

ORDINANCE NO. 245
ORDINANCE RELATING TO NOXIOUS WEEDS AND RANK
VEGETATION WITHIN THE CITY OF PRESTON, MINNESOTA, AND
CONTAINING PROCEDURES FOR THE ABATEMENT THEREOF

The City Council of the City of Preston, Minnesota ordains as follows:

Section One. Repeal.

Section 92.35 through and including Section 92.43 of Chapter 92 of the Preston City Ordinances (the "Weed Ordinance"), shall be and hereby are repealed.

Section Two. Short Title.

This ordinance shall be cited as the "Noxious Weed and Plant Control Ordinance".

Section Three. Jurisdiction.

This ordinance shall be in addition to any state statute, county ordinance or administrative rule presently in effect, subsequently added, amended or repealed.

Section Four. Definitions; Exclusions.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- A. DESTRUCTION ORDER. The notice of ordinance violation served by the City official on the property owner.
- B. PROPERTY OWNER. The person occupying the property, the holder of legal title or a person having control over the property of another, such as a right-of-way, easement, license or lease.
- C. WEEDS, GRASSES, RANK VEGETATION and DEAD TREES, includes but is not limited to the following:

(1) Noxious weeds and rank vegetation shall include but not be limited to alum (allium), Buckthorn, Bur Cucumber, Canada Thistle, Corncockle, Cressleaf Groundsel, Curly Dock, Dodder, Field Bindweed, French Weed, Hairy Whitetop, Hedge Bindweed, Hoary Cress, Horsenettle, Johnsongrass, Leafy Spurge, Mile-a-Minute Weed, Musk Thistle, Oxeye Daisy, Perennial Sowthistle, Poison Hemlock, Purple Loosestrife, Quackgrass, Russian Knapweed, Russian Thistle, Serrated Tussock, Shatter Cane, Sorghum, Wild Carrot, Wild Garlic, Wild Mustard, Wild Onion, Wild Parsnip.

(2) Grapevines when growing in groups of 100 or more and not pruned, sprayed, cultivated, or otherwise maintained for two consecutive years.

(3) Bushes of the species of tall, common, or European barberry, further known as *berberis vulgaris* or its horticultural varieties.

(4) Any plants which have been defined by state statute or administrative rule as being noxious weeds or plants.

(5) Dead trees that are so situated that they may fall on an adjoining owner's property, or that may be a probable safety hazard; also, dead trees that should be removed because of interference with electrical or other utilities.

(6) Native grasses, forbs, and cultivated wildflowers are specifically allowed and are not considered weeds or rank vegetation.

D. "Woodland" means an area of coniferous or deciduous trees interspersed with shrubs, grasses, broad-leaf plants, and other vegetation, excluding noxious weeds, which are native or adaptive to the State of Minnesota.

E. "Turfgrasses" means an area of land, which is occupied by a minimum of 90% of turfgrasses. Turfgrasses are commercially available cultured turfgrass varieties including blue grass, fescue, rye grass blends, commonly used in regularly cut low areas.

F. "Regularly cut" means mowing or otherwise cutting vegetation so it does not exceed 10 inches in height.

G. "Noxious Weeds" also includes those plants designated as such by Minnesota State Section 18.171 subd. 5 or as amended.

H. "Property" means all lots or parcels within the city.

I. "Vegetation" means any non-woody plant.

Section Five. Lawn Establishments.

All disturbed or occupied areas, which are not occupied by buildings, storage, landscape beds, or other physical improvements, shall be covered by maintainable turfgrasses. It is the duty of all property owners to establish a lawn within eight (8) months of issuance of Certificate of Occupancy or twelve (12) months of issuance of building permit, whichever is earlier. The property owner shall be responsible for supplemental watering of all areas established with turfgrass to insure sufficient establishment and root development. All areas shall have sufficient ground cover as to prevent erosion. At the discretion of the City a shorter time period may be imposed.

Section Six. Native Grasses or Gardens.

No more than 50% of all disturbed areas may be restored to native grasses or wildflowers indigenous to the State of Minnesota, which are planted and maintained on any property, as part of a garden, or landscape treatment. A minimum width of three (3) feet of turfgrass shall be established and maintained along the edge of the property and abutting both sidewalk and roadway if native grasses are to be used.

Section Seven. Woodland Preserve or Restoration.

No more than 50% of areas within the lot can be devoted to woodlands. Property owners must trim and maintain the woodland areas such that public ways are kept clear for passage.

Section Eight. Turfgrass Maintenance.

1. All property within the City of Preston shall have turfgrass maintained through regularly cutting to prevent grass vegetation from exceeding 10 inches.
2. On vacant property where mowing of grass is physical difficult because of topography or other physical constraints the height requirement as in paragraph (1) shall only apply to six (6) foot strip of land abutting roadways or developed properties.
3. Paragraph Subd. 5, (1) above shall not apply to the following:
 - a. Highway ditches.
 - b. Railroad track ditches.
 - c. Agricultural areas.
 - d. Designated wetlands areas (based on DNR standards).
 - e. Large tracts of undeveloped land.
 - f. Residential subdivisions that are less than 50% developed except where lots abut developed and improved property. In this instance paragraph two (2) above shall apply.
 - g. Designated areas in City Parks.
 - h. Up to a 50-foot buffer surrounding drainage ponds, water quality ponds, streams, lakes, and floodplain areas.
 - i. Woodlands.

Section Nine. Trimming Plants at Intersections.

The owner or occupant of any property lying and abutting any intersection of two streets, having shrubs or bushes on such property shall trim or cause to be trimmed bushes or shrubbery so that they shall not exceed three (3) feet in height. The area included in this restriction is defined by a triangle, created 20 feet back from the intersection of property lines on both sides.

Section Ten. Owners' Responsibilities for Removal and Disposal of Noxious Weeds and Vegetation.

All property owners shall be responsible for the removal, cutting, or disposal and elimination of noxious weeds, grasses and rank vegetation identified and described above.

Section Eleven. Filing Complaint.

Any person, including the City or any of its officials, who believes there is property located within the corporate limits of the City that has growing plant matter in violation of this ordinance, may file a signed written complaint with the City Administrator.

Section Twelve. Notice of Violations; Procedures.

(A) Upon receiving a written and signed complaint of the existence of weeds in violation of this subchapter, the City Administrator or his staff, including the City Weed Inspector, shall make an inspection and prepare a written report to the City Council regarding the condition. The City Council, upon concluding that there is probable cause that this ordinance has been violated, shall direct the City Administrator to forward written notification in the form of a "Destruction Order" to the property owner involved as that information is contained within the City or County records. The notice shall be served by certified mail with return receipt requested. The notice shall provide that within seven regular business days after the receipt of the notice that the designated violation shall be removed by the property owner.

(B) All notices are to be in writing and all filings are to be with the City Administrator.

Section Thirteen. Response by Property Owner; Procedure and Abatement.

(A) The property owner may respond to the Destruction Order by filing written notice of objections and request for hearing with the City Administrator within five business days of receipt of the order.

(B) Upon receive of the property owner's written notice of objections and request for hearing, the City Administrator shall then set the matter on for hearing before the City Council and shall give written notice of such hearing by certified mail with return receipt requested at lease five business days prior to the date of the council meeting when the hearing will be held. At the hearing, all interested parties, including the City Weed Inspector, may give testimony and comments to the City Council on the issue of whether the ordinance has been violated, and after all parties have been heard, the Council shall, by majority vote, decide whether or not the ordinance has been violated. After the City Council has, by majority vote, made its decision, the City Administrator shall serve written notice of such decision upon the affected property owner by certified mail with return receipt requested. If the City Council finds that the property owner has violated the ordinance, the notice shall include a "Destruction Order" directed to the property owner to take action within seven days from and after receipt of the notice to bring the affected property in compliance with all sections of this ordinance. The order shall be specific as to the particular actions that the property owner must take to accomplish compliance. If the property owner shall fail to do so, the City Council may

employ the service of City employees or outside contractors to take any action necessary to bring the affected real property into compliance with this ordinance.

Section Fourteen. Appeal to District Court.

The affected property owner may file an appeal to the Fillmore County District Court from the Destruction Order referred to in Section 13 (b) above, within seven calendar days from and after receipt of the Destruction Order in which case all proceedings under this ordinance shall be suspended pending final disposition of all court appeals.

Section Fifteen. Liability.

(A) The property owner is responsible for all collection costs associated with necessary action to bring the real property into compliance with this ordinance, including but not limited to court costs, attorney's fees and interest on any unpaid amounts incurred by the City. If the City uses municipal employees, it shall set and assign an appropriate per hour rate for employees, equipment, supplies and chemicals which may be used.

(B) All sums payable by the property owner are to be paid to the City Administrator and shall be deposited in the general fund as compensation for expenses and costs incurred by the City.

(C) All sums payable by the property owner may be collected as a special assessment as provided by M.S. 429.101, as it may be amended from time to time.

Section Sixteen. Effective Date.

This ordinance shall become effective as of the day following its publication in the official newspaper of the City.

PASSED BY THE CITY COUNCIL OF THE CITY OF PRESTON, MINNESOTA THIS
3rd DAY OF NOVEMBER, 2003.

CITY OF PRESTON

David Pechulis, Mayor

ATTEST:

Fred Nagle, City Administrator