

CITY OF FLAT ROCK
WAYNE COUNTY, MICHIGAN

Ordinance No. 424

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF FLAT ROCK BY AMENDING SECTIONS 98-26, 98-27, AND 98-28, AND BY ADDING NEW SECTIONS 98-33 AND 98-34, OF CHAPTER 98, ARTICLE II, ENTITLED WEED CONTROL.

THE CITY OF FLAT ROCK ORDAINS:

SECTION I. Chapter 98, Article II, of the Code of the City of Flat Rock is hereby amended by amending Sections 98-26, 98-27, and 98-28, and by adding Sections 98-33 and 98-34, which sections shall read as follows:

Sec. 98-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) *Brush or underbrush* means any weed not classified as a noxious weed and all other wild brush, grass or other underbrush which is not a grain, ornamental flower, plant, tree, vegetable, hedge or brush and which grows wild without the necessity of planting and cultivating by the landowner.
- (b) *Horticultural growth* means any grain, ornamental flower, plant, tree, vegetable, hedge or brush or other growth which is planted and cultivated by a person.

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- (c) *Noxious weeds* means those species and varieties designated as noxious by the State Noxious Weed Act, Act No. 359 of the Public Acts of Michigan of 1941 (MCL 247.61 et seq.), as amended, and all common weeds and common grasses permitted to exceed the height limit of one foot.
- (d) *Request for variance* means a written statement provided to the city clerk by a person owning, occupying, or being an agent or person having control or management of any land, to vary the height and distance requirements of Section 98-27(b).

Sec. 98-27. Duties of landowners.

- (a) Every person owning, occupying, or being an agent or person having control or management of any land which is platted, subdivided, or contained within a site condominium, and situated in the city shall periodically, in a manner calculated to meet the requirements of this article, cut, destroy, or otherwise control all noxious weeds, underbrush or wild grasses found upon such platted and subdivided land, and land within a site condominium, within the city, and shall keep and maintain such platted, subdivided, and site condominium lots, outlots, or portions of such lots, including any unpaved portion of the right-of-way immediately adjacent thereto, completely free of noxious weeds and shall cut, destroy or otherwise maintain all other weeds and domestic or wild grasses, brush and underbrush to a height not to exceed six inches. The provisions of this subsection shall not apply to horticulturally maintained hedges, flowers, garden vegetables, ferns or decorative plants.
- (b) Every person owning, occupying, or being an agent or person having control or management of any unsubdivided or unplatted lands situated in the city immediately adjacent to any one or more platted lot, subdivided lot, or site condominium lot shall periodically cut, destroy or otherwise control all noxious weeds, wild grasses, brush or underbrush of every type or description to a maximum height of six inches within a distance of 150 feet from all or any portion of one or more platted lot, subdivided lot, or condominium lot adjacent to the outer perimeter of such unplatted and unsubdivided lands of each and every zoning description within the city.
- (c) Every person owning, occupying, or being an agent or person having control or management of any unplatted and subdivided lands, which are not adjacent to platted, subdivided, or site condominium lands within the city, shall periodically cut, destroy or otherwise control to a maximum height of six inches all noxious weeds, wild grasses, brush or underbrush of every type or description in every zoning district within the city to a depth of not less than 25 feet of every right-of-way owned by the city, the county or the state, except that the owners of properties which extend to the corners of intersecting rights-of-way shall periodically cut, destroy or otherwise control to a maximum height of six inches the growth of noxious weeds, wild grasses, brush or underbrush to a depth of 50 feet for a distance of 100 feet in all

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from the intersection of corner rights-of-way so that the vision of motorists approaching street intersections shall be clear and unimpaired.

- (d) Every person owning, occupying, or being an agent or person having control or management of unplatted and unsubdivided lands, to which subsections (a) through (c) of this section do not apply, shall periodically, in a manner calculated to meet the requirements of this ordinance.
- (e) Notwithstanding the height controls specified in subsections (a) through (d) of this section, it shall be the duty of every person owning, occupying, or being an agent or person having control or management of any land of every description platted or unplatted within the city even if less than six inches growth to periodically destroy, before the seed-bearing and dissemination stage of such noxious weeds shall occur, all ragweed, poison ivy, poison sumac, poison oak, marijuana, belladonna, Canada thistle, dodders, mustards, wild carrot, bindweed, perennial sowhistle, hoary alyssum, and goldenrod found upon such property regardless of height. The city council is hereby empowered to designate and declare, by a written rule or regulation, additional species and varieties of plants which shall be prohibited and specified by this paragraph, all of which are declared to be a common nuisance.

Sec. 98-28. Cutting by city.

In any case in which the owner, occupant, agent or person having control or management of any land allows the presence thereon, or on any portion thereof, of any noxious weeds, wild grasses, brush or underbrush as set forth in section 98-27, the enforcing officer may assign employees to enter upon the land and to destroy such weeds or growth by spraying, cutting or by other methods acceptable to the city council. Where fences, crops or other valuable property interfere with or prevent the assigned employees from proceeding to abate the violations, or where for other reasons the enforcing official determines it is impractical to first assign employees to such operations, the enforcing official shall mail to any such owner, occupant, agent or person, having control or management of the land to the last known address thereof a notice in writing to abate the violations within ten working days. If none of these parties can be found, the notice may be posted upon the premises, on a card not smaller than eight by ten inches. Upon the failure, neglect or refusal of any such owner, occupant, agent or person to abate the stated violations within the stated time the enforcing official may assign such employees to enter upon the land and to destroy such weeds or growth by spraying, cutting, or by other such acceptable methods; and any expense in such abatement if not paid to the city within 60 days from the date a statement thereof was forwarded to the party shall be reported to the city council. The expense thereof shall be a charge upon the occupant or occupants of the premises or the owner thereof as the council may determine and may be sued for and recovered in the name of the city or may be charged against the owner or owners of the premises and the council may cause the expense of same to be levied and assessed on the premises and the same shall become a lien on the land and

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collected as a single lot assessment in accordance with the charter. Any failure to give the written notice herein required shall not constitute a defense to any action to enforce the provisions of section 98-27.

Sec. 98-33. Notice to destroy.

- (a) *Publication in newspaper.* The official empowered to enforce the provisions of this article shall notify, by publication in a newspaper of general circulation in the city, every person owning, occupying, or being a person having control or management of land of the types described in Section 98-27, situated in the city, that all noxious weeds, offense weeds, or wild grasses, brush or underbrush, found on such lands in the portions required by this article shall be destroyed, cut, maintained or otherwise controlled as required in this article. Such publication shall commence during the month of March and on any one or more occasions subsequent thereto throughout the growing season.
- (b) *Mailing notice.* The official empowered to enforce this article shall notify by ordinary mail every person owning, occupying, or a person having control or management of land of every type or description within the city which is determined by such officials to be violative of the provisions of this article. Such notification shall describe the nature of the offense and the fact that five-day notice, followed by inaction on the part of the property owner, will subject such property owner not only to the cost of continuing abatement if performed by the city, but the exposure to the penalties otherwise imposed by the terms of this article. Proof of such mailing and of publication shall be maintained by the official designated to enforce this article. Mailing notice to one taxpayer of record shall be deemed sufficient compliance with the notice requirements of this section.

Sec. 98-34. Appeal Board.

- (a) A board of appeals, consisting of the director of building and safety, director of public services, and planning consultant for the city is hereby established for the sole purpose of granting or denying a request for variance of the provisions of Section 98-27(b) of this ordinance.
- (b) The board of appeal's jurisdiction shall solely relate to the granting or denying of a request by a person owning, occupying, or agent or person having control or management of, any unsubdivided or unplatted lands adjacent to one or more platted lot, subdivided lot, or site condominium lot to vary the maximum height and/or distance in which wild grasses, brush or underbrush must be removed near all or any portion of one or more platted lot, subdivided lot, or condominium lot as provided in Section 98-27(b). The board of appeals shall have no jurisdiction to vary any other provision of this ordinance.

- (c) A request for variance shall be made within fourteen (14) days after the notice provided in Section 98-33(b) is mailed. The request for variance shall be submitted to the city clerk, accompanied with the filing fee, specifying the unique circumstances of the parcel of property preventing reasonable compliance with the height and distance requirements of Section 98-27(b). The board shall within a reasonable time, not to exceed thirty (30) days from the date of the filing of the request for variance, fix a date and time for a public hearing. Notice of the hearing shall be provided to the requesting party or entity, the taxpayers of record of the subject parcel of property, and at least one taxpayer of record of each owner of the platted lot, subdivided lot, or condominium lot adjacent to the outer perimeter of the subject parcel of property upon which the request is applicable.
- (i) Notice shall be given not less than seven (7) days before the date the request will be considered by the board.
- (ii) The notice of hearing shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no street address currently exists within the subject property, and other means of identification may be used. The notice shall state when and where the request will be considered and indicate when and where written comments will be received concerning the request.
- (d) At the hearing, the board of appeals shall review the unique circumstances or conditions causing practical difficulties or unnecessary hardships of the property preventing reasonable compliance of the maximum height and distance requirements of Section 98-27(b), and transmit its decision to the requesting party in writing. A record of the proceedings shall be maintained by the city clerk. A concurring vote of the majority of the members shall be required to decide in favor of the requesting party.
- (e) There shall be no more than one request for variance submitted for a parcel of property per calendar year.
- (f) Accompanying each request for variance shall be a filing fee of four hundred dollars (\$400.00). The filing fee may be adjusted from time to time by resolution of the city council.

Sec. 98-35. Penalty for violation of article.

Any person owning, occupying, or being an agent or person having control or management of land which is situated in the city of the type described by the terms of this article who shall fail, neglect or refuse to cut, destroy or otherwise maintain all noxious weeds, offensive weeds, wild grasses, brush or underbrush found upon the land owned by

such person is responsible for a municipal civil infraction and shall be subject to payment of a civil fine of five hundred dollars (\$500.00) in addition to the cost of correcting such violation. Any actions by the property owner or city to bring the property into compliance after the issuance of a citation shall not constitute a defense to a prosecution for violation of this article.

SECTION II. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent portion of this ordinance, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION III. That all ordinances or parts of ordinances, the Code of the City of Flat Rock, or parts of the Code of the City of Flat Rock, not consistent herewith are hereby repealed.

SECTION IV. This ordinance shall be published in the News Herald newspaper as required by Charter, but is declared to be an emergency ordinance and shall be deemed effective immediately.


Jonathan D. Dropiewski, Mayor


Meghan K. Bachman, City Clerk

I hereby certify that the foregoing is a true copy of the ordinance adopted by the Council of the City of Flat Rock at a meeting thereof on November 18, 2013, the original of which proceedings is on file in my office.


Meghan K. Bachman, City Clerk

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