



CITY of NOVI CITY COUNCIL

**Agenda Item 2
June 22, 2015**

SUBJECT: Consideration of Ordinance 15-104.10 to amend the City of Novi Code of Ordinances Chapter 21, "Nuisances" Article II, "Related to Property" Division 1 "Lot Clearing," in order to amend the title and the definition of plant materials affected. **FIRST READING**

SUBMITTING DEPARTMENT: Community Development *CEW*

CITY MANAGER APPROVAL: *PA*

BACKGROUND INFORMATION:

Currently the provisions of the Novi City Code pertaining to maintenance and removal of overgrown grass and noxious weed include a number of individual species of plants that are specifically designated as noxious and thus fall under the prevue of the Ordinance.

Historically, the Milkweed Plant was categorized with Canada thistle, poison sumac, goldenrod, poison ivy and other noxious weeds. The realization that Milkweed is critical to the survival of certain butterflies however brings the need for reconsideration of this designation as well as the opportunity to align the City Ordinance with the State of Michigan statue.

The attached proposed amendment to the Ordinance would delete the species specific references in the City Code and instead directly reference the current list of noxious weed as designated by the State of Michigan per PA 359.

Any grass or weed over 8" in height and located within 150 feet of any right of way, on subdivided land or land occupied by a structure will still be considered a nuisance and will be required to be abated as is currently the case. The changes also clarify the application of the ordinance to "lawn" type grasses and maintained landscape beds within such areas that would otherwise be subject to abatement.

The Ordinance Review Committee of City Council met on May 11, 2015 and recommended forwarding to the City Council for first reading and consideration.

RECOMMENDED ACTION: Approval of Ordinance 15-104.10 to amend the City of Novi Code of Ordinances Chapter 21, "Nuisances" Article II, "Related to Property" Division 1 "Lot Clearing," in order to amend the title and the definition of plant materials affected. **FIRST READING**

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Casey				
Council Member Markham				

	1	2	Y	N
Council Member Mutch				
Council Member Poupard				
Council Member Wrobel				

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. _____15-104.10

AN ORDINANCE TO AMEND THE CITY OF NOVI CODE OF ORDINANCES, AT CHAPTER 21, "NUISANCES," ARTICLE II, "RELATED TO PROPERTY," DIVISION 1, "LOT CLEARING," IN ORDER TO AMEND THE TITLE AND THE DEFINITION OF PLANT MATERIALS AFFECTED.

THE CITY OF NOVI ORDAINS:

PART I. That Chapter 21, "Nuisances," Article II, "Related to Property," Division 1, "Lot Clearing," of the City of Novi Code of Ordinances is hereby amended to read as follows:

DIVISION 1. LOT CLEARING NOXIOUS WEEDS AND GRASSES

Sec. 21-16. - Power of city to declare certain plants injurious.

The City of Novi is hereby empowered to designate and declare certain varieties and species of plants as injurious on the basis that such species or varieties are actually or potentially injurious to the public health and all such are hereby declared to be a common nuisance.

Sec. 21-17. - Unlawful to permit noxious weeds and tall grass.

It shall be unlawful for the owner, occupant or any person having control or management of any lot, place, area, or parcel of land within the city to permit or allow the presence thereon or on any portion thereof or upon the right-of-way of any highway, road, or street adjacent to such lot, place, area, or parcel of noxious weeds of any kind, including those plants described in Section II of Act 359 of the Public Acts of Michigan, being MCL 247.62, et seq, as amended scattered among which are Canada thistle (*Cirsium arvense*), dodders (any species of *Cuscuta*), mustards (charlock, black mustard and Indian mustard, species of *Brassica* or *Shinapis*), wild carrot (*Daucus carota*), bindweed (*Convolvulus arvensis*), perennial sow thistle (*Sunchus arvensis*), hoary alyssum (*Berteroa incana*), ragweed (*Ambrosia elatior*), poison ivy (*Rhus toxicodendron*), poison sumac (*Vernix*), ox eyed daisies, goldenrod, milkweed, or any other varieties, species or plant growth designated by the City of Novi as poisonous, injurious, and/or regarded as common nuisance in the opinion of the City of Novi, and ~~including all weeds or grasses that exceed eight (8) inches in height within 150 feet of any road right-of-way.~~ Provided, however, that nothing in this division shall apply to fields devoted to growing any small grain crop such as wheats, oats, barley, or rye. The presence of such weeds upon any lot or parcel of land within the limits of the city is hereby declared to be a public nuisance.

Sec. 21-18. - Duty of landowner to cut noxious weeds.

It is hereby made the duty of the owner, occupant or any person having control or management of any lot, place, area or parcel of land within the city upon which noxious weeds, as described in section 21-17, are found growing or standing, to cut and destroy or cause to be cut and destroyed all such weeds growing or standing on the premises, and upon the right-of-way of any highway, road or street adjacent to such lot, place, area of parcel, in such manner as shall effectually prevent such weeds from perpetuating themselves, at least twice in each year, once during the last half of the month of May, and again during the last half of the month of July of each year, or more often as may be necessary to prevent them from going to seed. If any owner, occupant or any person having control or management of property in the city shall knowingly suffer any noxious weeds, as described in section 21-17, to grow upon such lands or shall suffer such weeds to ripen so as to cause or endanger the spread thereof or so as to constitute a detriment to public health, he shall, upon conviction in any court of competent jurisdiction, be liable to the penalty imposed in this division for violation thereof.

Sec. 21-19. - Unlawful to permit other weeds, grass, brush; duty to cut.

- (a) It shall be unlawful for the owner, occupant, or any person having control or management of occupied or nonoccupied subdivided land, occupied or unoccupied land which is part of a condominium development (including site condominiums), or any other nonsubdivided parcel of land which is occupied by a structure, within the city to permit or allow on such premises or upon the right-of-way of any highway, road, or street adjacent to such lot, place, area, or parcel, the presence of weeds, grass (including grasses typically established as ground cover for any occupied or unoccupied residential, industrial, or commercial property), brush, or deleterious, unhealthy growths of any species or variety exceeding a height of eight (8) inches above ground level, and the same are hereby declared to be a public nuisance. It shall be the duty of every owner, occupant, or every person in charge of such property upon which any of the above-mentioned weeds, grass, brush, deleterious, or unhealthy growths is permitted to remain to cause the same to be cut down, destroyed or removed, in the same manner and within the time provided in section 21-18, or more often as may be necessary. This Section shall not apply to landscaping beds or similarly demarcated or defined areas that are otherwise properly maintained and tended.
- (b) If such owner, occupant, or person shall knowingly refuse or neglect to comply in this regard he shall, upon conviction in any court of competent jurisdiction, be liable to the penalty imposed in this division for the violation thereof.

Secs. 21-20 through 21-23 [Unchanged]

Secs. 21-24 through 21-34 [Reserved]

PART II. Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART III. Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing,

accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART IV. Repealer. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

PART V. Effective Date. The provisions of this Ordinance are ordered to take effect following publication in the manner prescribed by the Charter of the City of Novi.

PART VI. Adoption. This ordinance is hereby declared to have been adopted by the Novi City Council in a meeting thereof duly held and called on the ___ day of _____, 2015, in order to be given publication in the manner prescribed by the Charter of the City of Novi.

Moved by _____ and supported by _____.

Robert J. Gatt, Mayor

Maryanne Cornelius, City Clerk

Certificate of Adoption

I hereby certify that the foregoing is a true and complete copy of the ordinance adopted at the regular meeting of the Novi City Council held on the _____ day of _____, 2015.

Maryanne Cornelius, City Clerk

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 15-104.10

AN ORDINANCE TO AMEND THE CITY OF NOVI CODE OF ORDINANCES, AT CHAPTER 21, "NUISANCES," ARTICLE II, "RELATED TO PROPERTY," DIVISION 1, "LOT CLEARING," IN ORDER TO AMEND THE TITLE AND THE DEFINITION OF PLANT MATERIALS AFFECTED.

THE CITY OF NOVI ORDAINS:

PART I. That Chapter 21, "Nuisances," Article II, "Related to Property," Division 1, "Lot Clearing," of the City of Novi Code of Ordinances is hereby amended to read as follows:

DIVISION 1. CLEARING NOXIOUS WEEDS AND GRASSES

Sec. 21-16. - Power of city to declare certain plants injurious.

The City of Novi is hereby empowered to designate and declare certain varieties and species of plants as injurious on the basis that such species or varieties are actually or potentially injurious to the public health and all such are hereby declared to be a common nuisance.

Sec. 21-17. - Unlawful to permit noxious weeds and tall grass.

It shall be unlawful for the owner, occupant or any person having control or management of any lot, place, area, or parcel of land within the city to permit or allow the presence thereon or on any portion thereof or upon the right-of-way of any highway, road, or street adjacent to such lot, place, area, or parcel of noxious weeds of any kind, including those plants described in Section II of Act 359 of the Public Acts of Michigan, being MCL 247.62, *et seq*, as amended, or any other varieties, species or plant growth designated by the City of Novi as poisonous, injurious, and/or regarded as common nuisance in the opinion of the City of Novi, and all weeds or grasses that exceed eight (8) inches in height within 150 feet of any road right-of-way. Provided, however, that nothing in this division shall apply to fields devoted to growing any small grain crop such as wheats, oats, barley, or rye. The presence of such weeds upon any lot or parcel of land within the limits of the city is hereby declared to be a public nuisance.

Sec. 21-18. - Duty of landowner to cut noxious weeds.

It is hereby made the duty of the owner, occupant or any person having control or management of any lot, place, area or parcel of land within the city upon which noxious weeds, as described in section 21-17, are found growing or standing, to cut and destroy or cause to be cut and destroyed all such weeds growing or standing on the premises, and upon the right-of-way of any highway, road or street adjacent to such lot, place, area of parcel, in such manner as shall effectually prevent such weeds from perpetuating themselves, at least twice in each

year, once during the last half of the month of May, and again during the last half of the month of July of each year, or more often as may be necessary to prevent them from going to seed. If any owner, occupant or any person having control or management of property in the city shall knowingly suffer any noxious weeds, as described in section 21-17, to grow upon such lands or shall suffer such weeds to ripen so as to cause or endanger the spread thereof or so as to constitute a detriment to public health, he shall, upon conviction in any court of competent jurisdiction, be liable to the penalty imposed in this division for violation thereof.

Sec. 21-19. - Unlawful to permit other weeds, grass, brush; duty to cut.

- (a) It shall be unlawful for the owner, occupant, or any person having control or management of occupied or nonoccupied subdivided land, occupied or unoccupied land which is part of a condominium development (including site condominiums), or any other nonsubdivided parcel of land which is occupied by a structure, within the city to permit or allow on such premises or upon the right-of-way of any highway, road, or street adjacent to such lot, place, area, or parcel, the presence of weeds, grass (including grasses typically established as ground cover for any occupied or unoccupied residential, industrial, or commercial property), brush, or deleterious, unhealthy growths of any species or variety exceeding a height of eight (8) inches above ground level, and the same are hereby declared to be a public nuisance. It shall be the duty of every owner, occupant, or every person in charge of such property upon which any of the above-mentioned weeds, grass, brush, deleterious, or unhealthy growths is permitted to remain to cause the same to be cut down, destroyed or removed, in the same manner and within the time provided in section 21-18, or more often as may be necessary. This Section shall not apply to landscaping beds or similarly demarcated or defined areas that are otherwise properly maintained and tended.
- (b) If such owner, occupant, or person shall knowingly refuse or neglect to comply in this regard he shall, upon conviction in any court of competent jurisdiction, be liable to the penalty imposed in this division for the violation thereof.

Secs. 21-20 through 21-23 [Unchanged]

Secs. 21-24 through 21-34 [Reserved]

PART II. Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART III. Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART IV. Repealer. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

PART V. Effective Date. The provisions of this Ordinance are ordered to take effect following publication in the manner prescribed by the Charter of the City of Novi.

PART VI. Adoption. This ordinance is hereby declared to have been adopted by the Novi City Council in a meeting thereof duly held and called on the ___ day of _____, 2015, in order to be given publication in the manner prescribed by the Charter of the City of Novi.

Moved by _____ and supported by _____.

Robert J. Gatt, Mayor

Maryanne Cornelius, City Clerk

Certificate of Adoption

I hereby certify that the foregoing is a true and complete copy of the ordinance adopted at the regular meeting of the Novi City Council held on the ___ day of _____, 2015.

Maryanne Cornelius, City Clerk

A complete list of the prohibited and restricted noxious weed seeds covered by Regulation 715 follows:

Prohibited Noxious Weed Seeds

- Bindweed, Field - *Convolvulus arvensis*
- Bindweed, Hedge - *Convolvulus sepium*
- Dodder - *Cuscuta species*
- Horsenettle - *Solanum carolinense*
- Johnsongrass - *Sorghum halapense*, including *sorghum almum* and seed which cannot be readily distinguished from Johnsongrass
- Knapweed, Russian - *Centaurea picris*
- Knapweed, Spotted - *Centaurea maculosa*
- Morning glory, *Ipomoea species*
- Nutsedge, Yellow - *Cyperus esculentus*, both seed and tubers
- Puncturevine - *Tribulus terrestris*
- Quackgrass - *Agropyron repens* = *Elytrigia repens*
- Sowthistle, Perennial - *Sonchus arvensis*
- Spurge, Leafy - *Euphorbia esula*
- Thistle, Bull - *Cirsium vulgare*
- Thistle, Canada - *Cirsium arvense*
- Thistle, Musk - *Carduus nutans*
- Thistle, Plumeless - *Carduus acanthoides*
- Tussock, Serrated - *Nasella trichotoma*
- Whitetop = hoary cress = perennial peppergrass - *Cardaria draba*

Restricted Noxious Weed Seeds

- Alyssum, Hoary *Berteroa incana*
- Carrot, Wild - *Daucus carota*
- Charlock - *Sinapis arvensis*
- Cocklebur - *Xanthium strumarium*
- Dock, Curled - *Rumex crispus*
- Fanweed, *Thlaspi arvense*
- Foxtail, Giant - *Setaria faberii*
- Garlic, Wild - *Allium vineale*
- Jimsonweed - *Datura stramonium*
- Mustard, Black - *Brassica nigra*
- Mustard, Indian - *Brassica juncea*
- Nightshade complex, including all of the following *Solanum* species and any other species with indistinguishable seed: (i) Bitter nightshade, *Solanum dulcamara*. (ii) Black nightshade, *Solanum nigrum*, (iii)

Eastern black nightshade, *Solanum ptycanthum*. (iv) Silverleaf nightshade = purple nightshade, *Solanum eleagnifolium*. (v) Hairy nightshade, *Solanum sarrachoides*.

- Oat, Wild - *Avena fatua*
- Onion, Wild - *Allium canadense*
- Plantain, Buckhorn - *Plantago lanceolata*
- Radish, Wild - *Raphanus raphanistrum*
- Rocket, Yellow - *Barbarea vulgaris*
- Velvetleaf - *Abutilon theophrasti*

The number of restricted noxious weed seeds that may be found in any particular lot of seed is limited to 1 seed of any or all of the restricted noxious weed seeds to 2,000 seeds of the seed sold, offered, exposed, or transported for sale, except that for buckhorn and yellow rocket, the limit shall be 1 seed to 1,000 seeds of the seed sold, offered, exposed, or transported for sale.

If present in a lesser ratio, the seed consisting of or containing the restricted noxious weeds may be sold, provided that the name of the restricted noxious weed(s) must be named on the tag together with the number of the restricted weed seeds per pound, unless they are buckhorn or yellow rocket. If the restricted noxious weeds are either of these, they need not be shown on the tag unless they exceed 90 seeds per pound.