

Chapter 50

Tall Grass and Weeds Regulations

Lawn and Boulevard Maintenance

- 1) The purpose and intent of this section is to protect and preserve this city's neighborhoods and the public health, safety and welfare of those who live there. 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.
- 2) 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.
- 3) The city has established minimum standards for lawn and yard maintenance while recognizing that a variety of landscapes within the community adds diversity and richness to the quality of life for all residents. Turf grass lawns will continue to be recognized as the dominant feature in the landscape. However, alternatives to this traditional type of lawn are recognized as important parts of diverse and successful landscape.
- 4) Definitions. The following definitions shall apply to words used in this ordinance.

- a. **"Boulevard"** shall mean the area between the street and sidewalk or, in the absence of a public sidewalk, the area between the street and property line adjacent to all streets within the Elgin City limits.
- b. **"Buffer" or "buffer strip"** shall mean a management area used to separate differing landscapes and land uses to minimize the impact from these adjacent land uses.
- c. **"Eradicate"** means to destroy the aboveground and belowground plant parts of noxious weeds by a lawful method, which prevents the maturation and spread of noxious weed propagating parts from one area to another.
- d. **"Landscaping"** shall mean the active involvement in the encouragement of selected plants to grow on a site.
- e. **"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.
- f. **"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.
- g. **"Native plants"** shall mean plants that existed in the area prior to European settlement.
- h. **"Natural landscaping"** shall mean the use of groups of plants native to the area.
- i. **"Naturalistic landscaping"** shall mean the use of native and non-native plants.
"Noxious weeds" shall mean plants so designated by the Commissioner of Agriculture under authority of Minn. Stat. Sec 18.77 subd. 8, those identified by Wabasha County, or USDA-APHIS.
- k. **"Occupant"** means a person who uses land as a principal residence or who leases land or both.
- l. **"Prairie"** shall mean a plant community dominated by a diversity of native perennial herbaceous plants and grasses.
- m. **"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 10 inches in height.
- n. **"Temporary Erosion Control Grasses"** shall mean grasses (winter wheat, oats, annual rye or re-green) that are used as single growing season cover or nurse crops to assist in the establishment of permanent vegetation.

o. **"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.

"Transitional period" shall mean the amount of time to change from one type of landscaping to another. The period should not extend beyond three growing seasons for any specific area.

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

r. **"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 U. S. Army Corps of Engineers Wetland Delineation Manual (1987).

General requirements:

1. The property owner or occupant of any lot or parcel shall install and maintain turf grass and the weeds abutting their property. The height of the turf grass or weeds may not exceed 6 inches or more. If the property owner or occupant fails to maintain the turf grass it is up to the Public Works Director or Designee to notify the individual with a registered letter stating the problem with their turf grass or weeds and allow one week for the individual to cut their turf grass or weeds. If there is no action taken on behalf of the individual that was served papers then the Public Works Director or Designee will take action to remedy the problem and the owner or occupant will be charged a set fee. If unpaid by the owner it will be made a special assessment against the property pursuant to Chapter 429 Minnesota Statutes.
2. **Nuisance Declared.** It shall be unlawful and a public nuisance for any person having control of any property in the City of Elgin to permit or maintain on such property any (1) noxious weeds, or (2) growth of grass and weeds in excess of 6" in height, if the growth of grass and weeds occupies an area of at least 100 square feet and is located within 150 feet of a residence or developed 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.

- a. Property must be maintained and property owner must destroy immediately any weeds on the noxious weed list established by Minnesota State Statute, Chapter 18, Sections 18.75 - 18.88 and Minnesota Rules, parts 1505.0730 - 1505.0760.

3. Exemption and Conditions for Exemptions. The provisions of this article 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 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 6 inches at least once per year if located within 150' of an occupied residence or developed property;
- 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 preserves or private property so designated by the City Council or natural undisturbed areas 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.

4. Natural Landscape Permits. The property owner or occupant of any lot or parcel desiring natural landscaping as defined by this section may apply for a natural landscaping permit, where native grasses, forbs, and flowers may exceed the 6 inch height. Permit applications shall be submitted to the Public Works Director, subject to approval by the Planning and Zoning Board.

5. Contents of Natural or Naturalistic Landscape Permit Application. An application for natural landscaping permit shall be submitted on the form provided by the City and shall include the required application *fee* and the following information:

- a. The name and address of the applicant and the legal description of the property being permitted;
- b. A site plan drawn to scale illustrating the following information: Lot Lines, location of principal and accessory buildings, and include all adjacent properties and public streets and alleys;
- c. Maintain a 3ft buffer zone around the perimeter of the yard;
- d. Including any utility or drainage easements upon the property;
- e. A general description of the vegetation types, plants and plant succession to be used; and
- f. A specific management and maintenance plan which shall include:
 - g. The estimated transition period;
 - h. The elimination of non-native or invasive vegetation;
 - i. The replanting of the area by transplant or seeded by human or mechanical means;
 - j. 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;
 - k. The maintenance of all non-woody vegetation/grasses located in a buffer strip with a minimum distance of three 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
- l. Maintenance of all vegetation within 3 feet of any public street, walk, bikeway or alley to a height of 6 inches or less;
- m. Receipts of seeds or plants purchased and the names and addresses of individuals that will be implementing the planting, if different than the property owner.

6. 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.

7. 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 City Council 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 City Council 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 applicant's compliance with the provisions of this ordinance and the application procedure. If the City Council 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 City Council shall affirm the denial if it determines that the applicant has not complied with the provisions of this chapter.

8. 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 3 feet of public walks, streets, alleys and paths is not maintained to a height of 6 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 7 days later than the date of the notice, unless the permittee files a written appeal with the City Council. Upon receipt of the notice of appeal, the City Council 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 City Council 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.

9. 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 the City's law enforcement officer to issue a citation. Alternatively, the City may serve a notice by certified mail, regular mail, or by personal service upon the record owner of the property. The notice shall 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 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.

10. Mitigation by City. Upon finding a public nuisance associated with weeds or grass, the designated Park staff may issue to the property owner 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 48 hours after the violation notice has been issued. The Director of Park and Recreation shall keep a record showing the cost of the required mitigation of each lot or parcel.

11. Owner Liability for Cost. The owner of property for which a violation notice 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 pursuant to Chapter 429 of the Minnesota Statutes.

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