed 12 inches in height.

Subd. 13. “Temporary Erosion Control Grasses” shall mean grasses (winter wheat, oats, annual rye or regreen) that are used as single growing season cover or nurse crops to assist in the establishment of permanent vegetation.

Subd. 14. “Traditional landscaping” shall mean the use of turf grasses and woody plants (shrubbery and trees) with defined areas for cultivation of annual and perennial plants.

Subd. 15. “Transitional period” shall mean the amount of time to change from one type of landscaping to another. The period should not extend beyond

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three growing seasons for any specific area.

Subd. 16. "Turf grasses" shall mean bluegrass, fescue and ryegrass blends with non-woody vegetation interspersed with them commonly used in regularly cut lawns.

Subd. 17. "Weeds" shall mean prohibited noxious weeds as identified by the State of Minnesota Department of Agriculture, Olmsted County, or USDA-APHIS and any undesirable or troublesome plant that is horticulturally out of place exceeding the height limitations in this chapter. For the purposes of this ordinance, *Taraxacum* spp (common dandelion) is not considered a weed.

Subd. 18. "Wetlands" shall mean lands transitional between terrestrial and aquatic systems where the water table is near the surface. The boundary of wetlands for purposes of this chapter shall be determined according to the most recently published U. S. Army Corps of Engineers Wetland Delineation Manual.

48.03. Nuisance Declared. It shall be unlawful and a public nuisance for any person having control of any property in the City of Rochester to permit or maintain on such property any (1) noxious weeds, or (2) growth of grass and weeds in excess of 12" in height, if the growth of grass and weeds occupies an area of at least 144 square feet and is located within 200 feet of the property line of a developed or platted parcel or within any platted property. No owner shall permit such weeds and grass to be a public nuisance, but shall abate the nuisance by cutting the weeds and grass and removing the clippings if said clippings are deposited in a manner to create areas which the vegetation will be ruined or killed.

48.04. Exemption and Conditions for Exemptions. The provisions of this chapter shall not apply to the following:

- A. Non-noxious weeds and grass vegetation in an identified wetland area;
- B. Non-noxious weeds, grasses and herbaceous vegetation within 50' of designated storm water ponds (lying within the storm water pond property) or within 50' of natural or altered creeks, rivers and stream corridors, including riparian buffer strips, that convey water, provided they are cut to less than 12 inches at least once per year if located within 200' of an occupied residence or developed property;

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- C. Non-noxious weed and grass vegetation growing on agriculturally zoned land, including pastures, that are fenced and contain animals;
- D. Temporary erosion control grasses;
- E. Maintained and weeded prairie, or natural/naturalistic landscape vegetation that does not contain noxious weed growth provided that the property owner applies for and is issued a natural or naturalistic landscape permit, and maintains the property in a condition sufficient to maintain the permit;
- F. Grass and non-noxious weed vegetation in publicly owned parks designated as natural area or private property so designated by the City Council or any natural undisturbed areas existing beyond 200 feet of a developed/platted property where the land and vegetation appears not to have been graded, landscaped or otherwise disturbed by human or mechanical means in recent time;
- G. Grass and non-noxious weed vegetation on natural or altered slopes steeper than 2:1; or
- H. Ornamental grasses.

48.05. Natural or Naturalistic Landscape Permits. Natural or Naturalistic Landscape Permits are required if a proposed landscape includes grasses that exceed or are expected to exceed 12 inches in overall height. Permit applications shall be submitted to the Park Department.

48.06. Contents of Natural or Naturalistic Landscape Permit Application. The applications shall contain:

- A. The name and address of the applicant and the legal description of the property being permitted;
- B. A site plan for the area sought to be permitted. The scale of plan should be 1"=30' and include all adjacent properties and public streets and alleys;
- C. A general description of the vegetation types, plants and plant succession to be used; and

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- D. A specific management and maintenance plan which shall include:
- (1) The estimated transition period;
  - (2) The elimination of non-native or invasive vegetation;
  - (3) The replanting of the area by transplant or seeded by human or mechanical means;
  - (4) The maintenance of the area to a height of 12 inches or less if weeds cover more than 25% of the landscaped area equaling in excess of 144 square feet;
  - (5) The maintenance of all non-woody vegetation/grasses located in a buffer strip with a minimum distance of four feet from side and rear lot lines is to a height of 12 inches or less unless the adjacent property owner has consented in writing that the buffer strip is not required, a copy of which is filed with the permit application; and
  - (6) Maintenance of all vegetation within 18 inches of any public street, walk, bikeway or alley to a height of 12 inches or less.

48.07. Issuance of Natural or Naturalistic Landscape Permit. The Park Department shall determine the completeness of the application and shall issue the Natural or Naturalistic Landscape Permit unless:

- A. The management and maintenance plan is incomplete or inconsistent with the application requirements; or
- B. The transition period for the area is longer than three growing seasons.

48.08. Denial of Natural or Naturalistic Landscape Permit; Appeal. Any person whose application for a Natural or Naturalistic Landscape Permit is denied shall receive written notice of such denial and may appeal that determination to the Park Board by filing notice of such appeal within 10 days of the date on the notice of denial. Upon receipt of the notice of appeal, the Park Board shall set a public hearing at which the applicant and any other party wishing to be heard shall have an opportunity to present evidence as to the

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applicant's compliance with the provisions of this ordinance and the application procedure. If the Park Board determines that the applicant has complied with the application provisions of this chapter, including the management and maintenance plan requirements, it shall direct the park department to issue the natural landscape permit. The Park Board shall affirm the denial if it determines that the applicant has not complied with the provisions of this chapter.

48.09. Revocation of Natural or Naturalistic Landscape Permit. A Natural or Naturalistic Landscape permit may be revoked by the park department for any of the following reasons:

- A. Weeds are not maintained;
- B. Buffer strips are not maintained;
- C. Vegetation within 18 inches of public walks, streets, alleys and paths is not maintained to a height of 12 inches or less; or
- D. Permittee fails to maintain the natural landscape area in a manner consistent with the management and maintenance plan included in the application.

The notice of revocation shall indicate that the revocation shall be effective on the date identified therein, which date shall be not less than 14 days later than the date of the notice, unless the permittee files a written appeal with the Park Board. Upon receipt of the notice of appeal the Park Board shall set a public hearing at which the permittee and any other party wishing to be heard shall have an opportunity to present evidence as to the permittee's compliance with the provisions of this ordinance and the approved natural landscape permit. If the Park Board determines that the permittee has failed to abide by the provisions of this ordinance and the approved natural landscape permit, it shall direct the park department to issue a tall grass and weed violation notice pursuant to the provisions of this chapter.

48.10. Inspections and Notification by City. The City shall make such inspections as are necessary to determine whether weeds or grass constitute a public nuisance as defined in this chapter and is hereby authorized to enter onto private property for the purpose of conducting such inspection. Upon finding such public nuisance, the inspector shall cause an administrative citation to be issued pursuant to chapter 5. The City may also serve a notice by regular mail or by personal service upon the record owner of the property. The citation or notice shall

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order such owner to abate the nuisance by cutting the weeds and grass, and removing the clippings within 48 hours of the date of the notice. The citation or notice shall also state that if the owner fails to do so, the City will cause the weeds and grass to be cut and the expense thereof shall be the owner's responsibility. Refusal to accept, or not seeing such notice by the owner of the property shall not constitute a defense that the notice was not received. (4304, 5/15/17)

48.11. Mitigation by City. Upon finding a public nuisance associated with weeds or grass, the designated Park staff may issue to the property owner an administrative citation pursuant to chapter 5 or a violation notice pursuant to this chapter. For purposes of mitigation of the public nuisance, the Director of Park and Recreation, or designee, may enter onto private property to mitigate nuisance weeds or grass no earlier than 4 calendar days after the date the administrative citation or violation notice has been issued. The Director of Park and Recreation shall keep a record showing the cost of the required mitigation on each lot or parcel.

48.12. Owner Liability for Cost. The owner of property for which a violation notice or an administrative citation was issued and for which the City has undertaken the mowing of grass or weed shall be liable for the actual cost of cutting and removal of the tall grass and weeds, plus such sums as determined to reimburse the City for its costs of inspection and administration of the work. As soon as the service has been completed and the cost determined, the City shall prepare a bill and mail it to the owner and thereupon the amount shall be immediately due and payable. If the owner fails to pay the bill, the total charges for the work performed in abating the nuisance together with administrative and inspection charges may be levied as an assessment against the benefitted property under the procedure found in section 72.11.

48.13. Establishment of Costs for Services. The Park Board will establish costs for removal services associated with mitigation of weed and grass violations, and administration and inspection services associated with this chapter.

(3339, 6/20/00; 3848, 1/7/08; 4249, 6/6/16; 4304, 5/15/17; 4342, 6/4/18)