BILL NO. 2679 **ORDINANCE NO. 2498**

AN ORDINANCE REPEALING CITY OF CHESTERFIELD ORDINANCES 192, 385 AND 578 TO CODIFY THE REQUIREMENTS RELATED TO NUISANCES AND ENFORCEMENT AND TO ESTABLISH CRITERIA FOR NATIVE PLANTS, NOXIOUS WEEDS AND INVASIVE PLANTS.

WHEREAS, the City of Chesterfield seeks to codify all requirements related to nuisances into one ordinance; and,

WHEREAS, the City Council of the City of Chesterfield recognizes the ecological and environmental benefits associated with preserving and managing healthy native plantings and landscapes; and,

WHEREAS, the City seeks to provide its citizens the opportunity to choose managed appropriate vegetation to preserve storm water quality, wildlife habitat, riparian corridors, stream banks, steep slopes, and other environmentally sensitive areas without adversely affecting human health, safety, or public welfare; and,

WHEREAS, the City Council, having considered said request voted to approve the ordinance amendment request,

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHESTERFIELD, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. The City of Chesterfield Ordinances 192, 385 and 578 are hereby repealed and shall be replaced with the attached Ordinance and Appendix A.

Section 2. This ordinance shall be codified within the Municipal Code of the City of Chesterfield.

Section 3. This ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved this 17th day of November, 2008

MAYOR

ATTEST:

CITY CLERK

FIRST READING HELD: November 3, 2008

REPEALING ORDINANCES 192, 385 AND 578 TO CODIFY THE REQUIREMENTS RELATED TO PUBLIC NUISANCES AND ESTABLISH CONTROL CRITERIA FOR NATIVE PLANTS, NOXIOUS WEEDS, AND INVASIVE PLANTS.

Section 1. **Definitions**

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

1. Invasive Plant: A vegetation species that grows aggressively in the State of Missouri, as listed by the Missouri Department of Conservation.

2. Lessee: Any person, agent, operator, firm, or corporation having possession, occupancy or control of all or a portion of a premises pursuant to a written or unwritten lease, contract, agreement, or license with the owner.

3. Native Plant: A vegetation species that existed prior to the arrival of settlers within the State of Missouri, as listed by the Missouri Department of Conservation.

4. Noxious Weed: A vegetation species that is listed as a Missouri State Noxious Weed by the United States Department of Agriculture.

5. Nuisance Plant: Toxic species known to cause death or severe allergic reactions among a segment of the human population such as Poison Hemlock, Poison Ivy, and Ragweed.

6. Owner: Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

7. Person Having Control: Any occupant, representative or employee of an owner or lessee, or any person eighteen (18) years of age or older who has charge, care or control of any portion of a premises.

8. Premises: A lot, plot, or parcel of land including any structures thereon.

9. Sight Distance: The clear line of sight necessary for pedestrian safety or safe operation of a motorized vehicle.

10. Turf Grass: A type of vegetation ground cover, managed by weed removal and mowing to maintain a uniform height.

11. Turf Weed: Broadleaf weeds, annual and perennial grasses, that invade or disrupt the uniformity of turf grass lawns.

Section 2. Administration

(a) Every owner, lessee or person in control of a property upon which a subdivision plat has been recorded in accordance with law and all property within one hundred (100) feet from the out-boundary of an occupied or improved subdivision or upon the right of way adjoining such premises in the City of Chesterfield shall keep said property free of public nuisances as described in Section 3 of this ordinance.

(b) This section shall apply to any violations cited after the date of this ordinance. All violations of the original Ordinance 192, Ordinance 385, or Ordinance 578 cited prior to the date this ordinance was adopted shall be prosecuted in accordance with the provisions set out in the original applicable on the date of violation.

Section 3. Public Nuisance Declared

Public nuisances of the City are hereby declared to be as follows:

Any act committed or suffered to be committed by any person, or any substance kept, maintained, placed, or thrown upon any public or private premises which constitutes a hurt, injury, inconvenience or danger to the health, safety or welfare of the public or residents and occupants of the immediate vicinity as determined by the Planning and Development Services Director.

The above Public Nuisance declaration shall include, but not be limited to, the following:

(a) Discharge of piped potable or non-potable water including ground water, storm water, and pool water, release of liquids, chemicals, oils, or substances upon any right of way, including streets, alleys, tree lawns, sidewalks, bike trails, or in close proximity to natural streams or neighboring premises that constitutes a hurt, injury, inconvenience or danger to the health, safety, or welfare of the public or residents of the immediate vicinity. At a minimum, piped residential downspouts or basement sump pumps shall be daylighted to surface discharge at least ten feet away from a neighboring property line.

(b) Maintaining or permitting conditions that promote or allow mosquito, cockroach, flea, or other insect infestations to develop upon a premises or in stagnant pools or impoundments of water, that constitute a hurt, injury, inconvenience or danger to the health, safety, or welfare of the public or residents of the immediate vicinity.

(c) Emission of any offensive, noxious or toxic gas, effluvia or odor that constitutes a hurt, injury, inconvenience or danger to the health, safety, or welfare of the public or residents and occupants of the immediate vicinity.

(d) Dead animal carcasses permitted to remain upon a premises for more than twelve (12) hours.

(e) Keeping, maintaining, or permitting animals of any kind, domestic or wild, upon a premises in such a manner or condition that same constitutes a hurt, injury, inconvenience or danger to the health, safety, or welfare of the public or residents or occupants of the immediate vicinity.

(f) Keeping, maintaining or permitting of trash, debris, garbage, rubbish, junk, decaying vegetation or animal matter or other substance upon a premises constituting a hurt, injury, inconvenience or danger to the health safety or welfare of the public or residents and occupants of the immediate vicinity.

(g) Failure to mow or cut turf grass or turf weeds, to maintain a maximum height of not more than twelve (12) inches, or failure to control or remove listed nuisance plants, invasive plants and noxious weeds in such a manner that constitutes a hurt, injury, inconvenience or danger to the health safety or welfare of the public or residents and occupants of the immediate vicinity. Managed stands of native plants, ornamental grasses, or shrubs, and cultivated agricultural crops, vegetable gardens or flower gardens exceeding twelve (12) inches in height are permitted provided they are maintained free of turf weeds and grasses, nuisance plants, invasive plants and noxious weeds, are kept at least four (4) feet from a property line, and do not impair sight distance, or constitute a hurt, injury, inconvenience or danger to the health safety or welfare of the public or residents and occupants of the immediate vicinity.

(h) Placement or dumping of dead plant material such as lawn clippings, weeds, leaves, tree trunks, and tree branches, in or near storm sewers, creeks, drainage swales, stream banks, or steep slopes in such a manner that constitutes a hurt, injury, inconvenience or danger to the health safety or welfare of the public or residents and occupants of the immediate vicinity. Erosion control devices such as silt fence, rip-rap, erosion control blankets, check dams, or seed and mulch placed near creeks, in drainage swales, on stream banks, or upon steep slopes, shall comply with the City of Chesterfield Erosion Control Manual.

(i) Any standing or fallen, dead tree, dead tree limbs, dead shrubs, and trees that are more than 50% dying, damaged, or diseased to constitute a hurt, injury, inconvenience or danger to the health, safety, or welfare of the public or residents and occupants of the vicinity. Removal of any dead or dying tree shall comply with the City of Chesterfield Tree Manual.

(j) Any unfenced in-ground swimming pool, any unsecured building or structure, or any dilapidated or unsafe building, fence, retaining wall, or structure located upon any public or private place or premises in such condition that same constitutes a hurt, injury, inconvenience or danger to the health, safety or welfare of the public or the residents and occupants of the immediate vicinity.

(k) The use of light sources shall comply with the City of Chesterfield Lighting Code. Official or approved emergency, construction, safety and warning lighting are generally permitted.

Section 4. Notice to Abate, Posting and Delivery

(a) Whenever it comes to the attention of the City, or the City receives an allegation of the existence of a public nuisance, the City shall investigate and shall make a determination. If a public nuisance is found to exist, a Notice to Abate shall be mailed or hand delivered to the owner, lessee, or person having control of the premises. If mail or hand delivery is not readily achievable, the property may be posted to provide notification by placing the Notice to Abate upon a building, tree, or other object upon such property, as may be available.

(b) The Notice to Abate described in subsection (a) shall contain:

(1.) Address or description of the property
(2.) Ordinance number of the ordinance being violated
(3.) Nature of the violation, and the number of days by which the violation shall be removed or abated.
(4.) Notice of the penalty for a failure to remove or abate the nuisance, stating that if the nuisance reoccurs by the same owner, lessee, or person in charge, a summons will be issued without further notice.

(c) Notice to Abate, first offense. In all cases where the public nuisance is the first offense of the specified ordinance violation for the person charged therewith, the Notice to Abate provisions shall be observed. The number of days granted to abate a violation shall not be less than four (4) days, except in emergency cases.

Section 5. Summons and Abatement by City

Upon neglect or failure to act upon the Notice to Abate, the City shall issue a summons as follows:

(a) Summons, service of. If a Notice to Abate is issued, and the public nuisance has not been removed or abated in the allotted time, the City shall issue a Municipal Court summons, directed by name to the owner, lessee, or person in charge of the property, showing:
a. Address or description of property on which the public nuisance is located, and such other information as may be available to the inspector
b. The ordinance which is being violated and setting forth in general the nature of the public nuisance,
c. Date on which the case will be on the Municipal Court docket for hearing.

(b) Summons, delivery by mail. The City shall cause the summons to be delivered by ordinary mail, postage prepaid to the person named therein at the address shown on the summons, or at such other address as the person charged therewith shall be known to reside. If the mail is duly addressed to the person named in the summons at the address as provided above and is not returned to the City, it shall be deemed to have been delivered and received by the person to whom addressed.

(c) Abatement by City: If the owner, lessee, or person in charge of property for which a Notice to Abate has been issued, fails to remove or abate the public nuisance in the time specified, the City may elect to abate the public nuisance in which case the City shall notify the owner, lessee, or person in charge of the property, in writing, a minimum of four (4) days in advance, of the date, time, and location of an abatement hearing. The abatement hearing officer shall be the City Administrator or his designated representative. The abatement hearing officer shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received. The abatement hearing officer shall review all evidence and may issue an order to abate the nuisance allowing at least five (5) business days after the hearing for abatement to be complete. The order shall include authorization for the City to immediately enter the property and to remove the public nuisance and assess costs pursuant to this section if such public nuisance is not removed within the time allotted after the abatement hearing.

(d) Assessment of Costs for Abatement by City: All costs and expense incurred by the City in removing or abating a public nuisance may be assessed against the property owner in the form of a special tax bill, which special tax bill shall become a lien on the property. Alternatively, the cost of removing or abating the public nuisance may be made a part of a judgment by the municipal court, in addition to any other penalties and costs imposed.

(e) Notice to Abate, subsequent offenses. In all cases where the public nuisance is a repeat or continued offense occurring within a 12 month period, the Notice to Abate provisions need not be observed. Thereafter such owner, lessee, or person having control may be summoned into municipal court to answer the charges, and/or the City shall have the option of performing Abatement by City and Assessment of Costs without another Notice to Abate being issued. In addition to the court costs normally assessed in all such cases, there shall be added thereto all costs incurred by the City in abating the public nuisance. Each day a violation continues after the expiration of the Notice to Abate shall constitute a separate offense.

Section 6. Penalty

(a) Any person, persons, firm, association or corporation violating any provision of this Public Nuisance ordinance or any employee, assistant, agent, or any other person participating or taking part in, joining or aiding in a violation of any provision of this Public Nuisance ordinance may be prosecuted as provided by law for the violation of ordinance of the City of Chesterfield and upon conviction shall be punished by a fine not exceeding one thousand dollars ($1000) for any one offense or imprisonment in the City jail for not more than three (3) months, or both such fine and imprisonment. Each day a violation continues after service of written notice to abate such violation shall constitute a separate offense.

(b) In addition to the penalties hereinabove authorized and established, the City Attorney shall take such other actions at law or in equity as may be required to halt, terminate, remove, or otherwise eliminate any violation of this ordinance.

Appendix A

NOXIOUS WEEDS
As may be amended from time to time by the United States Department of Agriculture
Missouri State Listed Noxious Weeds

Canada thistle,
Common teasel
Cut-leaved teasel
Field bindweed
Johnson grass
Kudzu
Marijuana
Multiflora rose
Musk thistle
Purple loosestrife
Scotch thistle

INVASIVE PLANTS
As may be amended from time to time by the Missouri Department of Conservation
Listed in the Missouri Vegetation Manual

Autumn olive
Black Locust
Bush honeysuckles
Common buckthorn
Crown vetch
Garlic mustard
Gray dogwood
Honey locust (with seeds)
Japanese honeysuckle
Leafy spurge
Osage orange
Reed canary grass
Sericea lespedeza
Sesbania
Smooth sumac
Sweet clover (white and yellow)
Wintercreeper

NATIVE PLANTS
As may be amended from time to time by the Missouri Department of Conservation
listed on the Grow Native! Website: www.grownative.org