

ORDINANCE NO. 2024-____

AN ORDINANCE UPDATING STANDARDS FOR CONSISTENCY WITH A NEWLY ADOPTED MINNESOTA STATUTE FOR MANAGED NATURAL LANDSCAPES, AND MISCELLANEOUS UPDATES FOR CLARITY, THEREBY AMENDING CHAPTER 10 OF THE CITY CODE

The City Council for the City of Bloomington, Minnesota, ordains:

Section 1. That Chapter 10 of the City Code is hereby amended by deleting those words within brackets and ~~stricken through~~ and adding those words that are underlined, to read as follows:

CHAPTER 10: ENVIRONMENTAL CONTROL

ARTICLE I: AIR POLLUTION

§ 10.02 AIR POLLUTION CONTROL REGULATIONS.

(b) *Definitions.* The following words and terms, when used in this Article I, shall have the following meanings, unless the context clearly indicates otherwise.

~~[DIRECTOR]~~MANAGER. The ~~[Director of]~~ Environmental Health Manager ~~[Services]~~ for the city.

(c) *Installation and operation of devices.*

(1) *Permit Required.*

(B) No operational permit shall be issued or renewed for any pollution control device until the ~~[Director]~~Manager or his or her agent has evaluated and approved the performance of said device according to the standards incorporated herein.

(2) *Reasonable access.* All permit holders shall allow the ~~[Director]~~Manager or any of his or her agents reasonable access to the premises on which the pollution control device is located for purposes of enforcing this Article I.

(3) *Suspension of permit.* Upon determination that a violation of any provision of this Article I has occurred or is occurring, the ~~[Director]~~Manager or his or her agents may suspend the operational permit until the violation has been corrected.

(d) *Unapproved air pollution control devices.*

(1) *Incinerators.*

(A) *Sealing of interior and exterior incinerators.*

(i) Within a reasonable time, not to exceed seven days from the time that any incinerator ceases to be approved by the ~~[Director]~~ Manager or his or her agent, said incinerator shall be sealed by the owner thereof according to the provisions of subsection (d)(1)(B) below.

(ii) The ~~[Director]~~ Manager shall have the authority to establish reasonable and specific standards of efficacy for sealments. Each sealment shall meet these standards as promulgated.

(B) *Removal of exterior incinerators.* Within a reasonable time, not to exceed 60 days from the time that an incinerator exterior to the building ceases to be approved by the ~~[Director]~~ Manager or his or her agent, said incinerator shall be removed and disposed of by the owner in a manner approved by the ~~[Director]~~ Manager or his or her agent.

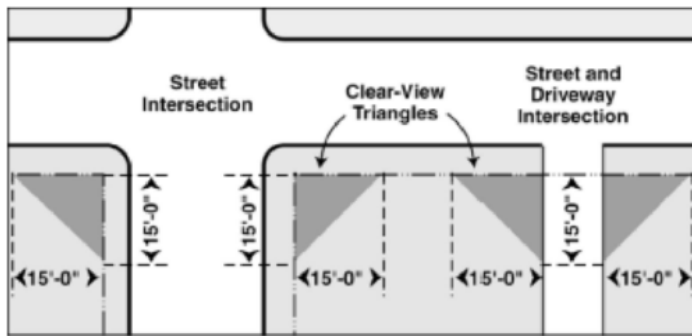
ARTICLE VI: WEEDS AND BRUSH

§ 10.37 DEFINITIONS.

The following words or terms, when used in this Article VI, shall have the following meanings, unless the context clearly indicates otherwise.

BRUSH. Includes parts of plants, such as but not limited to, fallen twigs, tree and shrub branches, limbs, and trunks. **BRUSH** does not include firewood and construction material.

CLEAR VIEW TRIANGLE AREA. The triangular area to provide an unobstructed clear view to a height greater than three feet above the level of the center of the adjacent intersection or driveway within the triangle of land formed on the corner of the lot by measuring a distance of 15 feet along each lot line from the street – property line intersection or lot line and driveway.



FIREWOOD. Dry, clean wood such as “Presto Logs,” charcoal or cordwood used or intended for use as heating fuel inside a residence or for an outdoor recreational fire. FIREWOOD does not include wood that is green, with leaves or needles, rotten, wet, oil soaked or treated with paint, glue or other preservatives; construction debris; or refuse. See additional restrictions on firewood for recreational fires in § 6.12 and firewood storage in § 10.57.

MANAGED NATURAL LANDSCAPES. Planned, intentional, and maintained plantings of native or nonnative grasses, wildflowers, forbs, ferns, shrubs, or trees, including but not limited to rain gardens, meadow vegetation, and ornamental plants. Managed natural landscapes do not include turfgrass lawns left unattended for the purpose of returning to a natural state.

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, not including noxious weeds.

NOXIOUS WEED. An annual, biennial, or perennial plant that the state's commissioner of agriculture designates to be injurious to public health, the environment, public roads, crops, livestock, or other property as defined in M.S. 18.77, subd. 8 and designated by the State of Minnesota under M.S. 18.79, subd. 13.

ORNAMENTAL PLANTS. Grasses, perennials, annuals, and groundcovers purposely planted for aesthetic reasons.

RAIN GARDEN. A native plant garden that is designed not only to aesthetically improve properties, but also to reduce the amount of stormwater and accompanying pollutants from entering streams, lakes, and rivers.

TURFGRASS LAWN. A lawn composed mostly of grasses commonly used in regularly cut 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 inches.

VOLUNTEER WOODY VEGETATION. Woody plants, such as trees or shrubs, that appear spontaneously or unintentionally in a specific area without deliberate human planting or cultivation.

WEEDS. Herbaceous plants and volunteer woody vegetation, generally not valued, growing wild, and regarded as hindering the growth of desired vegetation, excluding noxious weeds. Includes all noxious weeds as defined by the statutes of the state and all such useless and troublesome plants as are commonly known as weeds to the general public including volunteer and scrub trees or shrubs.]

YARD WASTE. Means garden wastes, leaves, lawn cuttings, weeds, shrub and tree waste, prunings, and Holiday Trees. **YARD WASTE** does not include organics, composting or yard waste stored and maintained in accordance with §§ 10.05, 10.06.02 and 10.06.04.

§ 10.38 NUISANCE.

(a) Duty to maintain. Owners and occupants of real property have a duty to maintain all areas of the lot or parcel or land, including all right-of-way area within the lot or parcel of land, in conformance with this Article VI.

([a]b) Weeds and grass. All weeds or [growing]turfgrass lawns upon any lot, parcel of land or adjacent right-of-way area in the city that have grown to a height greater than eight inches, or which have gone or are about to go to seed, are [hereby declared to be-]a nuisance and a detriment to the good order of the city, with the following exceptions:

(1) [Native prairie and long grass areas shown on an approved landscape plan in accordance with § 21.301.15] When drought conditions are declared by the City Council, turfgrass lawns may exceed heights greater than eight inches.

(2) Native prairie and managed natural landscapes with long grasses and other tall plant areas, on a single-family property having a residential use or all properties with an approved landscape plan in accordance with § 21.301.15.

[(2) Native prairie and long grasses within a defined landscape area on a single- or two-family residential parcel, provided that such defined landscape area:

~~(A) Occupies no more than 50% of the pervious surface area of the parcel excluding natural wooded areas, wetlands, water bodies, rain gardens, lakescaping and scenic easements;~~

~~(B) Is set back from property lines by at least five feet. The setback is not required where the defined landscape area abuts another similar private or public landscape area, a wetland, pond, lake or stream or if a fully opaque fence at least four feet in height is installed along the lot line adjoining the planned landscape area; and~~

~~(C) Is maintained at least once per year through mowing or, if appropriate permits are obtained through the City Fire Marshal, burning.]~~

- (3) Natural wooded areas;
- (4) Wetlands[;] and ponds[-or rain gardens];
- (5) Lakescaping areas as defined in § 19.03; and
- (6) Areas where mowing is prohibited by easement or law.

(c) Managed natural landscapes. Managed natural landscapes may include plants and grasses that are in excess of eight inches in height and have gone to seed but may not include any noxious weeds, and must be maintained. Managed natural landscapes, or elements thereof, are a nuisance when plantings impede or obstruct pedestrian access or use of sidewalks, trails, paths, or streets as follows:

- (1) Plants may not extend over the edge of curbs, sidewalks, or alleys.
- (2) Plants must not exceed four feet in height within five feet of any sidewalk, multiuse path, or adjacent roadways. This height restriction excludes trees, shrubs, and hedge rows.
- (3) Plants must not obstruct the clear view triangle area.
- (4) Plants must not obstruct the view from the street or impede access to a fire hydrant, fire hose connection, or utility box.

(d) Noxious Weeds. All noxious weeds upon any lot, parcel of land or adjacent right-of-way area in the city are a nuisance and a detriment to the good order of the city.

([b]e) Brush and yard waste. All brush piles not properly stored in a closed container or building, or yard waste not properly stored and maintained in accordance with § 10.05, upon any lot or parcel of land in the city are [hereby declared to be a vermin harborage and attractive] a nuisance and dangerous to the health, safety and good order of the city, with the following exceptions:

- (1) Brush piles and yard waste located near the street or other specific area for pickup or collection for a period of time of less than one week;
- (2) Brush and yard waste accumulations from a large storm event where it is not reasonable that brush be collected in a week or less; and
- (3) Brush and yard waste that has fallen in natural wooded or wetland areas or yards.

§ 10.39 NOTICE.

(a) When the owner or occupant or both permit a nuisance to exist in violation of § 10.38[~~of this Article VI~~], the Environmental Health Manager, or designated employee, shall serve a notice on the owner, occupant or agent of the owner of such lot or parcel of land ordering such person to have such brush, yard waste, ~~[or] weeds, noxious weeds,~~ or long grass cut and removed, or removed within seven calendar days after the service of such notice; such notice shall also state that in the event of noncompliance, removal will be done by the city at the owner's expense. The notice of the cost of abatement shall also inform the owner of the owner's right to appeal the fee under § 1.17 of the city code.

§ 10.40 ASSESSMENT.

~~[(a)]~~ If any person fails to comply with the notice provided in § 10.39 ~~[of this Article VI]~~ within seven calendar days after service, ~~[or if no owner, occupant or agent can be found, the Environmental Health Manager, or designated employee, shall have such brush, yard waste, long grass or weeds cut and removed or otherwise eradicated. A record showing the cost of such work attributable to each separate lot or parcel shall be delivered to the City Clerk. On or before October 1 of each year, the amount so charged, including the administrative and inspection charges due under subsections (b) and (c) below, together with interest thereon at the maximum lawful rate permitted under M.S. Chapter 429, as it may be amended from time to time, against said lot or parcel of land, together with a description of the premises and the name of the supposed owner, shall be certified to the County Auditor and shall be collected in the same manner as taxes or special assessments against said premises. The charge shall be a perpetual lien on the premises until paid.]~~ or fails to appeal the notice of the cost of abatement under § 10.39, then the costs and expenses of such abatement or removal, including but not limited to: the city's administrative costs and expenses, such as overheads and allowances for time of city employees, including a minimum inspection charge as set forth in City Code Appendix A and an administrative assessment charge as set forth in City Code Appendix A; expenses of equipment, if used; and sums of money necessarily paid out if done by other than city departments; shall be computed and reported to the City Council. Thereupon, the City Council may adopt an assessment roll levying a special assessment upon such lands and premises, which shall be transmitted to the County Auditor and included with the next tax levy upon such lands and premises and collected in the manner provided by law for the levy and collection of other special assessments.

~~[(b)]~~ The administrative assessment charge as set forth in City Code Appendix A.

~~[(c)]~~ An inspection charge, as set forth in City Code Appendix A, shall be due upon the mailing of the city invoice to the property owner.]

§ 10.41 PENALTY.

Failure or neglect to cut and remove or otherwise eradicate weeds, noxious weeds, or grass or failure to remove yard waste and brush as directed in this Article VI; failure, neglect or refusal to comply with any provision of any notice provided herein; violation of any provision of this Article VI; or resisting or obstructing the Environmental Health Manager, or designated employees and contractors in the cutting and removal, or eradication of weeds, noxious weeds, or long grass, or removal of yard waste or brush shall be a misdemeanor. Each day on which such violation continues shall constitute a separate offense. Civil penalties may also be issued pursuant to § 12.15 of the city charter and § 1.19 of this city code. However, nothing in this

article shall be construed to limit the city's other available legal remedies for any violation of the law, including without limitation, criminal, civil and injunctive actions.

§ 10.42 SEVERABILITY.

~~[In any case any section of this Article VI is held invalid by a court of competent jurisdiction, the invalidity shall extend only to the section affected, and other sections of the Article VI shall continue in full force.]~~

If any section, subsection, sentence, clause or phrase of this Article VI is for any reason held to be invalid, such decision will not affect the validity of the remaining portions of this Article VI. The City Council hereby declares that it would have adopted the ordinance in each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Passed and adopted this 6th day of May, 2024.

Mayor

ATTEST:

APPROVED:

Secretary to the Council

City Attorney