

1. 1. ENV Agenda

Documents:

[2021.03.22 AGENDA.PDF](#)

2. 2. Environmental Commission Meeting Minutes

Documents:

[2. 2021-02-22 ENV MEETING MINUTES.PDF](#)

3. 3. Recommend Amendments To Chapter 31 -- Tall Grass And Weed Regulation

Documents:

[3A. RECOMMEND AMENDMENTS TO CHAPTER 31 - TALL GRASS AND WEED REGULATIONS.PDF](#)

A. 3A. Attachment

Documents:

[3A. ATTACHMENT.PDF](#)



ENVIRONMENTAL COMMISSION AGENDA

Minn. Stat. § 13D.021 provides that a meeting of a public body may be conducted via telephone or other electronic means if meeting in a public location is not practical or prudent because of a health pandemic or declared emergency. Due to the declared health pandemic, this Environmental Commission meeting will be held through electronic means rather than in-person.

You may participate in this meeting by joining the following videoconference or by calling the following telephone number at the scheduled date and time of the meeting:

1. Via Videoconference:

<https://us02web.zoom.us/j/88674189332?pwd=ZDVhWmZFcVh5L0lyMTZtQ2pFUWpiUT09> **Meeting ID:** 886 7418 9332 **Passcode:** 791135

(Note: Your computer should have a camera and a microphone. However, if you do not have a microphone and camera, you can still view the meeting on your computer and participate in the conversation via a telephone.

2. Via Telephone: 1-312-626-6799 **Meeting ID:** 886 7418 9332 **Passcode:** 791135

MONDAY, MARCH 22, 2021

6:00 PM

1. Call to Order / Roll Call
2. Approve February 22, 2021 Minutes
3. Items for Discussion
 - A. Recommend Amendments to the City Code of Ordinances, Chapter 31 – Tall Grass and Weed Regulations
 - B. Preliminary Discussion regarding an Environmental Commission Webpage – Kari Casper (verbal update – no written report)
 - C. Update on GROWS' Pollinator Efforts – Emily Nesvold (verbal update – no written report)
 - D. Update on the Environmental Commission Road Map Document – Chair Steinkamp (verbal update – no written report)
4. Routine Business
 - A. Announcements and Updates

- The University of Minnesota Regional Sustainable Development Partnership shortlisted our idea brief to promote equity in the City's environmental planning efforts – detailed proposal due May 3
- Submitted an application to host a GreenCorps member for 11 months starting in September – will hear by May
- No response yet from the state regarding the City's grant application for an electric vehicle charging station at City Hall – public charging stations in a downtown parking lot should be installed soon
- RFPs sent to solar installation contractors regarding the Faribault/Northfield/Rice County Solar Group Buy Program – next steps will be to select a contractor, then promote the program to the public
- City Planner will schedule review and approval of the Climate Adaptation Plan
- Joint Environmental Commission/City Council work session will likely not occur until after the Governor lifts the emergency order related to the pandemic

B. Identify Agenda Items for April 26, 2021 Meeting

- Review and recommend improvements to draft Environmental Commission webpage
- Review and recommend status of GreenStep Cities actions
- Legal opinion on communication between Commission members
- Youth involvement in the Environmental Commission efforts and meetings

5. Adjourn

Please contact the Department of Community and Economic Development at 507-334-0100 if you need special accommodations to participate in this meeting.



ENVIRONMENTAL COMMISSION MEETING MINUTES

Minn. Stat. § 13D.021 provides that a meeting of a public body may be conducted via telephone or other electronic means if meeting in a public location is not practical or prudent because of a health pandemic or declared emergency. Due to the declared health pandemic, this meeting of the Environmental Commission held this meeting through electronic means, rather than in-person.

MONDAY, FEBRUARY 22, 2021

6:00 PM

1. Call to Order / Roll Call

Roll Call: Commissioner Behrens, Commissioner Diessner, Commissioner Garcia, Commissioner Huston, Commissioner Nesvold, Commissioner Wasilowski and Chair Steinkamp.

2. Meeting Protocols

Wanberg went over the meeting protocols as presented in the packet and asked if anyone had any additions or corrections, in particular to Commissioner Wasilowski and he stated that he did not.

3. Introduction of Environmental Commission Members and City Staff

Chair Steinkamp asked to go around and introduce each member and tell a little of why they are on the board. Started with Commissioner Huston who stated that he was on the commission because he is concerned about water. He lives on a farm of about 150 acres that he has restored to prairie land. Commissioner Diessner is interested in education and community involvement and participation. Commissioner Behrens is also concerned about water quality and the term of that. Former city employee for over twenty years but hasn't been employed there for about twenty years. Engineer developer and contractor and wants to help protect the environment and keep people involved. Commissioner Nesvold stated that she feels the same at Commissioner Diessner, she is a former high school science teacher and believes in educating people. She still wants to get high school students involved as well. Commissioner Garcia wanted to join the commission for many reason; how we treat the Earth and wants to help people in Faribault and globally as well. Commissioner Wasilowski stated that he grew up poor and budgeting was difficult and he wanted to save money by being green. He wanted to learn about savings, water use. He drives hybrids and his house is complete solar and he wants to see more

neighbors follow suit. Increase awareness locally. Wanberg went next as the City Planner for about 7 or 8 years and prior to that he was a consultant, architect and landscape architect. Has a passion for sustainability. Works as a liaison for the Commission. Kari Casper went next stating that she is the admin assistant in Community & Economic Development department and is the recording secretary. Chair Steinkamp taught high school, here, Duluth, Little Falls and different regions of MN. He ran a business making sheep cheese for 10 years and was at the State Fair. He also spent the majority of the last 25 years overseas, Africa, Middle East, Europe and a little bit in Asia. He got his eyes opened up a little bit traveling around. Now he's been living in Faribault since 2002; but the last 2.5 years full time. He is passionate about the environment and hopefully can make some contributions to the community in that way.

4. Approve January 25, 2021 Minutes

A motion was made by Nesvold and seconded by Huston to approve the January 25, 2021 meeting minutes as written.

Roll Call: Commissioner Behrens, Commissioner Diessner, Commissioner Garcia, Commissioner Huston, Commissioner Nesvold, and Chair Steinkamp.

Nay: None

Motion carried on 6/1 vote with Wasilowski abstaining since he was not present at the meeting.

5. Annual Meeting Actions

A. Election of Officers

Chair Steinkamp began by turning the matter over to Wanberg to introduce the process. Wanberg stated that there is no term limit on the Chair and suggested that Steinkamp get a feel for what the commission might want to do. Commissioner Behrens stated that Steinkamp has put many hours in at Chair and would like to stay consistent with what we currently have.

A motion was made by Commissioner Huston and seconded by Commissioner Nesvold to retain Chair Steinkamp as Chair and Commissioner Behrens as Vice Chair. No discussion to follow.

Roll Call: Commissioner Behrens, Commissioner Diessner, Commissioner Garcia, Commissioner Huston, Commissioner Nesvold, and Commissioner Wasilowski.

Nay: None.

Motion carried on a 6/1 with Chair Steinkamp abstaining.

B. Adopt 2021 Work Plan

Chair Steinkamp reminded everyone that the proposed work plan was in the packet. There is enough work in there to keep us busy for the year. Nesvold had a question under public awareness; she said that when Commission Ackman was here he stated that we would have to ask the Council to add high school students. Commissioner Garcia agrees with Commissioner Nesvold to have high school students included and act like commissioners in training. She commented that they may have good ideas and lets them get involved. Commissioner Diessner asked if we should bring this up with the City Council when they meet. Wanberg responded by stating that it would be appropriate. Steinkamp has reached out to the High School and BA and FFA. Also made the suggestion that the College here is another source of inspiration. The Chair asked if anyone knows anyone, boys scouts, girl scouts, 4H to get involved. Chair Steinkamp suggested submit this to the Council and take it up when they meet at the work session meeting.

A motion was made by Huston and seconded by Nesvold to recommend approval for the 2021 Work Plan for the Environmental Commission written.

Roll Call: Commissioner Behrens, Commissioner Diessner, Commissioner Garcia, Commissioner Huston, Commissioner Nesvold, Commissioner Wasilowski and Chair Steinkamp.

Motion carried on 7/0 vote.

Chair Steinkamp wanted to add if there were any comments on the handbook that he created to let him know. He suggested that the commission use it as a backup document and maybe call it the Road Map which elaborates everything we talked about for this year or if we take them up next year. Would be a good archive.

6. Items for Discussion

A. Review and Recommend Council Approval of Faribault Climate Adaptation Plan

Chair Steinkamp asked if we would use a recommended resolution to take to Council? Wanberg stated yes and he would looking for a motion to recommend approval to the Council. Wanberg then stated he could give a brief overview. How are we addressing climate change for vulnerable populations? This is not the plan, it's the precursor to the Climate Adaptation Plan. The Fire Chief Dienst was identified has assisting with the study. It also looked at the climate adaption framework, not a plan. So what this plan, 15 people were on the plan, looked at from various standpoint, health and safety, extreme weather, air quality, flooding and water quality heat island greenspace and ecosystem local food and agricultural climate economy adaptation capacity. The Major topic of other cities – these were the main topics. In the group each took 2 or 3 and came back. One example is extreme weather. A survey was done around the area – asked a number of questions. About 2/3 were either very concerned or extremely concerned. Under that a number of major goals or strategies looked at. Increasing weather events, increasing

housing burdens, increasing energy burdens, extreme temperatures. Example, down south the event that occurred had huge impact on energy (winter storm in Texas). From this, they developed extreme weather priority strategies, 1) enhanced city operation – emergency response – equitable hazard mitigation – map infrastructure vulnerabilities – multi-use public buildings 2) address health impact – emergency kits 3) Enhanced resilience planning – lower dependence on outside energy sources 4) increase resilience of natural system – native landscapes, woodland preservation, etc.

A City of Faribault CAP Matrix was developed. Question is, how do we implement it? If we pass this, could bring it to council. Commissioner Garcia asked who were the vulnerable populations in the study? Wanberg stated that the young and elderly are high, at risk, low income, English as not the first language, living conditions, manufactured home communities and then people that live in flood plains. There were a variety of populations. Wasilowski stated that he is in full support but it seems there is a moderate and more aggressive plan. Asked if the plan doesn't work do they go to a more aggressive plan? Wanberg stated that high priorities versus moderate and low priority. It's a little hard to tell if it's aggressive enough. Wanberg stated that it always has a balance, a number of people think we are at a critical state right now and we have to be aggressive. Wanberg talked about the balance being between development and aggressive stance on climate control. Behrens asked about timeline for this plan. When does it come back if we need to change the aggressiveness. Wanberg's intention is to go to a council work session in March. Implementation – it's a general plan. Identify high priorities, woodland preservation, tree canopy – how do we implement this plan?

A motion was made by Huston and seconded by Wasilowski to recommend for approval to the Council of the Climate Adaptation Plan as presented.

Roll Call: Commissioner Behrens, Commissioner Diessner, Commissioner Garcia, Commissioner Huston, Commissioner Nesvold, Commissioner Wasilowski and Chair Steinkamp.

Motion carried on 7/0 vote.

- B. Recommend Council Approval for the City to Apply to Host a Minnesota Green Corps Member

Wanberg suggested that he prepare the application and that maybe two or three commissioners review and comment on it before it goes to Council. They discussed that the main focus area would be on Community Outreach. The application is due by March 16th. Short timeline.

A motion was brought by Commissioner Huston to follow through with the application process for GreenCorps and focus on the Community Readiness and Outreach seconded by Commissioner Wasilowski.

Roll Call: Commissioner Behrens, Commissioner Diessner, Commissioner Garcia, Commissioner Huston, Commissioner Nesvold, Commissioner Wasilowski and Chair Steinkamp.

Both Chair Steinkamp and Commissioner Diessner agreed to review and comment. Commissioner Behrens reminded to keep two is the limit since we don't want to disrupt the open meeting law.

Motion carried on 7/0 vote.

7. Routine Business

A. Announcements and Updates

- Submitted grant application for electric vehicle charging station.

Received a grant last year. DC charger and dual head level 2. Should be in soon; was supposed to be last fall. Did submit for another level 2 charger but chances of getting this are thin.

- Submitted idea brief to University of Minnesota Regional Sustainable Development Partnership to promote equity in the City's environmental planning efforts.

Wanberg did submit and idea brief – looking at doing work with cohorts of southern cities in particular doing work, outreach, particular groups not in government.

- Held kick-off meeting for the Faribault/Northfield/Rice County Solar Group Buy Program.

That first meeting is out of the way. Interested to hear that Commissioner Wasilowski's house is completely on solar. Asked if anyone wants to serve on a committee for 8 hours a month to help publicize on presentations.

- Reschedule the Environmental Commission/City Council work session.

Delay again due to other issues. Perhaps the second meeting in March, March 16th is a possible. Tuesday evening at 6:00- p.m.

B. Identify Agenda Items for March 22, 2021 Meeting

- Property Maintenance and Natural Landscaping Ordinance

Taking a look at the this ordinance that we started last year. Need to shore that up and

put that up as a recommendation to the council for next meeting.

8. Adjourn

A motion was made by Nesvold and seconded by Garcia to adjourn at 7:15.

Roll Call: Commissioner Behrens, Commissioner Diessner, Commissioner Garcia, Commissioner Huston, Commissioner Nesvold, Commissioner Wasilowski and Chair Steinkamp.

Motion carried on a 7/0 vote. Meeting adjourned at 7:15 p.m.

Respectfully submitted,

Dated: February 23, 2021

By: _____
Kari Casper, Recording Secretary



Environmental Commission Memorandum

TO: Environmental Commission

THROUGH: Deanna Kuennen, Community & Economic Development Director

FROM: David Wanberg, City Planner

MEETING DATE: March 22, 2021

SUBJECT: Recommend Amendments to the City Code of Ordinances, Chapter 31-Tall Grass and Weed Regulations

Last year, the Environmental Commission discussed draft amendments to the City Code of Ordinances, Chapter 31-Tall Grass and Weed Regulations. The Commission intended to recommend ordinance amendments that would provide property owners with reasonable flexibility to install and maintain native plantings (and other "nontraditional" plantings) while controlling "rank growth" and protecting the public's health, safety, and welfare.

The Commission discussed potential ordinance amendments but was unable to agree on the proposed ordinance language. Commission members expressed differing views on how much authority the City should have in requiring a property owner to remove certain plants (like ragweed) that are not on the state's noxious weed list. The Commission also expressed differing views on what constitutes "rank growth" and to what degree the City should regulate plantings in the public rights-of-way and adjacent to neighboring properties.

The Environmental Commission last reviewed the attached memo and draft ordinance amendments to Chapter 31 at its August 2020 meeting. The City Planner recommends that the Commission recommend that the Council approve the proposed amendments or approve the proposed amendments with conditions. The Environmental Commission does not need a unanimous vote to move a recommendation to the City Council.



Environmental Commission Memorandum

TO: Environmental Commission

THROUGH: Deanna Kuennen, Community & Economic Development Director

FROM: David Wanberg, City Planner

MEETING DATE: August 24, 2020

SUBJECT: Potential Amendments to Chapter 31 Tall Grass and Weed Regulation

Background:

At its July 27 meeting, the Environmental Commission reviewed draft ordinance amendments that eliminated the need for property owners to obtain a natural landscape permit (see attached). While the Commission expressed a desire to remove barriers in the ordinance that hinder property owners from installing pollinator plantings and natural landscaping, the Commission also expressed concern that some "natural landscapes" in Faribault are not appropriately maintained.

As a means to discuss "final" proposed amendments to the natural landscape ordinance, the City Planner is asking the Environmental Commission to review the following case study as a means to understand how potential ordinance amendments may affect properties in Faribault.

Case Study:

Shortly after the July Environmental Commission meeting, the Faribault Police Department (in response to a complaint) issued a citation to a property owner for "rank growth" growth of vegetation. However, the property owner reports that she intentionally planted native plants many years ago as a means to promote pollinators and as means to treat her property in an aesthetically pleasing and environmentally friendly manner. She acknowledges that some native plants have naturalized on her property. However, she welcomes the naturalized native plants as beautiful and valuable pollinator plants. She also reports that she regularly maintains her yard. While this situation is a matter between the Police Department and property owner (not the Environmental Commission), it illustrates the challenge the City has in applying and enforcing the City's weed ordinance, natural landscape ordinance, and landscaping

ordinance. Nevertheless, the Environmental Commission can use this situation (and others throughout the city) as a case study for how the City should regulate "natural" landscapes. The following lists questions for Environmental Commission discussion:

1. Should the City continue to require a natural landscape permit?

The City's Ordinance requires a natural landscape permit for "natural" landscapes over 8-10 inches in height. There are no active natural landscape permits in the city. However, City Staff knows of one property owner who did have a natural landscape permit several years ago, but that property owner died, and the permit has expired.

In this case study, if the property owner applied for a natural landscape permit (which is willing to do), it appears that with some minor modifications, the City could issue the permit, depending on what plants the City determines to be weeds. Consequently, the property could look much as it does today. Nevertheless, the permit would legitimize the landscape.

To date, the Environmental Commission has indicated a desire to eliminate the need for a permit, but to also enforce existing ordinance provisions that require weed maintenance.

2. If the City Council ultimately chooses to continue to require a natural landscape permit, how should the City handle common native landscape plants (like cultivars of native Black-eyed Susan and Purple Coneflower) purchased at a landscape nursery? How should the City handle non-native plants, like Hosta, Daylilies, annual flowers, and the like? Many property owners have planted native plant cultivars and non-native plants adjacent to sidewalks, roads, and property lines. Should these plants be treated differently than native plants?

3. If the City continues to require a natural landscape permit, should the City continue to require a \$150 permit fee and an annual renewal fee of \$25? To date, the Commission has indicated a desire to eliminate the permit and permit fees, but if the Council were to maintain the permit requirement, does the Commission believe a permit fee is in order (similar to a fence permit fee and other fees)? The City does not require a permit or a permit fee for non-native plantings. In a related manner, the current ordinance requires a detailed plan and listing of all the native plants on a site, and it requires a maintenance plan for each plant species. The ordinance does not require this level of detail for non-native plantings.

- 4. If the City continues to require a natural landscape permit, who should administer the permit?** The current ordinance requires the Police Chief to approve or deny a natural landscape permit. It also gives the City Administrator the authority to revoke the permit. The City does not have a specialist on staff to address natural landscape and weed management. The Police Department has indicated that the department would welcome shifting landscape maintenance enforcement to the City Planner.
- 5. Regardless of whether the natural landscape permit ordinance remains, should the City maintain the provision that requires plants over 8 inches in height to be setback from the sidewalk and the road by at least 18 inches? Likewise, should the City continue to require that plantings be setback at least four feet from neighboring property (unless approved in writing by the neighboring property owner)?** In this case study, the property owner has stated that she will mow within 18 inches of the road and sidewalk. However, how should the City deal with other property owners who have Hostas, Daylilies, and other non-native plants over eight inches in height directly adjacent to walks and roads?
- 6. How should the City enforce the weed ordinance when the weeds are not on the official noxious weed list? Also, how should the City enforce the weed ordinance when the "weed" is native to Minnesota?** For example, Canada Goldenrod is native to Minnesota. It is widespread throughout Minnesota, and it often establishes itself as "volunteer" growth in areas that are not regularly mowed. Some people consider Canada Goldenrod a weed because it aggressively spreads or naturalizes in areas that the property owner did not intentionally intend for them. Yet, other people welcome Canada Goldenrod into their yard because it is a valuable pollinator plant that they believe is aesthetically pleasing.

The City defines a weed as any undesirable or troublesome plant that is horticulturally out of place, especially plants that grow profusely where they are not wanted. A property owner may strongly believe that Canada Goldenrod (which again is a native plant) is a welcome plant in their yard. A neighbor, on the other hand, may view Canada Goldenrod as a weed that should be removed. How should the City enforce the weed ordinance when the plant is not a noxious weed, and the property owner believes that the plant is a welcome plant on their property?

In addition to Canada Goldenrod, there are many other species of native plants that some people view as weeds. Still, other people appreciate having them in their landscape for a variety of reasons. Common Blue

Violets, Annual Fleabane, Butterfly Weed, and Common Milkweed are native plants that some people view as weeds, while other people view them as valuable plants in the landscape. To complicate matters, many plants are not on the state's noxious weed list, but that everyone would agree are weeds that should not be allowed to grow in a yard (for example, Ragweed). There are also plants like Crown Vetch that the state routinely planted, but that the state now indicates that these plants should no longer be planted. Yet, these plants are not listed as noxious weeds that must be eradicated.

7. How should the City address the need for annual maintenance?

For example, some property owners will cutback herbaceous native plants in the fall as a means to "tidy" the appearance of the yard. Other property owners wait until spring to cutback the plants so that the plants can provide birds and other animals with food and habitat throughout the winter. Does the City care how and when plants are maintained?

Recommendation:

Based on previous input from the Environmental Commission, the City Planner recommends that the Environmental Commission consider the merits of the attached proposed ordinance amendments. Like previous draft amendments, the attached draft amendment eliminates the need for a natural landscape permit. It allows an authorized agent of the City (which may or may not be a police officer) to determine if a plant is a weed as defined in the ordinance. It also allows a property owner to appeal a decision of the authorized agent to the City Council for final determination and action. Finally, the proposed amendment requires a property owner to abate all plants that overhang a public right-of-way that creates a nuisance or a hazard. It "recommends" that plants over eight (8) inches in height be setback at least eighteen (18) inches from the public right-of-way and four (4) feet from a neighboring property.

Requested Action:

Provide the City Planner with "final" feedback regarding potential ordinance amendments related to natural landscapes (and pollinator gardens). The City Planner will present to the Commission pictures of the case study described above.

Attachments:

- Draft Ordinance Amendments to Chapter 31

Chapter 31 - TALL GRASS AND WEED REGULATION

Sec. 31-1. - Legislative intent.

It is declared to be the purpose and intent of this chapter to protect and preserve the city's neighborhoods and the public health, safety and welfare of those who live there. The city council determines that keeping the city free of noxious weeds and tall turf grass and weeds over eight inches in height and noxious weeds improves the quality of life of all residents by improving aesthetics, by eliminating harbor for rodents and insects, and by eliminating fire hazards. ~~At the same time, the city council recognizes that requiring the mowing of grasses and noxious weeds is sometimes unreasonable or impractical under certain circumstances.~~

The city council also determines that a variety of properly maintained landscaping treatments adds diversity and 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 prairie, naturalistic and meadow plant communities are acceptable landscape treatments. However, as a protection for the larger community, these types of landscaping treatments must be properly planned, managed and maintained, ~~and the length of transition period must be minimized~~ or they are likely to cause a public nuisance.

(Ord. No. 2009-21, § 2, 12-22-09)

Sec. 31-2. - Definitions.

For purposes of this chapter, the following words, terms and phrases shall have the following meanings respectively ascribed to them in this section:

Buffer or buffer strip. A management area used to separate differing landscapes and land uses in order to minimize the impact from adjacent land uses.

Landscaping. The encouragement of selected plants to grow on a site.

Meadow vegetation. 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, with the exception of weeds.

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

Native plants. Plants that existed in the area prior to European settlement.

Natural landscaping. The use of groups of native plants.

Naturalistic landscaping. The use of native and non-native plants.

Natural preserve. A natural undisturbed area designated by the city council where the land and vegetation appears to not have been graded, landscaped or otherwise disturbed by human or mechanical means in recent time.

Noxious weeds. Plants designated by the commissioner of agriculture as "noxious weeds" pursuant to Minnesota Statutes Section 18.77, subdivision 8.

Prairie. A plant community dominated by a diversity of native perennial herbaceous plants and grasses.

Temporary erosion control grasses. 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.

Transitional period. The amount of time needed to change from one type of landscaping to another. A transitional period must not extend beyond three (3) growing seasons for any specific area.

Turf grass. Grass commonly used in regularly cut and maintained lawns or play areas (including, but not limited to, bluegrass, fescue, and ryegrass blends) intended to be maintained at a height of no more than eight (8) inches.

Weeds. All noxious weeds and any undesirable or troublesome plant that is horticulturally out of place, especially plants that grow profusely where they are not wanted. For the purposes of this chapter, *Taraxacum* spp (common dandelion) is not considered to be a weed. An authorized agent of the city shall determine if a plant on a property is defined as a weed. A property owner can appeal the determination of the authorized agent of the city to the city council as per Sec. 31-5 (b) or this ordinance.

Wetlands. Lands that are 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).

(Ord. No. 2009-21, § 2, 12-22-09)

Sec. 31-3. - Nuisance declared.

It shall be unlawful and a public nuisance for any person having control over any property in the city to permit or maintain on such property any:

- (1) Noxious weeds; or
- (2) Growth of turf grass or weeds in excess of eight (8) inches in height.

No property owner shall permit such weeds and turf grass to be a public nuisance. Any such public nuisance must be immediately abated by the property owner by removing the weeds, cutting the turf grass and removing the clippings. In general, plants exceeding eight (8) inches in height should not be located within eighteen (18) inches of a public sidewalk, trail, road, or alley. In no case shall plants hang over the public right-of-way in a manner that creates a hazard or a public nuisance. In general, plants over eight (8) inches in height should not be located within four (4) feet of a neighboring property without the written consent of the neighboring property owner. , if the growth of grass or weeds occupies an area of at least one hundred forty-four (144) square feet and is located within two hundred (200) feet of a residence or developed property.

(Ord. No. 2009-21, § 2, 12-22-09)

Sec. 31-4. - Exemptions.

The following are not considered to be public nuisances:

- (1) Non-noxious weeds and grass vegetation in wetland areas;
- (2) Non-noxious weeds, grasses and herbaceous vegetation that are within fifty (50) feet of designated stormwater ponds, natural or altered creeks, rivers and stream corridors, including riparian buffer strips that convey water; ~~provided that they are annually cut to less than eight (8) inches if the area is located within two hundred (200) feet of an occupied residence or developed property;~~
- (3) Non-noxious weeds and grass vegetation growing on property located in any zoning district that is being actively farmed;
- (4) Temporary erosion control grasses;

- (5) Prairie, meadow or natural landscape vegetation that is maintained and includes the cultivation of native grasses and does not contain any noxious weed growth, ~~provided that a natural landscape permit is obtained from the city;~~
- (6) Grass and non-noxious weed vegetation growing in areas designated by the city council as a natural preserve; and
- (7) Grass, non-noxious weed vegetation and ornamental grasses growing on natural or altered slopes that are steeper than 2:1.

(Ord. No. 2009-21, § 2, 12-22-09)

~~Sec. 31-5. – Natural landscape permits.~~

- ~~(a) – *Permit required.* A natural landscape permit must be obtained from the city by a property owner desiring to use prairie, meadow or natural landscape vegetation which is not otherwise exempted by this chapter and is expected to exceed ten (10) inches in overall height.~~
- ~~(b) – *Permit application contents.* The natural landscape permit application must contain the following information:
 - ~~(1) – The name and address of the applicant;~~
 - ~~(2) – The legal description of the property;~~
 - ~~(3) – A site plan showing lot lines, public right-of-way, buildings and the location of the proposed landscaping;~~
 - ~~(4) – A general description of the vegetation and plant types to be used, including the Latin and common names of all of the species; and~~
 - ~~(5) – A specific management and maintenance plan that includes the following information:
 - ~~a. – A planting diagram showing the location and mature height of all species of vegetation;~~
 - ~~b. – Detailed information on the upkeep of each species;~~
 - ~~c. – The estimated transitional period, if applicable; and~~
 - ~~d. – The plan for elimination of any non-native vegetation.~~~~
 - ~~(6) – The name, address, phone number and qualifications of the person or company that will be responsible for the management and maintenance of the vegetation.~~~~
- ~~(c) – *Permit issuance.* The chief of police or his/her designee shall review the application and issue the natural landscape permit unless:
 - ~~(1) – The application is incomplete;~~
 - ~~(2) – The management and maintenance plan is incomplete or inconsistent with the requirements of this chapter;~~
 - ~~(3) – The plan proposes use of non-native grasses; or~~
 - ~~(4) – The transitional period for the area to be landscaped is longer than three (3) growing seasons.~~A natural landscape permit shall be valid for five (5) years from the date of approval.~~
- ~~(d) – *Permit denial; appeal.* If the chief of police or his/her designee denies an application for a natural landscape permit, he or she shall send written notice of the denial to the applicant. The applicant may appeal the decision to the city council by filing notice of such appeal with the city administrator within twenty (20) days of the date of the notice. Upon receipt of the notice of appeal, the city council shall set a public hearing date at which the applicant and any other party wishing to be heard may have an opportunity to present evidence as to the applicant's compliance with this chapter. If the city council determines that the applicant has complied with the provisions of this chapter, it shall direct~~

~~the chief of police to issue the permit. The city council must affirm the city administrator's denial of the permit if it determines that the applicant has not complied with the provisions of this chapter.~~

~~(e) Permit revocation. The city administrator may regularly inspect any property holding a natural landscape permit.~~

~~(1) A natural landscape permit may be revoked by the city administrator for any of the following reasons:~~

~~a. Weeds are not removed;~~

~~b. The vegetation is not being maintained to a height of ten (10) inches or less in areas located within eighteen (18) inches of a public street, sidewalk, trail or alley;~~

~~c. The vegetation is not being maintained to a height of ten (10) inches or less in areas located within four (4) feet of a side or rear lot line, unless the adjacent property owner has consented in writing;~~

~~d. The property owner fails to maintain the natural landscape area in a manner consistent with the management and maintenance plan that was submitted with the permit application.~~

~~(2) For any property that is not in compliance, the chief of police or his/her designee shall give notice to the holder of the permit by U.S. mail stating that the property must be in compliance within thirty (30) days. Should that period pass without action by the holder of the permit, the city administrator or his or her designee shall:~~

~~a. Revoke the natural landscape permit;~~

~~b. Remove all improperly maintained vegetation;~~

~~c. Declare the property ineligible for a natural landscape permit unless sold for a period of two (2) years; and~~

~~d. Assess the property for all fees associated with inspection of the property and any removal of improperly maintained vegetation in accordance with assessment provisions of this chapter.~~

(Ord. No. 2009-21, § 2, 12-22-09)

Sec. 31-65. - Violations.

~~(a) Inspection and notice. The city weed inspector~~ An authorized agent of the city shall make such inspections as are necessary to determine whether weeds and 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 ~~weed inspector~~ authorized agent of the city shall send a notice to the record owner of the property by certified mail, U.S. mail or by personal service ordering the owner to abate the nuisance within ten (10) days of the date of the notice. The property owner shall have the option to appeal the determination of the authorized agent as outline in Sec. 31-5 (b). The notice shall also state that if the owner fails to abate the nuisance, the city will abate the nuisance and the expense thereof, if unpaid by the owner, to be levied against the benefited property as a special assessment. Refusal to accept such notice by the owner of the property shall not constitute a defense that the notice was not received.

~~(b) Process to appeal the determination of an authorized agent of the city. Within ten days of the date of a notice to abate weeds and grass that constitute a public nuisance, a property owner may appeal the abatement notice to the city council. The city council shall make the final determination as to the existence of a public nuisance that requires abatement by the property owner.~~

~~(c) Abatement by the city. If such nuisance is not abated within the time required, the city may abate the nuisance. The city weed inspector~~ An authorized agent of the city shall keep a record of the total cost

of the abatement attributable to each property and report such information to an authorized agent of the city. ~~the city clerk.~~

- (d) *Owner liability for cost.* As soon as the abatement 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 may be levied as an assessment against the property. This shall be an additional remedy and not in lieu of any other penalty provided for in the City Code or state law.

(Ord. No. 2009-21, § 2, 12-22-09)

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