

CHAPTER 48

NUISANCES

1. **MEANINGS OF WORDS.** Unless otherwise expressly provided herein, words and phrases used in this Chapter shall have and be given the same meaning and definition as set out in the Environmental Protection Act of the State of Illinois and the regulations duly promulgated thereunder.

2. **NUISANCES DECLARED.** In all cases in this Chapter where no provision is made defining what are nuisances and how the same may be abated, removed or prevented, in addition to those declared herein, those offenses known to the common law and to the statutes of Illinois as nuisances, may, in case the same exist within the jurisdiction of the City, be treated as such and proceeded against as provided in this Code or any other provision of law applicable thereto.

3. **ABATEMENT OF NUISANCE.** In all cases where a nuisance shall be found in any building or premises within the jurisdiction of the City, the director of any department of the City having knowledge thereof is hereby authorized to serve or cause to be served a written notice upon the owner or occupant or person in charge thereof, if such person can be found, requiring such person to abate the same within a reasonable time; provided that, notice of any violation of Section 8 of this Chapter may be served by publication one time in a newspaper of general circulation within the City of Decatur. Such notice may, but need not, specify the manner of abatement. If the person so notified shall neglect or refuse to comply with such notice, or whenever the owner, occupant or person in charge is unknown or cannot be found, such nuisance may be abated by the City without notice, and the expense thereof is recoverable from the person who may have created, continued or suffered such nuisance to exist, and is a lien on the premises

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on which such nuisance was found, in addition to any fine or penalty. If the violator abates the nuisance before the court date or administrative hearing date, the City's Legal Department, at its discretion, may allow the violator to pay the fine in full before the court date or administrative hearing date. (Amended, Ordinance No. 92-20, March 30, 1992) (Amended, Ordinance No. 2012-62, August 20, 2012)

4. **DISCLOSURE OF PRINCIPAL.** Every agent or other person having charge, control or management or who collects or receives the rents of any lands, premises, or other property in the City, shall disclose the name of the person for whom such agent or other person is acting upon demand of any inspector or agent of the City.

5. **USE OF PREMISES.** No person owning or in possession, charge or control of any building or premises shall use the same, or permit the same to be used, for any business or employment or any purpose, if such use shall, from its boisterous nature, disturb or destroy the peace of the neighborhood or shall be dangerous or detrimental to health, or shall be the occasion of any nuisance.

6. **SEWER SERVICE LINES.** All lawful privy vaults, septic tanks, cesspools and sewer service lines shall be so maintained that they shall not become foul or emit offensive odors prejudicial to the public health, and further that the contents thereof shall not be permitted to leak from nor be closer than two feet to the surface of the earth. A privy vault, cesspool or sewer service line located, maintained or permitted to become foul or filled in violation hereof is hereby declared to be a public nuisance and may be abated as such by the City Manager.

7. **ABANDONED EXCAVATION.** Any well, cistern, hole, pit, pool or similar structure, or abandoned excavation or shaft that is open and easily accessible to children or passers-by and/or of sufficient depth or steepness to endanger their safety, or any undrained and

abandoned excavation or pool, is hereby declared to be a nuisance. (Amended, Ordinance No. 2004-77, September 20, 2004)

8. **WEEDS.** Weeds, grass or other underbrush which have grown to a height of ten (10) inches or more or allowed to flower, trees and bushes which need trimmed, and bushes and trees which need to be removed, are hereby declared to be a nuisance, and any owner, lessee, occupant or agent having control of any lot of ground or any part thereof within the City shall cut or cause the same to be cut within five (5) days after being notified to do so by the City. Such owner, lessee, occupant or agent of any lot of ground, or part thereof, shall also cut, or cause to be cut, upon notice as provided in this section, any weeds, grass or underbrush, trim or cause to be trimmed nuisance trees or bushes, or remove or cause to be removed nuisance trees or bushes described herein which are growing or located between the prolongation of the side lot lines thereof, and between the rear or front lot line thereof, as the case may be, and the edge of any sidewalk, roadway or alley under the jurisdiction or control of the City and abutting such lot of ground, or part thereof; "sidewalk", "roadway" and "alley", as used herein, shall have the meanings ascribed thereto in The Illinois Vehicle Code; provided, however, that no such owner, lessee, occupant or agent shall be responsible for cutting any weeds, grass or underbrush, trimming nuisance trees or bushes, or removing nuisance trees or bushes on public right-of-way if such are growing or located (1) on ground which has a slope greater than one to one and a height which exceeds three feet from the bottom of the slope to the top of the slope, or (2) on ground which is inaccessible to grounds maintenance equipment customarily used by residential households due to unusual topographical conditions or structures erected prior to February 15, 1991. If such person shall fail to comply with said notice, such weeds, grass or other underbrush may be cut or caused to be cut, nuisance trees or bushes may be trimmed or caused to be

trimmed or removed or caused to be removed by the City and the expense thereof shall be repaid to the City by the owner or person in control of said premises. Charges for weed, grass or other underbrush cutting on private property, or trimming or removal of nuisance trees or bushes, shall be a lien upon the premises. Notice shall be given in the following manner: (Amended, Ordinance 2013-02; January 7, 2013) (Amended, Ordinance 2014-39; August 4, 2014)

(a) For lots with an occupied structure as determined by active water service and/or usage, the notice to abate the violation of the growth of weeds, grass or other underbrush which have grown to a height of ten (10) inches or more or allowed to flower, or notice to trim or remove nuisance bushes or trees, may be given to the owner, lessee, occupant or agent having control of the lot of ground or any part thereof including the prolongation of the lot lines by personal service or by posting a sign or citation on the premises of the property in question regarding the violation. The sign or citation shall be posted in a conspicuous place near the front of the lot or near the main entrance to the structure. The text of the notice shall contain a reference to the provision of this Code violated, the address of the property, the date of posting, and such other information respecting the nature of the violation as the Economic and Community Development Department deems advisable. It shall be unlawful for anyone to deface, tamper with, or remove the sign or citation from the property where it is posted unless authorized by the Economic and Community Development Department. All notices shall state that the removal of the weeds shall be performed within the time specified from the date of the notice. The time limit to abate the growth of the weeds or other underbrush which have grown to a height of ten (10) inches or more or allowed to flower or to trim or remove nuisance bushes or trees, shall be no less than five (5) days after personal delivery of the notice or the posting of the sign or citation on the property. (Amended, Ordinance No. 2017-07, February 6, 2017)

(Amended, Ordinance 2013-02; January 7, 2013) (Amended, Ordinance 2014-39, August 4, 2014)

(b) For vacant lots or lots with an unoccupied structure, as determined by active water service, the notice to abate the violation of the growth of weeds, grass or other underbrush which have grown to a height of ten (10) inches or more or allowed to flower, or the notice to trim or remove nuisance bushes or trees, shall be published by the City in a newspaper of general circulation within the City limits once a week for two (2) consecutive weeks during the months of March through September for each year a notice informing all owners, lessees, occupants or agents having control of any vacant lot or a lot with an unoccupied structure or any part thereof and including the prolongation of the lot lines within the City that the growth of weeds, grass or underbrush which have grown to a height of ten (10) inches or more or allowed to flower and the existence on any such lot, or the growth of nuisance bushes or trees, is contrary to the ordinances of the City of Decatur. The notice shall further inform the public that should the weeds, grass or underbrush grow to more than ten (10) inches in height, or should the nuisance bushes or trees need trimmed or removed, the City of Decatur may cut or cause to be cut the weeds without further notice and the owner, lessee, occupant or agent having control of said lot shall be liable to the City for its costs and shall be a lien against the property. This Notice shall be a display advertisement. (Amended, Ordinance No. 2013-02, January 7, 2013) (Amended, Ordinance No. 2001-16, March 19, 2001) (Amended, Ordinance No. 91-23, February 4, 1991) (Amended, Ordinance No. 90-34, March 19, 1990)

9. NATURAL AREAS AND NATIVE PRAIRIE LANDSCAPE AREAS.

A. **DEFINITIONS.** As used in this Section, unless the context requires otherwise:

(1) "City" means the City of Decatur, Illinois.

(2) “Garden” means a land area where plants are cultivated and managed. Gardens may include native or non-native plants and may be located on public, commercial or residential property. Gardens are purposefully planned, planted, and managed areas which may include a variety of plants including ferns, aquatic plants, native or ornamental grasses, sedges, vines, forbs/flowers, shrubs, and/or trees which are not defined as weeds herein and subject to the City of Decatur Code Chapter 36, Section 2.

(3) “Native Plants” are those plant species which are native to the State of Illinois excluding prohibited species, as defined by the Illinois Noxious Weed Law 505 ILCS 100 et.seq. and any Administrative Regulations implementing the Act and all species of running (monopodial) bamboo. Native plants do not include weeds as defined in subsection 9(a).

(4) “Native Prairie Landscape Area” is an area utilizing native plants which are purposefully planted and managed. Native Prairie Landscape Areas may be used to prevent or reduce soil erosion and rainwater runoff into the watershed and reduce the need for pesticides and fertilizers. A Native Prairie Landscape Area must be composed of Native Plants. A Native Prairie Landscape Area does not include gardens.

(5) “Natural Area” means an area that has been purposely left to grow in a natural state and can maintain itself in a stable condition with minimal human intervention and contains trees, shrubs, and native plants, excluding weeds and turf grass areas that contain more than fifty (50) percent turf grass. Flowers and non-native plants can be allowed provided that common weeds are not the predominant vegetation. Natural Areas are permitted on five (5) acre, non-residential lots and only where they are buffered by setbacks adjoining adjacent land and public rights-of-way.

(6) “Ornamental Grasses” means grasses that are not indigenous to the State of Illinois that are intended to add beauty to a garden. Ornamental grasses do not include turf grasses or weeds.

(7) “Thinning” means reducing plant density using commonly accepted landscape management practices except burning.

(8) “Turf grass” means commercially available cultured grass varieties, including bluegrass, fescue and ryegrass blends, commonly used in regularly mowed or manicured lawn areas.

(9) “Weeds” are plants defined as weeds by the Illinois Noxious Weed Law, 505 ILCS 100 et. seq., or the Illinois Exotic Weed Act, 525 ILCS 10/1-5 and any administrative regulations implementing those acts as amended from time to time. The Forestry Division of the Public Works Department of the City may proscribe additional plants that are prohibited.

B. LOCATION AND LIMITATIONS OF NATIVE PRAIRIE LANDSCAPE AREAS

(1) Lake Frontage – Natural Areas and Native Prairie Landscape Areas may be located on a lot, lots or parcels of ground abutting, and/or within one-hundred (100) feet of the lake shore line of Lake Decatur, except that Natural Areas and Native Prairie Landscape Areas may not be located within ten (10) feet of any residential property. Natural Areas and Native Prairie Landscape Areas near or adjoining Lake Decatur must be set back not less than ten (10) feet from the side lot lines. If the owner owns multiple adjacent lots the setback requirements of this ordinance shall apply to the outer perimeter of the total tract. Said setbacks shall not apply if said lot lines abut Lake Decatur. No Native Prairie Landscape area may be located in the front yard of a property.

(2) Residential Property –

(a) Natural Areas shall not be permitted in residential districts listed as permitted zones for Native Prairie Landscape Areas by this subsection.

(b) Native Prairie Landscape Areas, following the issuance of a permit as stipulated and required in Paragraph E, may be located on a lot or parcel of ground in the R-1, R-2, R-3, R-5 or R-6 residential zoning district, or with any residential use, but must be set back not less than ten (10) feet from the side lot lines and not less than ten (10) feet from rear lot lines. Corner lots or parcels shall have two (2) rear yard setbacks. No Native Prairie Landscape Area shall be located in the front yard of the property, including vacant lots. Corner lots shall have two front yards in this situation. Size of Native Prairie Landscape Area shall not exceed twenty (20) percent of the rear yard as measured from the rear of an existing home to the rear lot line and from side lot property line to opposite side lot property line. On residential properties with no structure, Native Prairie Landscape Area shall be located on the back half of the parcel only and shall not exceed twenty (20) percent of the rear yard as measured from the middle of the lot, or the front yard building setback line, whichever produces the smaller rear yard area. Native Prairie Landscape Areas shall not exceed a uniform average height of seven (7) feet. Pots and planters containing native plantings having a planting area of nine (9) square feet or less may be placed in front yards as part of a garden without the need for a permit if they are maintained and managed.

(3) Non-Residential Property -

(a) Natural Areas are not permitted in any residential zone, or in any zone within three-hundred (300) feet of an occupied residential structure. Natural Areas shall not be allowed on lots less than five (5) acres in size, and must be setback not less than twenty-five (25) from the side lot lines and not less than twenty-five (25) feet from the rear lot lines. Corner lots or

parcels shall have two (2) rear yard setbacks (corner lots will have two front yards in this situation).

(b) Native Prairie Landscape Areas in Non-Residential zones shall be the same as for residential zones, as provided in subsection B(2). Size of Native Prairie Landscape Area cannot exceed thirty (30) percent of the rear yard of a non-residential improved parcel as measured from the back corner of existing structure to the rear lot line and from side property line to opposite side property line. Native Prairie Landscape Areas shall not exceed a uniform average height of seven (7) feet in non-residential zones.

(c) Vacant parcels of more than five (5) acres in non-residential areas may have Natural Areas and Native Prairie Landscape Areas that comprise the entire parcel except that minimum twenty-five (25) foot setbacks must be maintained on all sides.

C. PREPARATION AND INITIAL REQUIREMENTS

(1) All setback areas shall be composed of regularly mowed turf grass, garden beds, trees, shrubs, mulch, wood chips, rock and/or gravel and be maintained as set forth in Section 8 of this Chapter.

(2) Native Prairie Landscape Areas shall be planted using species native to Illinois prairies and only through transplanting or seed by human or mechanical means. Soil erosion must be controlled while the ground is bare of plant growth that is sufficient to inhibit erosion and is the sole responsibility of the owner or occupant.

(3) Natural Areas and Native Prairie Landscape Areas shall not be placed within any front yard areas, rear and side yard setbacks, rights-of-way, or immediately adjacent to any driveway or street intersection when it interferes with vehicular traffic using said street or creates a hazard to public safety.

(4) Prior to planting Native Prairie Landscape Areas, the entire planting areas shall be stripped of all vegetation by removing sod, cutting and overturning sod by tilling and other methods of removing prior vegetation.

(5) Prior to planting Native Prairie Landscape Areas, the owner shall obtain a permit from the City as provided in Paragraph E.

(6) Owners of Natural Areas and Native Prairie Landscape Areas shall be required to maintain permitted areas such that they are free of noxious weeds and are not a harbor of rodents and other animals that invade and/or damage adjoining property. Failure to manage shall be cause for permit revocation.

D. MAINTENANCE. Natural Areas and Native Prairie Landscape Areas must be cut or thinned at least once annually between January 15 and April 30. However, Natural Areas and Native Prairie Landscape Areas shall not be maintained through the use of scheduled or controlled burning in the city of Decatur. If the Native Prairie Landscape Area is not maintained in accordance with the terms of this Section, the provisions set forth in Section 8 of Chapter 48 shall apply.

E. PERMIT. An owner or occupant of a lot or parcel of land must apply for a permit to install Natural Areas and Native Prairie Landscape Areas or maintain already existing Natural Areas and Native Prairie Landscape Areas. The permit fee is \$25.00 for parcels under one (1) acre, and \$100.00 for parcels over one (1) acre. Application for a permit shall be on a form as provided by the City and issued by the Forestry Division of the Public Works Department of the City. A landscape plan shall be required with the application and include the following information:

(1) Name and address of owner and occupant and landscape architect/designer.

(2) Date of plan preparation and date and description of all revisions.

(3) Name of project or development.

(4) One (1) location map of the proposed Natural Areas or Native Prairie Landscape Area site based upon property lines with indication of scale and north point. This location map shall also include the locations of all existing utility easements and rights of way, setbacks, locations of existing and proposed buildings, existing and proposed location of parking areas, location of water bodies, and all locations of sidewalks.

(5) Two (2) scale drawings of the proposed Natural Areas or Native Prairie Landscape Area for the site with indication of scale and north point; details of proposed planting beds and foundation plantings; delineation of both sodded and seeded areas; location and identification of proposed landscape or manmade materials used to provide screening from adjacent and neighboring properties with a separate cross section drawing of which shall be provided at legible scale illustrating the effectiveness of proposed screening.

(6) A table containing the common names and botanical names, average size of plant materials, root specifications, quantities, special planting instructions and proposed planting dates of all plant materials included in the Landscape Proposal.

(7) A description of how the Native Prairie Landscape Area will be maintained including all activities necessary to sustain the plantings in the Native Prairie Landscape Area.

(8) Such other information as may be requested by the City Manager or his designee.

F. REVOCATION OF PERMIT.

(1) The Permit shall expire and be of no force and effect if the Native Prairie Landscape Area is not completed pursuant to the approved Landscape Plan within six (6) months of issuance of the permit.

(2) The Permit may be revoked by the Forestry Division of the Public Works Department if the Natural Area or Native Prairie Landscape Area does not meet the specifications as set forth in the Application for Permit.

G. **ENFORCEMENT.** The Forestry Division of the Public Works Department of the City shall be responsible for the enforcement of this Section.

H. **PROVISIONS.** The provisions of this ordinance shall not apply where the City and any other unit of local government have entered into a written agreement for the vegetative management of any property owned by the unit of local government.

I. **REPEAL.** The provisions of this ordinance shall be repealed on December 31, 2021.

J. NATIVE PRAIRIE LANDSCAPE AREA PLANTS

Note: Any native plants not listed below must be approved by the City of Decatur Forestry Division or designee before planting.

- Big bluestem (*Andropogon gerardii*)
- Black-eyed Susan (*Rudbeckia hirta*)
- Blue flag iris (*Iris versicolor*)
- Blue Joint Grass (*Calamagrostis canadensis*)
- Blue Vervain (*Verbena hastata*)
- Blue False indigo (*Baptisia australis*)
- Brown-eyed Susan (*Rudbeckia triloba*)
- Common Boneset (*Eupatorium perfoliatum*)
- Common Ironweed (*Vernonia fasciculata*)
- Prairie Cordgrass (*Spartina pectinata*)
- Canada Milk Vetch (*Astragalus canadensis*)
- Canadian Wild Rye (*Elymus canadensis*)
- Compass plant (*Silphium laciniatum*)
- Culver's-Root (*Veronicastrum virginicum*)
- Cup plant (*Silphium perfoliatum*)
- Dark Green Bulrush (*Scirpus atrovirens*)
- Fox Sedge (*Carex vulpinoidea*)
- Foxglove Penstemon (*Penstemon digitalis*)
- Golden Alexanders (*Zizia aurea*)
- Great Blue Lobelia (*Lobelia siphilitica*)
- Indian Grass (*Sorghastrum nutans*)
- Prairie Indian Plantain (*Amoglossum atriplicifolium*)

Little Bluestem (*Schizachyrium scoparium*)
Milkweed (*Asclepias* spp.)
New England aster (*Symphyotrichum novae-angliae*)
Nodding Wild Rye (*Elymus canadensis*)
Ox-eye Sunflower (*Heliopsis helianthoides*)
Pale Purple Coneflower (*Echinacea pallida*)
Prairie Blazingstar (*Liatris pycnostachya*)
Prairie Cordgrass (*Spartina pectinata*)
Prairie Dock (*Siliphium terebinthinaceum*)
Prickly sedge (*Carex stipata*)
Purple coneflower (*Echinacea purpurea*)
Purple Prairie Clover (*Dalea purpurea*)
Rattlesnake Master (*Eryngium yuccifolium*)
Rosinweed (*Siliphium Integrifolium*)
Smooth Blue Aster (*Symphyotrichum laeve*)
Showy Tick Trefoil (*Desmodium canadense*)
Side Oats Grama (*Bouteloua curtipendula*)
Spotted Joe-Pye-Weed (*Eutrochium maculatum*)
Stiff Goldenrod (*Oligoneuron rigidum*)
Sweet Coneflower (*Rudbeckia subtomentosa*)
Switch Grass (*Panicum virgatum*)
Virginia Wild Rye (*Elymus virginicus*)
White Wild Indigo (*Baptisia alba*)
Wild Bergamot (*Monarda fistulosa*)
Wild Blue Iris (*Iris shrevei*)
Wild quinine (*Parthenium integrifolium*)
Yellow Cone Flower (*Ratibida pinnata*)
Yellow (Common) Sneezeweed (*Helenium autumnale*)

(Amended, Ordinance No. 2020-125, August 17, 2020) (Amended, Ordinance No. 2017-19, April 17, 2017)

10. STORAGE, DISPOSITION AND USE OF PESTICIDES AND OTHER CHEMICALS. No person, owning or in possession, charge, or control of any building or premises shall store, dispose of or use any pesticide, herbicide or other substance in such a manner as to cause injury to human beings, wildlife or other animals, or in such a manner as to cause injury to vegetation or crops of others or in such a manner as to contaminate any surface or groundwater. (Amended, Ordinance No. 2007-64, July 16, 2007)

11. **DEPOSIT OF GARBAGE.** No person, firm or corporation shall deposit or cause or permit to be deposited any garbage, debris or other waste at any place within the City of Decatur, except at a properly licensed sanitary landfill.

12. **GARBAGE ON PREMISES.** No owner or occupant of any premises within the City of Decatur shall deposit or cause or permit to be deposited, or leave or permit to remain after receiving notice, any garbage, debris or other waste on said premises except as elsewhere provided for the collection of same by a licensed garbage hauler. (Amended, Ordinance No. 2004-77, September 20, 2004)

13. **HOURS OF CONSTRUCTION.** The erection, including excavation, demolition, alteration or repair of any building in any "R" or "O-1" zone as established by the Zoning Ordinance of the City of Decatur, or within one hundred (100) feet of any part of said zones, is hereby prohibited except between the hours of 7:00 a.m. and 6:00 p.m. except in case of necessity for public safety.

14. **BURNING OF WASTE.**

A. No person shall cause or allow the burning of garbage, landscape waste or other waste within the corporate limits of the City of Decatur, except for fires set by a public official in the performance of the official's duties and fires used for recreational purposes such as campfires. (Amended, Ordinance No. 2004-77, September 20, 2004)

B. Fuel for recreational fires shall consist only of seasoned dry firewood. No recreational fire shall be used for waste disposal purposes or be permitted to become a nuisance by reason of the emission of smoke, fumes, fly ash, dust or soot. (Amended, Ordinance No. 99- 49, April 26, 1999)

C. Contractors may obtain a permit to burn vegetation for commercial and residential development. Fire Code Official has full discretion for amount and method of burning. Permit fee \$1,000.00. (Amended, Ordinance No. 2012-30, May 7, 2012)

15. **STORAGE OF MACHINERY.** It shall be unlawful to use any premises in any residential, office or commercial zone of the City as established by Zoning Ordinance of the City of Decatur for the storing or leaving of worn out, wrecked, abandoned, or inoperable automobiles, trucks, motor homes, van campers, camping trailers and trailers, appliances, or machinery of any kind or any parts thereof, or any appliances or other machinery inoperable due to lack of connection to a power source. (Amended, Ordinance No. 89-40, May 1, 1989)

16. **TRASH AND DEBRIS.** The storing, placing, leaving or permitting to remain of ashes, refuse, old bricks, concrete, branches, brush, trash or the storing, placing, leaving or permitting to remain of any materials which may harbor rats, in any residential, office or commercial zone of the City as established by the Zoning Ordinance of the City of Decatur is hereby declared to be a nuisance. Firewood stored on the exterior of any structure shall be cut to nominal length (18" - 24") and stacked a minimum of 12" above grade. (Amended, Ordinance 2014-67, December 1, 2014) (Amended, Ordinance No. 2005-36, May 2, 2005) (Amended, Ordinance No. 2004-77, September 20, 2004)

17. **PENALTY.** Any person, firm or corporation who shall violate any of the provisions of this Chapter shall be fined not less than One Hundred Fifty Dollars (\$150.00) nor more than Five Hundred Dollars (\$500.00) for each offense, and each day on which a violation occurs or continues shall be considered a separate offense. (Amended, Ordinance No. 2011-93; Amended, Ordinance No. 2011-70)