

CHAPTER 321

CONTROL OF WEEDS, GRASSES AND BRUSH

[History: Ord 2008-8]

321.01 FINDINGS AND DECLARATION OF POLICY. The Common Council of the City of Richland Center finds and declares that noxious weeds, excessively long grasses, accumulated cut grass or weeds, growing brush or accumulations of cut brush, tree limbs or similar materials are a threat to the health, safety, morals and public welfare in that they can cause, produce or exacerbate hay fever or other respiratory ailments in human beings; can produce unpleasant or noxious odors; can collect and conceal filthy deposits; can provide breeding areas for mosquitos and other obnoxious and/or disease carrying insects; can provide places for accumulation of trash or litter and can provide shelter for and thereby encourage infestation by undesirable rodents and other undesirable animal life. The City of Richland Center hereby finds and declares that noxious weeds, excessively long grasses, growing brush and/or accumulations of cut brush, tree limbs or similar materials constitute public nuisances within said City.

321.02 WEED COMMISSIONER. The Superintendent of Parks and Grounds is appointed the Weed Commissioner for the City, with the powers set forth in sec. 66.0517 Wis. Stats. and this Chapter.

321.03 DEFINITIONS. In this Chapter, the following terms shall be defined as set forth below:

(1) **"Brush"** means woody vegetative material which is indigenous to or which typically grows wild in Southwestern Wisconsin which has a trunk diameter at maturity typically no greater than 6 inches. It does not include trees. Multiflora Rose and prickly ash are specifically included in this definition.

(2) **"City"** means the City of Richland Center.

(3) **"Destroy"** means the complete killing of weeds or the killing of weed plants above the surface of the ground by the use of chemicals, cutting, tillage, cropping system or any or all of these in effective combination, at a time and in a manner as will effectually prevent the weed plants from maturing to the bloom or flower stage.

(4) **"Grass"** means grass commonly used as regularly cut lawn grass, including but not limited to bluegrass, fescue and rye grass blends.

(5) **"Noxious weed"** means:

(a) *Cirsium Arvense* (Canada thistle)

(b) *Euphorbia esula* (Leafy spurge)

(c) *Convolvulus arvensis* (Field bindweed or Creeping Jenny)

- (d) *Ambrosia artemisiifolia* (Common Ragweed)
- (e) *Ambrosia trifida* (Great Ragweed)
- (f) *Urtica Dioica* (Stinging Nettle)
- (g) *Centaurea Maculosa* (Horse nettle)
- (h) *Pastinaca sativa* (Wild Parsnip)
- (i) *Lythrum salicaria* (Purple Loosestrife)
- (j) *Arctium minus* (Common Burdock)
- (k) *Alliaria petiolata* (Garlic Mustard)
- (l) *Toxicodendron radicans* (Poison Ivy)
- (m) *Cannabis* (Marijuana)
- (n) Any other weed the Common Council by ordinance or resolution declares to be a noxious weed within the City of Richland Center.

(5) “Natural Landscapes” are defined as landscapes consisting predominantly of common species of grass and wild flowers native to Wisconsin, which are designed and purposely cultivated to replicate native landscapes and require little or no maintenance, and which can be expected to exceed eight (8) inches in height. The growth of natural landscapes in excess of eight (8) inches in height shall be prohibited within the City, unless a Natural Landscape Management Plan is approved pursuant to Section 321.07 of this Chapter that would permit an exemption under section 321.06 of this Chapter.

(6) “Weed Commissioner” means the duly appointed weed commissioner of the City of Richland Center.

321.04 DUTY TO DESTROY NOXIOUS WEEDS.

(1) No person owning, occupying or controlling land within the City of Richland Center shall permit to grow or pollinate upon such property any noxious weed. A person owning, occupying or controlling land within the City of Richland Center shall promptly destroy all noxious weeds on the land which such person owns, occupies or controls.

321.05 DUTY TO MOW GRASSES.

(1) The owner of any property within the City shall mow and keep mowed all grasses and all weeds other than noxious weeds on his/her property to a height not exceeding eight (8) inches above ground level and shall remove accumulated cut grass and weeds from the property and properly dispose of it.

(2) The owner of any property within the City which abuts a public street shall mow and keep mowed the strip of land between the property owner's lot line and the abutting curb(s) or, where there is no curb, the pavement edges of all public streets abutting the property to a height not exceeding eight (8) inches above ground level.

321.06 CONTROL AND REMOVAL OF BRUSH, TREE LIMBS ETC.

(1) The owner of every property within the City shall promptly cut and keep cut all brush upon such owner's property.

(2) No property owner or occupant shall keep or accumulate any pile or piles of cut brush, cut tree limbs or similar cut organic materials upon his/her property. All cut brush, cut tree limbs or similar cut organic materials shall be removed from the property and properly disposed of.

321.07 NATURAL LANDSCAPE MANAGEMENT PLANS.

(1) A Natural Landscape Management Plan as used in this chapter shall consist of a written plan relating to the management and maintenance of a Natural Landscape which contains the following information:

(a) The street address and legal description of the property where the Natural Landscape is being proposed;

(b) A statement of the intended purpose for the proposed Natural Landscape;

(c) A detailed description of the types of plants and plant succession proposed;

(d) A description of the specific management and maintenance techniques to be proposed to be employed; and

(e) A drawing, plot plan or survey showing approximately to scale the location of the proposed Natural Landscape area on the property.

(2) Proposed Natural Landscapes shall be confined to property owned by the applicant.

(3) Natural Landscapes on any City-owned property within any street right of way are strictly prohibited. Included in this prohibition is the area of the right-of-way of any public street which lies outside the roadway portion of the street.

(4) Natural Landscapes shall not be permitted within three (3) feet of an abutting property line unless consented to in writing by the owner of the land adjacent to such abutting property line, which consent(s) shall be attached to the proposed Plan in addition to the information required in paragraph (1) above.

321.08 VIOLATIONS; PENALTY PROVISIONS.

(1) **Investigation.**

(a) Alleged violations of this Chapter shall be investigated by the Weed Commissioner who shall proceed under this section and who may, in appropriate cases of egregious or repeated violations, also request prosecution by the City Attorney.

(b) Upon receipt of a complaint from an abutting property owner or other person, the property alleged to be in violation of this chapter shall be inspected by the Weed Commissioner. Alternatively, the Weed Commissioner may initiate an inspection if a condition which appears to be in violation of this Chapter comes to the Weed Commissioner's attention through personal observation or from any other source.

(c) If a violation is substantiated by the Weed Commissioner's inspection, the property owner shall be notified in writing to abate such violation and come into compliance with the provisions of this Chapter within five (5) days after such written notice.

Notice shall be deemed given upon personal delivery thereof to any holder of title to the property or upon placing such notice in the US Mail, addressed to the person at the address or record shown in the records of the Richland County Treasurer for the mailing of real estate tax bills for the property. Written notice of a violation of sec. 400.07(10) of the code of ordinances of the City sent prior to the effective date of this ordinance shall constitute a valid written notice under this subparagraph.

(2) Powers of Weed Commissioner to Abate Certain Violations; Special Charge Against Property.

(a) If a violation is not abated within five (5) days after written notice is given or mailed, the Weed Commissioner may cause the property to be mowed and/or noxious weeds on the property destroyed, and shall forthwith report to the City Clerk-Treasurer in writing all costs incurred therefor. The costs thereof shall be a special charge against the property. If the costs thereof are not paid by the landowner within 30 days after billing therefor is mailed, special charge is delinquent and becomes a lien against the property against which it is imposed as of the date of delinquency. The delinquent special charge shall be included in the current or next tax roll for collection and settlement under chap. 74, Wis. Stats.

(b) All notifications to the landowner under this chapter and any billings herein provided for shall be made by personal delivery to at least one holder of title to the property or by mailing. Mailings provided for herein shall be mailed to the person at the address of record shown in the records of the Richland County Treasurer for the mailing of real estate tax bills for the property.

(c) Any mowing performed by or at the direction of the Weed Commissioner pursuant to the Weed Commissioner's powers under paragraph (2) above is not limited to a height of 8 inches, and the grasses may be mowed to as low as ground level.

(d) The cost of mowing or of destroying noxious weeds and/or removing and disposing of cut grass or weeds on any property pursuant to this section shall be calculated based upon the hours expended and equipment used, priced at the current Wisconsin state equipment rates for equipment used and for labor at the current City employee labor rates as set by the Common Council.

(e) Abatement of a violation by the Weed Commissioner shall not be deemed to bar imposition of forfeiture for the violation.

(3) Forfeiture. Any person, partnership, corporation, limited liability company, voluntary association or other legal entity who shall violate or fail or refuse to comply with any section of this chapter may be prosecuted for such violation and shall, upon conviction, forfeit to the City of Richland Center not less than \$100.00 nor more than \$400.00, plus all applicable costs, fees and surcharges imposed under Ch. 814 Wis. Stats., and in the event such forfeiture, costs, fees and surcharges are not paid, such person, any partner of such partnership, or any officer, director or managing member of any corporation or limited liability company or any officer of such voluntary association may, upon order of the Circuit Court, be imprisoned in the Richland County jail until such forfeiture, costs and assessment are paid, but not to exceed 90 days, or may be subject to any other sanctions imposed by the Court for such failure to pay. Each day that a violation is maintained or permitted to exist shall constitute a separate violation.

(4) Other Remedies. In addition to or as an alternative to the imposition of a forfeiture or other procedures under this Chapter, the City may, in circumstances deemed appropriate by the City, proceed by court action against any violation or violator of this Chapter for injunction or other remedy available to the City.

(5) Remedies not Exclusive. An action seeking other remedies shall not be deemed waived by the City by the imposition of a forfeiture for the same violation, nor shall imposition of a forfeiture be deemed a waiver of or a bar to a proceeding for other remedies.

321.09 SPECIAL EXCEPTIONS.

(1) Conditions of Issuance. A property owner may apply for a special exception from the prohibitions of section 321.06(1) of this Chapter. Special exceptions from such prohibitions may be granted by the Weed Commissioner only upon a finding that one of the following criteria applies to the property for which the special exception is requested:

- (a) The property is located within a Wetland zone;
- (b) There is on the proposed excepted property a cultivated crop field located within an Agricultural zoning district with a crop or crops having only one seasonal harvest;
- (c) The property is subject to a permit issued by the Wisconsin Department of Natural Resources to grow wild grasses for wildlife;
- (d) There are on the property special characteristics of land and location, such as remote location; historical significance; environmental sensitivity; rough, wet or wild terrain; large tracts of platted but undeveloped lots; or the property is predominantly wooded;
- (e) The property is subject to a Natural Landscape Management Plan meeting the requirements of section 321.07 and approved by the Weed Commissioner; or
- (f) The property is currently enrolled in a state or federal government program regulating the vegetation growing thereon.

(2) Review of Applications; Referral and Action. If the Weed Commissioner declines to grant a special exception, a property owner may apply for a special exception to the Parks and Grounds Board. Such applications shall be reviewed on a case by case basis by the Weed Commissioner, who shall report his or her findings to the Parks and Grounds Board with his or her recommendation, and the Parks and Grounds Board shall then act to approve or disapprove such application for a special exception.

(3) Buffer Zone Required for Undeveloped Lands. Other provisions of this section to the contrary notwithstanding, a minimum one hundred (100) foot buffer zone complying with the mowing height requirements of this Chapter shall be required where platted but undeveloped property abuts other platted developed properties, unless waived in writing by the abutting property owner on the side or sides affected, or unless a special exception is granted pursuant to sub-section (1) of this section. Any such waivers by abutting property owners shall be affixed to the application for special exception made pursuant to this section.

(4) Notice of Determination. The applicant to the Parks and Grounds Board for a special exception shall be notified in writing by the Weed Commissioner following action by the Parks and Grounds Board of approval or denial of such application. If no such notification is issued within forty-five (45) days of application, the special exception application shall be deemed approved. Special exceptions may be granted subject to such terms, conditions and provisions as the Parks and Grounds Board deems appropriate, including duration or assignability.

(5) Revocation of Special Exceptions. Special exceptions granted pursuant to this section may be revoked by the Parks and Grounds Board for violation of any restrictions placed upon such special exception, or if it determines that the property no longer qualifies for the special exception granted.

321.10 APPEALS. An applicant for or holder of a special exception may appeal a decision to deny the application or revoke the special exception to the Zoning Board of Appeals. All notices of appeal shall be submitted in writing to the City Clerk-Treasurer within fifteen (15) calendar days after issuance of the notice of denial or revocation of the special exception. Procedures and fees applicable to appeals to the Board of Zoning Appeals under the City Zoning Ordinance shall apply to such appeals.

Enacted July 15, 2008