



211 Walnut Street
Neenah, WI 54956

AN ORDINANCE: By Public Services & Safety
Committee
Re: Amending Neenah Code §10-33; repealing and
recreating Neenah Code § 10-34; and
repealing Neenah Code §§10-35 & 10-36
relating to the regulation of noxious weeds and
maintenance of vegetation

ORDINANCE NO. 2014-6
Introduced: March 19, 2014
Committee/Commission Action:
RECOMMENDED FOR PASSAGE

AN ORDINANCE

The Common Council of the City of Neenah, Wisconsin, do ordain as follows:

Section 1. Section 10-33 of the Code of Ordinances of the City of Neenah is amended by adding the highlighted language and deleting the stricken language to read as follows:

Sec. 10-33. Weed Commissioner designated: Public Notice.

Pursuant to the provisions of Wis. Stats. § 66.0517, the Public Works Superintendent is designated as the Weed Commissioner of the City. Unless delegated to the County, the Department of Public Works shall publish a notice annually on or before May 15, as required by State law, that every person is required by law to destroy all noxious weeds on lands in the City which he owns, occupies or controls. A joint notice with other towns or municipalities may be utilized.

Section 2. Section 10-34 of the Code of Ordinances of the City of Neenah is repealed and recreated to read as follows:

10-34 NOXIOUS WEEDS AND MAINTENANCE OF VEGETATION

(a) **PURPOSE.** It is the purpose of this Section to prohibit the unmanaged growth of vegetation and to control noxious weeds, while allowing the planting and maintenance of planned natural landscaping that adds diversity and richness to the quality of life. There are reasonable expectations regarding the proper maintenance of vegetation on any lot or parcel of land. It is in the public's interests to provide standards regarding the maintenance of vegetation because vegetation that is not managed can decrease the value of nearby properties and threaten the public health and safety. It is also in the public's interests to encourage diverse landscaping treatments, particularly those that encourage the preservation, restoration, and management of native plant communities that can be economical, low-maintenance and effective in soil and water conservation. The City enacts this Section to balance these competing interests.

(b) **DEFINITIONS.**

Conservation – The preservation and careful management of the environment and of natural resources. In this case, it involves preserving natural resources through the use of native plants and landscape designs that optimize local conditions to reduce irrigation water usage, reduce soil erosion, lower maintenance costs and maintain biodiversity.

Destroy - the complete killing of weeds or the killing of weed plants above the surface of the ground by the use of chemicals, cutting, tillage, cropping system, or any or all of these in effective combination, at a time and in a manner as will effectually prevent the weed plants from maturing to bloom or flower stage.

Garden - a cultivated area dedicated to growing vegetables, fruits, annual and perennial plants, ornamental grasses and ground cover in a well-defined location.

Native Plants - those grasses (including prairie grasses), sedges (solid, triangular-stemmed plants resembling grasses), and forbs (flowering broadleaf plants) native to or naturalized to the state of Wisconsin. Native plants do not include weeds.

Noxious Weeds - any plant listed under §§ Wis. Stat. 23.235(1)(a), §§ Wis. Stat. 66.0407(1)(b), or Wisconsin Invasive Species Rule (Ch. NR 40, Wis. Adm. Code).

Ornamental Grasses and Groundcovers - grasses and groundcovers not indigenous to Wisconsin. Ornamental grasses do not include turf grasses and weeds.

Planned Natural Landscaping - a planned, intentional and maintained planting of native plants, ornamental grasses and groundcovers, rain gardens, shrubs and trees. Planned natural landscaping does not include any species of turf grasses and is not intended to allow a property owner to ignore lawn care duties. Planned natural landscaping does not include gardens.

Rain Garden - a native plant garden that is designed not only to aesthetically improve properties, but also to reduce the amount of storm water and accompanying pollutants from entering streams, rivers and lakes.

Turf Grasses – any grasses commonly used in regularly cut lawns or play areas including bluegrass, fescue or rye grass blends or any other similar grasses.

Unmanaged Plant Growth - any turf grass, hay, weeds, brush or other offensive vegetation which has grown to a height of over 8" but does not include:

1. Gardens,
2. Plants located on agricultural land,
3. Plants located on shoreland within 35 feet of the ordinary high-water mark,
4. Plants located within environmentally sensitive areas such as steep slopes, drainage ways, wetlands, and protective buffer areas, or
5. Planned natural landscaping that is wholly contained within the parcel on which it is planted and maintained.
6. Wooded lands.

(c) **REQUIREMENTS OF PLANNED NATURAL LANDSCAPING.**

- (1) Turf grass is to be eliminated and the native plants, trees and shrubs are to be planted through transplanting or seed by humans or mechanical means.
- (2) Setbacks - The setback area shall be regularly cut turf grass, garden beds, trees, shrubs, mulch, wood chips or landscape stone. Setback distances are defined as:
 - A. Three (3) feet from front lot line when adjacent to a public sidewalk and 0 feet from front lot line if there is no public sidewalk

- B. Three (3) feet from rear and side lot lines
- C. No setback is required on side and rear lot lines if any of the following conditions exist:
 - i. there is a sight-tight fence along the lot lines.
 - ii. the native landscaping abuts a neighboring planned natural landscaping area.
 - iii. the native landscaping abuts a public park/open space.
 - iv. the native landscaping abuts a natural area.
- D. On corner lots, the vision clearance triangle, as defined in Section 26-3, must be maintained.

(d) **CONTROL OF NOXIOUS WEEDS.**

- (1) A person owning, occupying, or controlling land shall destroy all noxious weeds on the land. The person having immediate charge of any public lands shall destroy all noxious weeds on the lands.
- (2) If a person neglects to destroy all noxious weeds as required under subpar. (1), the Weed Commissioner shall destroy or have destroyed the noxious weeds. The cost of destroying the weeds shall be charged and assessed in the manner provided by § 66.0517(3)(b)1, Wis. Stats.

(e) **CONTROL OF UNMANAGED PLANT GROWTH.**

- (1) A person owning, occupying, or controlling any residential lot or property adjacent to or adjoining a residential lot shall cut and remove any unmanaged plant growth on the land.
- (2) A person owning, occupying, or controlling any planned natural landscaping adjacent to or adjoining a residential lot shall cut and remove any unmanaged plant growth on the land.
- (3) If a person neglects to cut and/or remove unmanaged plant growth as required under par. (a) or (b), the Weed Commissioner shall cut down and remove or cause to be cut down and remove the unmanaged plant growth. The cost of cutting and removing the unmanaged plant growth shall be charged and assessed in the manner provided by § 66.0627(2), Wis. Stats.

- (f) **COMPLAINT NOTIFICATION.** Upon receipt of a complaint of unmanaged plant growth and/or noxious weeds, the Weed Commissioner shall inspect any residential lot or property adjacent to or adjoining a residential lot to review compliance with provisions of this ordinance. If violations are noted, the Director of Public Works or Weed Commissioner shall on the first violation of the season notify the party responsible for the property that he intends to take action on the parcel ten (10) calendar days before any action is taken. Said notice shall inform the owner that subsequent violations during the current season shall be corrected by the City without further notice. If the parcel owner objects within ten (10) calendar days after the notice was issued, the Public Services and Safety Committee shall review the objection and recommend whether the parcel is a Planned Natural Landscaping exempt from Code Section 10-34(e) to the Common Council. The Common Council shall affirm or reverse the Public Services and Safety Committee's recommendation and issue a final decision.

- (g) **APPEAL.** Any property owner wishing to contest a charge assessed under this section may appeal to the Public Services and Safety Committee. The appeal shall be in writing and submitted to the City Clerk within 30 days of the date on which the unmanaged plant growth and/or noxious weeds were cut and/or destroyed. The Committee may uphold, modify or cancel the charge. This procedure for administrative review shall not be governed by Ch. 68, Wis. Stats.

Section 3. Sections 10-35 & 10-36 of the Code of Ordinances of the City of Neenah are repealed.

Section 4. Severability. In the event any section, subsection, clause, phrase or portion of this ordinance is for any reason held illegal, invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remainder of this ordinance. It is the legislative intent of the Common Council that this ordinance would have been adopted if such illegal provision had not been included or any illegal application had not been made.

Section 5. Repeal and Effective Date. All ordinances or parts of ordinances and resolutions in conflict herewith are hereby repealed. This ordinance shall take effect from and after its passage and publication.

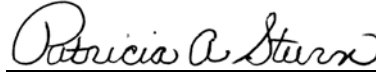
Moved by: Ald. Hillstrom/Kunz
Adopted: March 19, 2014
Approved: 9-0 March 19, 2014
Published: March 24, 2014

Approved:



George Scherck, Mayor

Attest:



Patricia A. Sturn, City Clerk

THIS INSTRUMENT WAS DRAFTED BY:
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State Bar No. 1005210