



## **Managed Native Gardens Registry Ordinance: Frequently Asked Questions**

O2021-362, Alderman Brian Hopkins

### **What is the current status of the registry?**

At this time, the registry does not exist. The ordinance to establish a Native Gardens registry was introduced to the City Council on January 27, 2021, and has been referred to the Committee on Environmental Protection and Energy.

### **Why was the registry included under Municipal Code section 10-32? Does the registry apply to parkway gardens or gardens on private property?**

This section is entitled “Trees, Plants and Shrubs,” and clarifies that the registry is to be managed by the Department of Planning and Development. Residents can register both parkway gardens and gardens located on private property.

### **How will this registry impact community gardens or large lots?**

This ordinance only applies to owner-occupied properties. Community gardens are already defined and regulated in the Municipal Code of Chicago and are subject to different requirements.

### **Why is a three-foot border of plants less than 10” required? Wouldn’t that exclude most of the spaces these urban gardens are located in? What about gardens that already go to the sidewalk?**

The City wants a balanced approach that both explicitly permits native gardens while also ensuring that larger plants do not spill over onto the public way, where they can present mobility and safety issues. Residents may understandably choose not to register existing gardens, as many have border beds per garden design best practices, but at the moment any plants taller than 10” are subject to enforcement under the weed ordinance, 7-28-120. This 10” regulation is enforced with or without the native gardens registry. But with the native garden registry, gardeners are permitted to have taller plants further from the property line, which now, they can be fined for having.

### **Wouldn’t it be more straightforward to simply change the weed ordinance itself?**

Unfortunately, changing the ordinance as it exists today would require a total overhaul of the sanitation code. The weed ordinance covers owner-occupied lots, as well as vacant and large lots. Advocates are hopeful that the conversations this registry is catalyzing will move the City

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closer to that long-term goal. Unfortunately changing the weed ordinance is currently not an option.

**Why does the ordinance state that only plants limited to the Chicago region qualify? What about common non-native edible plants such as tomatoes?**

The Chicago region can be broadly defined to include plants native to Northeastern Illinois, DPD is currently considering several plant lists used by government agencies for this purpose. Tomatoes and other edible plants that produce or provide food are not classified as weeds, and would not be subject to a tall weed violation under 7-28-120 of the Municipal Code of Chicago.

**What does this garden registry actually accomplish, if the underlying problem of the weed ordinance is not being addressed? Why is the seemingly arbitrary definition of a weed as a plant taller than 10” included at all?**

The registry was created as a stopgap measure to slow the inequitable enforcement of the weed and parkway ordinances, and it is completely voluntary. Subsection (c) states “Any person wishing to maintain a managed native garden on their property **may** register their property with the Department of Planning and Development. The managed native garden must be maintained in accordance with rules established by the Department. Managed native gardens in good standing on the registry **shall not be subject to Section 7-28-120**. Failure to maintain the managed native garden in accordance with this section and the rules may result in the Commissioner of Planning and Development removing the garden from the registry.”

Advocates fully understand that this registry is not a holistic fix for much larger issues of land management, native gardens and their role serving as green infrastructure, and food sovereignty. Those efforts will continue. The registry can however provide relief to those Chicagoans who are currently seeing the heaviest enforcement of the weed ordinance; they are predominantly located in environmental justice communities.

**Doesn't this place the burden of proof on a homeowner instead of the City?**

The registry is an attempt to circumvent the City's aggressive enforcement of the weed ordinance in cases where native plants are being misconstrued as weeds. Easing this burden will be part of a long-term process.

**Why does this ordinance exclude tenants or other people who do not own property?**

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This was a requirement requested by the City for liability purposes. Tenants are encouraged to work with their landlords if they are interested in starting a native garden, and resources from the advocacy community will be made available to support them. Sanitation code citations are issued to the owner of record for a property -- not a tenant. Ensuring that the landlord has signed off on a tenant establishing a native garden on the property ensures that when a tenant moves out, that the property owner of record remains responsible for upkeep and registration.

**If I register my garden, how does that keep me from getting tall weed citations?**

The Department of Planning and Development will maintain the list of all registered Native Gardens in Chicago, and will work in close coordination with the Department of Streets and Sanitation to ensure that any tall weed 311 complaints are checked against the registry before an inspection is performed.

The Department of Streets and Sanitation has prior experience with inter-departmental coordination of registry-protected properties, as they work with the Department of Cultural Affairs and Special Events' (DCASE) Mural Registry for registered works of art. Even if DSS responds to a graffiti removal 311 complaint that appears to be an unregistered mural, they will coordinate with DCASE to find the owner or commissioner, rather than removing it as was standard before the mural registry was established.

**How is this registry equitable, if there must be a 3 foot buffer of native plants vs. plants that are 10" or shorter? Many lots in Chicago do not have ample lawn to begin with that allow for this.**

A three foot buffer provides a buffer against native plantings that may spread out towards the public way. It also provides a level of public safety by not allowing tall plantings to abut the public way that could create hiding spaces.

**Can I plant non-native plants in my garden that are over 10" and be cited? Can I plant non-native plants in my garden with the native plants and still be on the registry?**

The Department of Planning and Development has not promulgated rules for what will or will not constitute a native garden. Since the intent of the ordinance is to help recognize and protect properties from citations -- rather than intending to be punitive -- we will work with DPD to ensure that co-mingled native and non-native plantings will not be restricted from the registry.

**What is the process for certifying my garden? Who is responsible for certifying my plants are native?**

The process has not yet been designed for the creation of the registry and how owner-occupied properties can register for the Native Garden Registry. The proposed plan is for the owner to submit their plant list to the Department of Planning and Development. From there, the DPD would cross reference the list with native plants of the Chicago Region to ensure they meet the criteria. Non-native plants can exist in the garden, but there must be majority native plants to qualify on the Native Plant Registry.