

**CITY OF DELANO
COUNTY OF WRIGHT
STATE OF MINNESOTA**

ORDINANCE NO. O-15-08

AN ORDINANCE AMENDING DELANO CITY CODE SECTION 805.01 RELATING TO LAWN MAINTENANCE.

THE CITY COUNCIL OF THE CITY OF DELANO ORDAINS:

Section 1. Section 405.01, Subd. 7 (B) 18 of the Delano City Code is hereby amended by deleting the number "10" and replacing it with the number "8".

Section 2. Section 805.01, Subd. 2 (C) of the Delano City Code is hereby amended by deleting the number "10" and replacing it with the number "8".

Section 3. Section 805.01, Subd. 3 (A) of the Delano City Code is hereby amended by deleting the number "10" and replacing it with the number "8".

Section 4. Section 805.01, Subd. 3 (B) 5 (b) of the Delano City Code is hereby amended by deleting the number "10" and replacing it with the number "8".

Section 5. Section 805.01 is hereby amended by inserting a new Subd. 5 to read as follows:

Subd. 5. Enforcement.

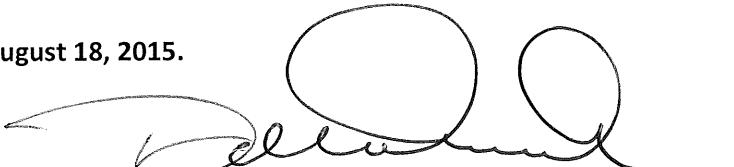
- A. Notice. Once a failure to comply with the requirements of this Section is identified, notice of such failure shall be given by the City Building Official to the affected property owner. The notice shall state and describe the following:
 - i. identify the property affected;
 - ii. order and allow seven (7) days for the property owner to cause abatement of the violation;
 - iii. that if abatement does not occur, the City Building Official as a remedial action will cause such abatement to occur;
 - iv. that all costs thereof will be billed to the property owner payable within thirty (30) days;
 - v. that if payment is not received within thirty (30) days, the costs will be assessed against the property on which the abatement has occurred pursuant to and in accordance with Minn. Stat. § 429.101 or any similar provision hereinafter enacted;
 - vi. inform the property owner of the right to a hearing before the City Administrator to appeal the notice; and
 - vii. inform the property owner that upon filing of a timely appeal the time to comply with the notice is stayed pending a decision by the City Administrator on the appeal.
- B. Hearing. The owner of the property is entitled to a hearing before the City Administrator

to appeal the notice upon serving a written request therefor upon the City Clerk prior to expiration of the date by which the abatement is to occur as set forth in the notice. At such hearing the person may present any evidence relevant to the appeal, but the City shall not be required to keep a verbatim record of the proceedings. The City Administrator may affirm, amend or reverse all or any portion of the notice and required abatements and shall set a new deadline for compliance if the notice is affirmed or amended in a manner that still requires abatement.

- C. Abatement. The City Building Official is authorized to enter upon the property and cause such abatement to occur if either (i) abatement does not occur within the time provided in the notice and a hearing is not requested; or (ii) the notice is affirmed or amended in a manner that still requires abatement and the abatement does not occur in the manner and within the time provided in the affirmed or amended order.
- D. Assessment. In all cases in which abatement occurs under this Section, the costs, if not paid by the owner as provided herein, shall be assessed against the property on which the abatement occurred pursuant to and in accordance with Minnesota Statutes Section 429.101 or any similar provision hereafter enacted. Such assessments shall be paid with interest, in installments, and within a period not to exceed one (1) year from the date of assessment. The City will not be responsible for damage to property, including any landscaped areas, resulting from enforcement of this Section.

THIS AMENDMENT SHALL BE IN FULL FORCE AND EFFECTIVE IMMEDIATELY FOLLOWING ITS PASSAGE AND PUBLICATION.

Approved by the Delano City Council on August 18, 2015.



Dale Graunke, Mayor


Attest: Brian Bloch, Finance Director

Motion By: Holly Schrupp
Seconded By: Betsy Stolfa
Graunke: Aye
Stolfa: Aye
Russek: Aye
Franzen: Aye
Schrupp: Aye

SECTION 805.01. SPECIAL PROVISIONS – LAWN MAINTENANCE.

Subd. 1. Preamble. The Council finds that there are a variety of landscapes in the City that add diversity and a richness to the quality of life. Certain areas in the City have been left, or allowed to go, unmaintained. These have been accepted by the vast majority of the City residents as appropriate and as part of the unique quality of life in this community. There are community expectations, however, that once an area has been disturbed, landscaped, or otherwise maintained, that area will continue to be maintained in a consistent manner. When vegetation in that area is not continually maintained, it becomes aesthetically unpleasing and violates community standards. Property that appears neglected may decrease the value of adjacent properties. In addition, if vegetation is not properly maintained, there may be the following adverse impacts on public health, safety, and welfare:

- A. Undesirable vegetation such as common buckthorn, quackgrass, and other weeds may invade and threaten to supplant other more desirable vegetation;
- B. Vegetation that causes allergic reactions, such as ragweed, may develop; and
- C. Tall vegetation along driveways and public roads may impair visibility when entering or exiting public roads.

The Council also finds that it is in the public interest to allow citizens to choose the type of landscaping on their properties and to make changes in that vegetation. As a protection for the larger community, however, this change in vegetation must be properly managed and maintained and the length of the transition period must be minimized.

The Council finds that the establishment of prairie and meadow plant communities is an acceptable landscape treatment in the City. This requires special consideration, however, because weeds will grow during the first few years of transition before the new vegetation predominates and will appear like neglect. Therefore, the Council finds that this type of vegetation is acceptable if it is properly maintained to shorten the transition period and if notice is given of the intended result.

In contrast, the transition to trees and other woody species does not require special consideration because intended grass or weeds are not a necessary part of that transition period. Rather, the transition period is shortened by eliminating competition around the seedlings through such techniques as organic mulch.

The Council enacts this ordinance to balance the public interest in a variety of vegetation with the public need to ensure proper maintenance of that vegetation. The Council finds that establishing a height limitation for certain vegetation is in the best interest of the public health, safety, and welfare as outlined above and is a reasonable maintenance standard.

Subd. 2. Definitions. For purposes of this Section the following words have the meanings specified below:

- A. “Meadow vegetation” is 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.

- B. "Noxious weeds" are those plants so designated by the state of Minnesota pursuant to Minnesota Statute §18.77, Subd. 8 and those listed under Minnesota Rule, Parts 1505.0730 to 1505.750.
- C. "Regularly cut" means mowing or otherwise cutting the vegetation so that it does not exceed 8 inches in height.
- D. "Turf grasses" are grasses commonly used in regularly cut low areas, such as bluegrass, fescue and rye grass blends, and non-woody vegetation interspersed with them.
- E. "Weeds" include all noxious weeds, buffalobur, burdock, common cocklebur, crabgrass, dandelions, jimsonweed, quackgrass, common and giant ragweed, field sandbur, velvetleaf, and wild sunflower. Weeds also include anything that is horticulturally out of place. For example, a tree seedling is a weed in a vegetable garden. A property owner may establish that a plant or plants are not horticulturally out of place by providing a written landscape plan for the area in question, complete with a listing and locations of plant species. The plants specifically listed above may not be included within the landscape plan. Vegetation that does not comply with this plan are weeds.

Subd. 3. Maintenance Standard. The maintenance standard in this Section applies to property that has been developed with a building as defined in the City's Building Code, including vacant property combined with developed property for tax purposes, and a parcel of property that has been completely or partially disturbed by demolition, grading or other means in preparation for development or redevelopment.

- A. All turf grasses and weeds must not exceed a height of 8 inches, measured from the base at ground level to the tip of each stalk, stem, blade, or leaf.
- B. This requirement does not apply to the following:
 1. A wetland or floodplain designated in the zoning ordinance and required wetland buffers or those voluntarily created by a private land owner when compatible with the character of the neighborhood and the intent of the wetland ordinance.
 2. A drainage pond or ditch that stores or conveys stormwater.
 3. A pasture that is (a) currently being used only for the exercise or feeding of domestic hooved animals; (b) physically surrounded by a permanent fence that separates the pasture from property used for other purposes; (c) at least one-half acre in size; and (d) undeveloped with any habitable buildings;
 4. An area in which the land and vegetation appears not to have been graded, landscaped, mowed, or otherwise disturbed by human or mechanical means at any time. Determination of what constitutes this type of area will be based on a reasonable judgment of the present appearance of the area. The recent history of the area may be relevant to this determination; and
 5. An area established with meadow vegetation if:
 - (a) The prior vegetation is eliminated and the meadow vegetation is planted through transplanting or seed by human or mechanical means;

- (b) The area is cut at least once per year to a height of no more than 8 inches, if weeds cover more than 25 percent of the area; and
- (c) A sign is posted on the property in a location likely to be seen by the public, advising that a meadow or prairie is being established. This sign is required only if the meadow vegetation is in an area likely to be seen by the public. This sign must be in addition to any sign permitted by the sign ordinance but must be no smaller than 10 inches square, no larger than one square foot, and no higher than three feet tall. The sign is no longer required when weeds cover 25 percent or less of the area.

Subd. 4. Declaration of Public Nuisance. The following are public nuisances subject to abatement under this chapter:

- A. Noxious weeds;
- B. Vegetation that does not meet the maintenance standard specified in Subdivision 3 above.

Subd. 5. Enforcement.

A. Notice. Once a failure to comply with the requirements of this Section is identified, notice of such failure shall be given by the City Administrator or designee to the affected property owner. The notice shall state and describe the following:

- i. identify the property affected;
- ii. order and allow seven (7) days for the property owner to cause abatement of the violation;
- iii. that if abatement does not occur, the City Administrator or designee as a remedial action will cause such abatement to occur;
- iv. that all costs thereof will be billed to the property owner payable within thirty (30) days;
- v. that if payment is not received within thirty (30) days, the costs will be assessed against the property on which the abatement has occurred pursuant to and in accordance with Minn. Stat. § 429.101 or any similar provision hereinafter enacted;
- vi. inform the property owner of the right to a hearing before the City Administrator to appeal the notice; and
- vii. inform the property owner that upon filing of a timely appeal the time to comply with the notice is stayed pending a decision by the City Administrator on the appeal.

The notice shall be delivered in person or by US mail to the property owner of record in the Wright County Auditor's Office.

- B. Hearing. The owner of the property is entitled to a hearing before the City Administrator to appeal the notice upon serving a written request therefor upon the City Clerk prior to expiration of the date by which the abatement is to occur as set forth in the notice. At such hearing the person may present any evidence relevant to the appeal, but the City shall not be required to keep a verbatim record of the proceedings. The City Administrator may affirm, amend or reverse all or any portion of the notice and required abatements and shall

set a new deadline for compliance if the notice is affirmed or amended in a manner that still requires abatement.

- C. Abatement. The City Administrator or designee is authorized to enter upon the property and cause such abatement to occur if either (i) abatement does not occur within the time provided in the notice and a hearing is not requested; or (ii) the notice is affirmed or amended in a manner that still requires abatement and the abatement does not occur in the manner and within the time provided in the affirmed or amended order.
- D. Assessment. In all cases in which abatement occurs under this Section, the costs, if not paid by the owner as provided herein, shall be assessed against the property on which the abatement occurred pursuant to and in accordance with Minnesota Statutes Section 429.101 or any similar provision hereafter enacted. Such assessments shall be paid with interest, in installments, and within a period not to exceed one (1) year from the date of assessment. The City will not be responsible for damage to property, including any landscaped areas, resulting from enforcement of this Section.