

**CHAPTER 133**  
**TALL GRASS AND WEEDS**

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**133.01 Legislative Intent.** It is declared to be the purpose and intent of this chapter to protect and preserve this City's neighborhoods and the public health, safety and welfare of those who live. The Kerkhoven City Council determines that keeping the City free of tall grass and noxious weeds improves the quality of life of City residents by improving the aesthetics of the City, by eliminating harbor for rodents and insects and by eliminating fire hazards. At the same time the Council recognizes that requiring the mowing of grasses and noxious weeds is under certain circumstances impractical and unreasonable. The exemptions contained within this chapter are intended to cover these circumstances.

**133.02 Definitions.** The following definitions shall apply to words used in this chapter.

- a) "Boulevard" shall mean the area between the street and sidewalk or, in the absence of a public sidewalk, the area between the street and property line adjacent to all streets within the Kerkhoven city limits.
- b) "Buffer" or "buffer strip" shall mean a management area used to separate differing landscapes and land uses to minimize the impact from these adjacent land uses.
- c) "Landscaping" shall mean the active involvement in the encouragement of selected plants to grow on a site.
- d) "Noxious weeds" shall mean plants so designated by the Commissioner of Agriculture under authority of Minn. Stat. Sec. 18.77, Subd. 8.
- e) "Regularly cut" shall mean mowing or otherwise cutting vegetation so that it does not exceed 8 inches in height.
- f) "Traditional landscaping" shall mean the use of turf grasses and woody plants (shrubbery and trees) with defined areas for cultivation of annual and perennial plants.
- g) "Turf grasses" shall mean bluegrass, fescue and ryegrass blends with non-woody vegetation interspersed with them commonly used in regularly cut lawns.
- h) "Weeds" shall mean all noxious weed and any undesirable or troublesome plant that is horticulturally out of place, especially one that grows profusely where it is not wanted. For the purpose of this Ordinance, *Taraxacum* spp (common dandelion) is not considered a weed.
- i) "Wetlands" shall mean lands transitional between terrestrial and aquatic systems where the water table is near the surface. The boundary of wetlands for the purposes of this chapter

shall be determined according to the U. S. Army Corps of Engineers Wetland Delineation Manual (1987).

**133.03 Nuisance Declared.** It shall be unlawful and a public nuisance for any person having control of any property in the City of Kerkhoven to permit or maintain on such property any (1) noxious weed, or (2) growth of grass and weeds in excess of 8 inches in height, if the growth of grass and weeds occupies an area of at least 144 square feet and is located within 200 feet of a residence or developed property. No owner shall permit such grass and weeds to be a public nuisance, but shall abate the nuisance by cutting the weeds and grass and removing the clippings.

**133.04 Exemptions and Conditions of Exemptions.** The provisions of this chapter shall not apply to the following:

- a) Non-noxious weeds and grass vegetation in wetland areas;
- b) Non-noxious weeds, grasses and herbaceous vegetation within 50 feet of designated storm water ponds or within 50 feet of natural or altered creeks, rivers and stream corridors, including riparian buffer strips that convey water, provided they are cut to less than 8 inches at least once per year if located within 200 feet of an occupied residence or developed property;
- c) Non-noxious weed and grass vegetation growing on agriculturally zoned land, including pastures, that are fenced and contain animals;
- d) Temporary erosion control grasses;
- e) Ornamental grasses.

**133.05 Inspection by Person Designated by the City Council.** Upon receiving notice of the probable existence of weeds in violation of this chapter, a person designated by the City Council shall make such inspection as necessary and is hereby authorized to enter onto private property for the purpose of conducting such inspection. Upon finding such public nuisance a notice shall be served by certified mail or regular mail upon the record owner of the property ordering such owner to abate the nuisance by cutting the weeds or grass and removing the clippings within 15 days of receipt of the notice. The notice shall also state that if the owner fails to do so, the City will cause the weeds and grass to be cut and the clippings removed and the expense thereof, if unpaid by the owner, to be levied against the benefited property as a special assessment. Refusal to accept such notice by the owner of the property shall not constitute a defense that the notice was not received.

**133.06 Appeals.** The property owner may appeal by filing written notice to objection with the City Clerk within 48 hours of the notice, excluding weekends and holidays, if the property owner contests the findings of the inspector. It is the property owner's responsibility to demonstrate that the matter in question is shrubs, trees, cultivated plants or crops or is not otherwise in violation of this chapter, and should not be subject to destruction under the chapter. An appeal by the property owner shall be brought before the City Council and shall be decided by a majority vote of the Council members in attendance and being at a regularly scheduled or special meeting of the City Council.

**133.07 Abatement by the City.** In the event that the property owner shall fail to comply with the destruction orders within 15 regular business days and has not filed a notice within 48 hours to the City Clerk of an intent to appeal, the City Council may employ the services of city employees or outside contractors and remove the weeds and grass to conform to this chapter by all lawful means. A record shall be kept of the total cost of the abatement attributable to each parcel of property and be reported to the City Clerk and other appropriate staff.

**133.08 Owner Liability for Cost.** The property owner is liable for all cost of removal, cutting or destruction of weeds and grass as defined by this chapter. The property owner is responsible for all collection costs associated with weed and grass destruction including, but not limited to, court costs, attorney's fees and interest on any unpaid amounts incurred by the City. If the City uses municipal employees, it shall set and assign an appropriate per hour rate for employees, equipment, supplies and chemicals which may be used. All sums payable by the property owner are to be paid to the City Clerk and to be deposited in a general fund as compensation for expenses and costs incurred by the City. All sums payable by the property owner may be collected as a special assessment as provided by Minn. Stat. 429.101, as it may be amended from time to time.