

GENERAL ORDINANCE NO. 09-21

AN ORDINANCE AMENDING SECTION 8.11,
GREEN BAY MUNICIPAL CODE, RELATING TO
NOXIOUS WEEDS AND MAINTENANCE OF VEGETATION

THE COMMON COUNCIL OF THE CITY OF GREEN BAY DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 8.11, Green Bay Municipal Code, is hereby amended to read:

8.11 NOXIOUS WEEDS AND MAINTENANCE OF VEGETATION.

(1) PURPOSE. It is the purpose of this Section to prohibit the uncontrolled growth of vegetation and to control noxious weeds, while permitting the planting and maintenance of planned natural landscaping that ~~add~~ **adds** diversity and richness to the ~~quality of life~~ **City's environment. It is a further purpose of this section to balance the need to ensure proper management of vegetation growth with the aesthetic, community, and environmental benefits of fostering the appropriate use of naturalized and native plant landscaping.** ~~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 which 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 which can be economical, low maintenance and effective in soil and water conservation. The City enacts this Section to balance these competing interests.~~

(2) ~~There are reasonable expectations regarding~~ **The City finds that it is in the public interest to ensure** the proper maintenance of vegetation ~~on any lot or parcel of land~~ **to prevent the growth of unmanaged vegetation which can lead to nuisance conditions such as the emergency of rank growth, which may adversely affect** ~~It is in the public's interests to provide standards regarding the maintenance of vegetation because vegetation which is not managed can decrease the value of nearby properties and threaten the public health and safety. It is also~~ **The City further finds it is** in the public's interests to encourage diverse landscaping ~~landscape~~ **landscaping** treatments ~~throughout the City,~~ particularly those ~~landscape elements~~ **landscape elements** that ~~encourage support~~ **support** the preservation, restoration, and management of native plant communities, ~~healthy pollinator communities, and~~ **healthy pollinator communities, and** ~~which can be economical, low maintenance and effective in soil and water conservation. The City enacts this Section to balance these competing interests.~~

~~(2)~~**(3)** DEFINITIONS.

(a) "Destroy" means 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, **hand-pulling, mulches, smothering, soil solarization,** or any or all of these in effective combination, at a time and in a manner as will effectually prevent the weed plants from **continual growth,** maturing to bloom or flower stage.

(b) "Garden" means a cultivated area dedicated to growing vegetables, fruits, annual and perennial plants, ornamental grasses, ~~or and ground cover~~ **groundcovers, vines, shrubs, or trees** in a well-defined location **with a defined edge or border.**

(c) "Native Plants" means those grasses (including prairie grasses), sedges (solid, triangular-stemmed plants resembling grasses), forbs (flowering broadleaf plants), **vines, shrubs, groundcovers, and**

trees that are native to or naturalized to the state of Wisconsin. **For purposes of this section, Native “native plants” shall** ~~do not include~~ **noxious weeds or noxious grasses as defined herein.**

(d) “No mow lawn” means a specially designed blend of bunch forming and creeping fine fescue grasses that are used as an alternative to the traditional turf grass lawn. This blend may include, but is not limited to, Festuca brevipila (Hard Fescue), Festuca ovina (Sheep Fescue), Festuca rubra subs. fallax (Chewings Fescue), Festuca rubra (Red Fescue), Festuca rubra var. rubra (Creeping Red Fescue), or Festuca rubra ssp. Litoralis (Slender Creeping Red Fescue). No Mow may be mixed with Annual Rye to aid in establishment of the no mow lawn. No mow will typically reach six to eight inches in height with seedheads reaching approximately two feet in height. After the seedstalks fall, the lawn will revert to approximately six to eight inches in height. No mow lawns generally only require mowing twice per year.

(d)(e) “Noxious Weeds” means any plant listed under §§ 23.235(1)(a) or 66.0407(1)(b), Wis. Stats., and shall also include arctium spp. (burdock), cirsium and carduus spp. (thistle), ambrosia spp. (ragweed), alliaria petiolata (garlic mustard), plantago lanceolata (buckhorn), and poison ivy.

(e)(f) “Ornamental Grasses and Groundcovers” means grasses and groundcovers not indigenous to Wisconsin that are not native to or naturalized to the state of Wisconsin. For purposes of this section, “ornamental Ornamental grasses” shall ~~do not include~~ **common turf grasses and or noxious weeds or grasses as defined herein.**

(f)(g) “Planned Natural Landscaping” means a planned, intentional, and maintained planting area of native plants, ornamental grasses and groundcovers, rain gardens, shrubs and trees. area which may include, without limitation, trees, shrubs, and native plants, as defined in this section, or vegetation associated with a rain garden. 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.

(g)(h) “Rain Garden” means 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. means an excavated area that is back-filled with a prepared or amended soil mixture, which may or may not be covered with a mulch layer, which is planted with a diversity of woody or herbaceous vegetation, to which stormwater is directed to promote infiltration or evapotranspiration.

(h)(i) “Turf Grasses” means those grasses commonly used in regularly cut or mowed lawns or play active recreation areas, and includes, without limitation, including bluegrass, fescue, or rye grass blends and or any other similar grasses.

(i)(j) “Unmanaged Plant Vegetation Growth” means an unmaintained area in which any grass, turf grass, hay, weeds, brush or other offensive vegetation which has grown to a height of over 9” eight (8) inches as a result of the absence of active cutting, mowing, or other maintenance. but does This definition shall not include:

1. Gardens,
2. Plants **Vegetation** located on agricultural land,
3. Plants **Vegetation** located **found** on shoreland within 35 feet of the ordinary high-water mark,

4. ~~Plants located~~ **Vegetation found** within environmentally sensitive areas such as steep slopes, drainage ways, wetlands, and protective buffer areas, or

5. Planned natural landscaping **area(s)** that is wholly contained within the parcel on which it is planted and maintained.

6. No mow lawns.

~~(3)~~**(4) CONTROL OF NOXIOUS WEEDS**

(a) The City Clerk shall annually on or before May 15 publish as required by state law a notice that every person is required by law to destroy all noxious weeds on lands in the City which they own, occupy or control. A joint notice with other towns or municipalities may be utilized.

(b) As provided for in Wis. Stats. § 66.0407(2), the City shall require that all noxious weeds be destroyed prior to the time in which such plants would mature to the bloom or flower state.

(c) The growth of noxious weeds in excess of eight inches in height from the ground surface shall be prohibited within the corporate limits of the City. 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.

~~(b)~~**(d)** If a person neglects to destroy all noxious weeds as required under par. (a), 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.

~~(4)~~**(5) UNMANAGED PLANT VEGETATION GROWTH PROHIBITED**

(a) A person owning, occupying, or controlling any land shall **mow, cut, or otherwise control** and remove any unmanaged ~~plant~~ **vegetation** growth on the land.

(b) If a person neglects to cut and/or remove unmanaged plant growth as required under par. (a), the Weed Commissioner shall cut down and remove or cause to be cut down and ~~remove~~ **removed** the unmanaged ~~plant~~ **vegetation** growth. The cost of cutting and removing the unmanaged ~~plant~~ **vegetation** growth shall be charged and assessed in the manner provided by § 66.0627(2), Wis. Stats.

(6) APPEAL. Any property owner wishing to contest a charge assessed under subsection (4) or (5) above may appeal the charge to the Improvement and Services Committee. The appeal shall be made in writing and submitted to the City Clerk within 30 days of the date on which the unmanaged vegetation growth or noxious weeds or grasses were cut or destroyed. The Improvement and Services Committee may uphold, modify, or cancel the charge. This procedure for administrative review shall not be governed by Wis. Stats. Ch. 68.

~~(5)~~**(7) PLANNED NATURAL LANDSCAPING AREAS**

(a) **Registration Required.** Any person ~~owner of record of a property, and any tenant upon signed, written consent of the owner of a property,~~ wishing to maintain a **may implement a** planned natural landscaping area on their property ~~may register their property~~ **upon registration** with the Department of Public Works. **Registration shall include the following information:**

- i. A plan of the property drawn to scale, indicating the location of all property boundaries, structures, sidewalks, driveways, and roadways, and the boundaries of the proposed planned natural landscaping area. No boundary survey is required. Property boundaries and other information may be indicated on an aerial photograph or other suitable and readily available base map.
- ii. A clear description, illustration, or photograph of the type(s) of edging proposed, including materials, height, and proposed placement.
- iii. A planting plan indicating the plant species and/or seed mixes to be used.
- iv. Any proposed change in grade or excavation required beyond standard excavation and soil replacement for establishment of the planned natural landscaping area.

(b) Planned Natural Landscaping Guidelines areas shall adhere to the following standards:

1. Types of plantings.

1.a. 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. Plantings may include forbs, grasses, edible plants, shrubs, or trees.

b. Plantings may be designed as rain gardens with plantings and grading specifically designed to receive and infiltrate rainwater or clear water flows.

c. Plantings shall be deliberately selected and arranged as part of a coherent overall plan. Overgrowth of conventional turf grasses or weeds, or any other unmanaged vegetation growth, shall not constitute a planned natural landscaping area.

d. No species identified on the Wisconsin Department of Natural Resources's Regulated Invasive Plants list, whether designated as Prohibited or Restricted, shall be permitted.

2. Edging required. A planned natural landscaping area must have a distinct and clearly defined border. The border may consist of any combination of mowed grass, fencing of up to three feet (3') in height, a permitted fence installed along a property line, or natural materials neatly arranged to create the appearance of an edge to contain the planned natural landscaping area.

3. Plant height at maturity. Plant height shall be maintained at the appropriate maximum height at maturity for the specific species. University of Wisconsin Horticulture, Division of Extension shall be consulted in the event of a dispute as to the appropriate maximum height for a particular plant.

4. Location and Dimensions of the Natural Planting Area.

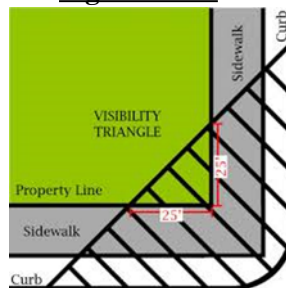
a. Planned natural landscaping areas are strictly prohibited within City rights-of-way and street terraces.

2.b. Setbacks:

- i. ~~3~~ **Three** feet (**3'**) from front lot line when adjacent to a public sidewalk and ~~0~~ **zero** feet (**0'**) from front lot line if there is no public sidewalk.
- ii. ~~3~~ **Three** feet (**3'**) from rear and side lot lines.
- iii. No setback is required on side and rear lot lines if there is a **permitted** fence along the lot lines, or **if** the native landscaping abuts a neighboring planned natural landscaping area public park/open space, or is adjacent to a natural area.
- iv. The setback area should be regularly cut turf grass, garden beds, trees, shrubs, mulch, wood chips, ~~or~~ landscape stone, **or other approved material**.
- v. ~~Planned natural landscaping is to be cut to a maximum height of 9" once annually by July 15th.~~

c. Natural Planting Areas shall not obstruct the visibility triangle at intersections, with the visibility triangle incorporating the area within a triangle formed by the intersection of the street right-of-way lines, as illustrated in Figure 146-1.

Figure 146-1



~~(c) Complaint Notification. Any person who registers a parcel as natural landscaping with the Department of Public Works shall receive a notice that the Weed Commissioner intends to take action on the parcel under this section ten (10) business days before any action is taken. If the registered parcel owner objects within ten (10) business days after the notice was issued, the Improvement & Services Committee shall recommend whether the parcel is a planned natural landscaping exempt from §8.11(4) of this ordinance to the Common Council. The Common Council shall affirm or reverse the Improvement & Service Committee's recommendation and issue a final decision.~~

~~(6)APPEAL. Any property owner wishing to contest a charge assessed under this section may appeal to the Improvement & Services 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.~~

(c) Review and Enforcement.

1. The City may at any time determine that a planned natural landscaping area violates of the terms of this section if the Weed Commissioner finds an ongoing

violation of the terms and conditions of the registered Plan, or if the Weed Commissioner determines that the planned natural landscaping area is harboring vermin or other pests. Upon such determination of the Weed Commissioner, a citation shall be issued to the property owner and any tenant who has made application for a planned natural landscaping area.

2. Appeal.

a. The subject of the Citation may appeal the determination to the Improvement and Services Committee. Any appeal shall be made in writing within ten (10) business days of receipt of the Citation and filed with the City Clerk.

b. The Improvement and Services Committee shall hear any appeal and recommend action to the Common Council, which shall have the authority to affirm, reverse, or modify the Improvement and Services Committee recommendation and issue a final decision.

c. In the event of non-compliance with a citation or Common Council decision upon appeal, the City may enter and cut or otherwise maintain the area subject to the determination, in accordance with the provisions of Subsection (4)(d) above.

SECTION 2. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed.

SECTION 3. Effective date. This ordinance shall take effect on and after its passage and publication.

Dated at Green Bay, Wisconsin, this _____ day of _____, 2021.

APPROVED:

Mayor

ATTEST:

Clerk

MS

[Date]