



City of Madison

City of Madison
Madison, WI 53703
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Master

File Number: 83601

File ID: 83601

File Type: Ordinance

Status: Report of Officer

Version: 1

Reference:

Controlling Body: BUILDING CODE,
FIRE CODE,
CONVEYANCE
CODE AND
LICENSING
APPEALS BOARD

File Created Date : 05/23/2024

File Name: Native Tall Grass Lawn Area Property Maintenance

Final Action:

Title: Amending Section 27.05 of the Madison General Ordinances to create registration and enforcement systems for Native Tall Grass Lawn Areas and refine other lawn maintenance provisions within the Section.

Notes: 6864PropertyMaintenance

Sponsors: Yannette Figueroa Cole

Effective Date:

Attachments:

Enactment Number:

Author: Benjamin C. Becker

Hearing Date:

Entered by: mglaeser@cityofmadison.com

Published Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Attorney's Office	05/23/2024	Referred for Introduction				
	Action Text:	This Ordinance was Referred for Introduction					
	Notes:	Building Code, Fire Code, Conveyance Code and Licensing Appeals Board (6/18/24), Common Council (7/2/24)					
1	COMMON COUNCIL	06/04/2024	Refer	BUILDING CODE, FIRE CODE, CONVEYANCE CODE AND LICENSING APPEALS BOARD		06/18/2024	Pass
	Action Text:	A motion was made by Figueroa Cole, seconded by Duncan, to Refer to the BUILDING CODE, FIRE CODE, CONVEYANCE CODE AND LICENSING APPEALS BOARD. The motion passed by voice vote/other.					
1	BUILDING CODE, FIRE CODE, CONVEYANCE CODE AND LICENSING APPEALS BOARD	06/18/2024	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER				
	Action Text:	A motion was made by Gail A. Rutkowski to recommend approval for adoption to the Common Council; seconded by Darrel D. Feucht. The motion passed on a unanimous voice vote.					

Text of Legislative File 83601

Fiscal Note

No City appropriation required.

Title

Amending Section 27.05 of the Madison General Ordinances to create registration and enforcement systems for Native Tall Grass Lawn Areas and refine other lawn maintenance provisions within the Section.

Body

DRAFTER'S ANALYSIS: This amendment repeals, renumbers, and creates certain provisions within Section 27.05(2)(f) allowing for Native Tall Grass Lawn Areas on privately owned property within the City of Madison pursuant to applicable registration and regulation, while also streamlining other lawn maintenance provisions found within Section 27.05. The provisions repealed primarily include references to Land Management Plans as they related to natural landscape areas. The provisions renumbered and/or created include defining what a Native Tall Grass Lawn Area is, the policy rationales underlying the enactment of this legislation, as well as a comprehensive registration and enforcement system by which all property owners desiring to have a Native Tall Grass Lawn Area must abide.

The Common Council of the City of Madison do hereby ordain as follows:

1. Subsection (1) of Section 27.05 entitled "Safe and Sanitary Maintenance of Property" of the Madison General Ordinances is amended as follows:

(1) The purpose of this subsection is to recognize the private and public benefits resulting from the safe, sanitary and ~~attractive~~ responsible maintenance of residential and nonresidential buildings, structures, yards, and terraces or vacant areas. ~~Safe, attractive and well-maintained~~ property will enhance the neighborhood and City and provide a suitable environment for increasing physical and monetary values as well as preserve the health, safety, and welfare of the public.

2. Subdivision (d) of Subsection (2) of Section 27.05 entitled "Safe and Sanitary Maintenance of Property of the Madison General Ordinances is amended as follows:

(d) Fences, structures, minor construction, walks, driveways, parking areas and similar paved areas shall be properly maintained in a safe, sanitary and substantial condition. Approved walks shall provide convenient all-weather access to buildings.

3. Subdivision (f) of Subsection (2) of Section 27.05 entitled "Safe and Sanitary Maintenance of Property of the Madison General Ordinances is amended as follows:

(f) Landscaping, plantings, soil and other decorative surface treatments, including but not limited to common species of grass, shall be installed if necessary and maintained to present a safe condition and ~~attractive~~ well-maintained appearance in all court, yard, and terrace areas. Except with prior ~~application to and approval of a Land Management Plan for a Natural Lawn from the Department of Planning and Community and Economic Development of~~ registration of a Native Tall Grass Lawn Area from the City of Madison Building

Inspection Division pursuant to this Section, or plantings in the terraces as allowed by Secs. Sec. 10.25 and 27.05(2)(f)7, and except for natural areas in City parks, all lawns, lawn areas, and terraces, including grasses and vegetation not intentionally planted in-whole or in-part, and natural landscape areas comprised of grasses shall be maintained so as not to a height not to exceed eight (8) inches in length height. All vegetation, soil, and surfaces shall be maintained so as not to present hazards to adjoining properties buildings, fences, structures, minor construction, walks, driveways, or to persons or vehicles traveling on public ways and shall be maintained so as to enhance the appearance and value of the property on which located and thereby the appearance and value of the neighborhood and City.

1. Failure to Maintain Lawn or Lawn Areas on Improved Abandoned Property.

Upon default of any person ordered to maintain a lawn, lawn area, weeds, or natural landscape area comprised of grasses involuntary vegetation on an improved property to a length height of eight (8) inches or less, after notice and opportunity to correct has been given to the last-known property owner, and the property reasonably appears to be abandoned, the Director of the Building Inspection Division or designee may enter onto the property and cause portions of the lawn, or lawn area, or natural landscape area comprised of grasses to be cut to conform with the ordinance, and the cost for such service shall be charged to the owner of the real property in question, as follows:

- a. Abandoned Property. An improved property shall be considered "abandoned" for purposes of this subsection if any of the improvements do not reasonably appear to be inhabited, or in the case of an uninhabitable building or structure, if no other commercial or other lawful activities reasonably appear to have taken place since the date of the first inspection.
- b. Order to Correct, Notice. In order to utilize the abatement procedures under paragraph c., below, notice shall be given as follows:
 - i. The Director of the Building Inspection Division or designee shall send an official notice or correspondence describing the violation to the property owner at the address on-file City Assessor's office. The notice shall be sent by certified mail, shall include the date of inspection, a due date to correct the violation, notice that failure to correct the violation may result in the city going onto the property and cutting or mowing and charging the cost back to the property as a special charge, and including the standard right to appeal under Sec. 29.18 29.21 (Board of Building Code, Fire Code, Conveyance Code and Licensing Appeals).
 - ii. Upon failing to correct the violation after the due date in the notice above, at least one (1) municipal ordinance citation for the violation shall be issued, along with a correspondence assigning another due date.
- c. Abatement, Cost. If the violation remains after the due date in Sec. 27.05(2)(f)2.b.i. above, the Director of the Building Inspection Division or designee is authorized to enter onto the property and cause portions of the lawn, or lawn area, or natural

landscape area to be cut or mowed to conform with the requirements of this Ordinance. The Director of the Building Inspection Division shall keep an accurate account of the expenses of such cutting or mowing and report the same to the Finance Director, who shall not less than annually prepare a statement of the expense so incurred for the real property in question and report the same to the City Clerk, and the amount therein charged shall be entered in the tax roll as a special charge against said lot or parcel of land, and shall be collected in all respects like other special charges upon real estate under Wis. Stat. § 66.0627.

- d. No Limitation on Other Enforcement. Action by the Building Inspection Division under this subsection shall be in addition to the prosecution and enforcement authority granted elsewhere in these Ordinances or by state law, and shall not bar any prosecution for violations of ordinances or state law or any other lawful remedy; nor shall prosecution or other legal action be a bar against action under this subsection.
2. ~~Application for Natural Lawn.~~ Any owner or operator of land in the City of Madison may apply for approval of a land management plan for a natural lawn or natural landscape area, one where the grasses exceed eight (8) inches in height, with the Department of Planning and Community and Economic Development.
3. "Land Management Plan" means a written plan relating to management of the lawn or natural landscape area which contains a legal description of the lawn or natural landscape area upon which the grass will exceed eight (8) inches in length, a statement of intent and purpose for the lawn or natural landscape area, a general description of the vegetational types, plants, and plant succession involved, and the specific management and maintenance techniques to be employed. The management plan must include provisions for cutting at a length not greater than eight (8) inches the terrace area, that portion between the sidewalk and the street or a strip not less than four (4) feet adjacent to the street where there is no sidewalk, and at least a three (3) foot strip adjacent to neighboring property lines unless waived by the abutting property owner on the side so affected.

~~All lawn, natural landscape areas, and grass areas shall be cut between June 30 and October 15 when the Fire Chief, in her/his discretion, so orders consistent with his powers as granted in Chapter 34 of the Madison General Ordinances.~~

4. Revocation of the Land Management Plan.
~~The Land Management Plan may be revoked for failure to comply with the requirements of Sec. 27.05(2)(f)2. Notice of intent to revoke a Land Management Plan shall be appealable to the Urban Design Commission. All applications for appeal shall be submitted within fifteen (15) days of Notice of Intent to revoke a Land Management Plan.~~
5. Application Requirements. Each application for a Land Management Plan shall be on a form provided by the Director of the Department of Planning and Community and Economic Development. A copy of the application shall be mailed by the applicant or given personally by the applicant to each of the owners of record, as listed in the Office of the City Assessor, who are owners of the property situated in whole or in part within two

- ~~hundred (200) feet of the boundaries of the properties affected. The Director of the Department of Planning and Community and Economic Development shall provide the list of the property owners who are to be notified of the application. The applicant shall certify, under oath, on a form to be furnished by the Director of the Department of Planning and Community and Economic Development, that such owners have been duly notified and the manner in which they have been notified. If, within fifteen (15) days of receipt of a copy of the application, at least fifty one percent (51%) of such property owners file written objections to the application with the Director of the Department of Planning and Community and Economic Development, the Director of the Department of Planning and Community and Economic Development shall refer the application to the Urban Design Commission for hearing and decision.~~
6. Application for Appeal. The owner or operator of land in the City of Madison may appeal from a decision of the Director of the Department of Planning and Community and Economic Development refusing to grant a Land Management Plan. All appeals shall be to the Urban Design Commission of the City of Madison which shall hear such appeals once a month, March through September. All applications for appeal shall be submitted within fifteen (15) days of notice of denial of the Land Management Plan.
7. Any owner or operator of land in the City of Madison may maintain a natural lawn (hereinafter referred to in this paragraph as "natural landscape area") without going through the Land Management plan, application and approval process described in Secs. 27.05(2)(f)2.-6., provided the natural landscape area meets all of the following criteria:
- a. The natural landscape area located in the front and/or side yard(s) is limited in size to less than twenty five percent (25%) of the total square footage of the front and side yards.
 - b. The natural landscape area located in the backyard or setback behind the rear plane of the principal building is limited in size to less than fifty percent (50%) of the backyard and the street side yard setback behind the rear plane of the principal building.
2. Native Tall Grass Lawn Areas, Generally.
- a. Purpose. The intent and purpose of Native Tall Grass Lawn Area registration is to encourage property owners to plant and maintain Native Tall Grass Lawns in a responsible and environmentally conscious manner. Planned natural landscaping areas and native plants naturally cool the City, reduce greenhouse gasses and pollution, reduce water consumption thereby lowering watering costs, reduce the potential of sewer overflow and basement flooding of homes, decrease the need for pesticides, and support native songbirds, pollinators, insects, and overall species diversity. All provisions contained herein shall be construed to effectuate the goals of City-wide conservation initiatives, including but not limited to Bee City, the Roger Bannerman Rain Garden Initiative, and Low Mow May.
 - b. Definition. Native Tall Grass Lawn Areas as used in this Chapter shall include the area(s) of one's property containing any of the species of grasses listed in Sec. 27.05(2)(f)3.g. of the Madison General Ordinances that are in excess of eight (8) inches in height from the ground surface. Specifically excluded in this

definition are the noxious grasses and weeds identified in Sec. 23.29 (Noxious Weeds). The growth of a Native Tall Grass Lawn Area in excess of eight inches in height from the ground surface shall be prohibited within the City unless the owner of the property registers with the City of Madison Building Inspection Division. Native Tall Grass Lawn Areas shall not contain litter or debris and shall not harbor undesirable wildlife.

- c. Any owner or operator of property in the City of Madison who wishes to maintain a Native Tall Grass Lawn Area on their property shall register the property with the City of Madison's Building Inspection Division pursuant to all requirements listed within this Section.

3. Native Tall Grass Lawn Area Requirements.

Owners or operators of property wishing to have and maintain Native Tall Grass Lawn Areas shall do all of the following:

- a. Fully and completely register the property's Native Tall Grass Lawn Area with the City of Madison Building Inspection Division;
- b. Ensure that the entirety of the Native Tall Grass Lawn Area remains within the boundaries of the designated property lot;
- c. Comply with all other applicable laws and ordinances under Section 27.05(2), including property maintenance ordinances prohibiting the collection of junk, trash, debris, or rubbish, sanitation, grading and drainage, rodent infestation or other pest harborage, and noxious weeds;
- ~~e-d.~~ The natural landscape area must be setback. Ensure that the Native Tall Grass Lawn Area is set back at least five (5) feet away from all property lines, public sidewalks, shared driveways, or other public right of way areas, and easements;
- ~~d-e.~~ All natural landscape areas shall comply. Comply with the vision clearance triangle requirements of ~~Sec.~~ Section 27.05(2)(bb);
- f. Regularly maintain the registered Native Tall Grass Lawn Area;
- ~~e-g.~~ Only use the following species native grasses may be used: Sideoats Grama Grass (*Bouteloua curtipendula*), Tufted Hairgrass (*Deschampsia caespitosa*), Purple Lovegrass (*Eragrostis spectabilis*), Junegrass (*Koeleria macrantha*), Switchgrass (*Panicum virgatum*), Little Bluestem (*Schizachyrium scoparium*), Indiangrass (*Sorghastrum nutans*), Prairie Dropseed (*Sporobolus heterolepis*), Pennsylvania Sedge (*Carex pensylvanica*), Running Marsh Sedge (*Carex sartwellii*), Common Bur Sedge (*Carex grayi*), Big Blueestem (*Andropogonm gerardii*), and Silky wild rye (*Elymus villosus*); and
- h. Ensure that the Native Tall Grass Lawn Area, along with all lawn and other grass areas, be cut or mowed between the dates of June 30 and October 15 when the Fire Chief, at their discretion, so orders consistent with their powers as granted in Chapter 34.

4. Native Tall Grass Lawn Area Registration.

- a. The owner of a property with a Native Tall Grass Lawn Area shall register the property every five (5) years with City of Madison Building Inspection Division. No property may contain a Native Tall Grass Lawn Area without valid registration with the City.
- b. If the owner of the property sells said property, the registration is

- automatically transferred to the subsequent owner until the registration period lapses and new registration is required by the then-current property owner.
- c. The registration application shall include:
 - i. The name, telephone number, and email address of the person/entity requesting registration;
 - ii. The physical address and parcel number of the property; and
 - iii. The decision of whether to grant or deny a registration application is at the discretion of the Director of the Building Inspection Division or their designee.
5. Noncompliance of Native Tall Grass Lawn Areas.
- a. If the owner of a property fails to properly register a Native Tall Grass Lawn Area as required by Sections 27.05(2)(f)3. or 4., the City shall issue an official notice to comply with a due date.
 - b. If the owner of a property fails to comply with the requirements of Sec. 27.05(2)(f)3. or 4., the Director of the Building Inspection Division or their designee may: issue citation(s) and/or refer the matter to the Office of the City Attorney for prosecution; revoke and/or not renew the property owner's Native Tall Grass Lawn Area registration; or both.
6. Application for Appeal. The owner of property in the City of Madison aggrieved by a decision made by the Director or their designee pursuant to Sec. 27.05(2)(f)4.c.iii. may appeal that decision. Appeals of decisions made pursuant to Chapter 27 are governed by Sec. 29.21 of the Madison General Ordinances (Board of Building Code, Fire Code, Covetance Code and Licensing Appeals). All applications for appeal shall be submitted within thirty (30) days of notice of the Director's decision.