

**The Common Council of the City of Richland Center, on December 1st of 2020,
hereby adopts the following Ordinance 2020-12:**

CHAPTER 300 PUBLIC NUISANCE

and repealing:

Chapter 306 Unregistered and/or Inoperable Vehicles;

Chapter 307 Junk Accumulation, Trash Dumping;

2015-7 Chapter 307 Outside Items;

Chapter 321 Weeds and Brush; and

Chapter 385 Excessive Smoke, Soot.

CHAPTER 300

PUBLIC NUISANCE

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300.01 PUBLIC NUISANCE PROHIBITED

No person shall create, cause, maintain or permit any public nuisance to exist on land which he owns, occupies or controls within the City.

300.02 DEFINITIONS AND CRITERIA

- (1) **DEFINITION OF PUBLIC NUISANCE.** A public nuisance is a thing, activity, occupation, condition or use of property, whether or not otherwise lawful, which because of its proximity to dwellings, buildings, occupancy or property of others of the public, or public places:
 - a. Substantially interferes with the health, safety, comfortable enjoyment of life or use of property, or other interests of others of the public who come into contact with it; or
 - b. Substantially interferes with the public interest. 104 Wis. 2d 506, 311 N.W.2d 650 (1981)

- (2) **CRITERIA FOR DETERMINING WHETHER A NUISANCE IS PUBLIC.** In determining whether a public nuisance exists hereunder, consideration shall be given to:
 - a. The number of persons affected;
 - b. The location of the property of the persons affected;
 - c. The degree or character of the injury inflicted or the right impinged upon;
 - d. The reasonableness of the use of the property;
 - e. The nature of any business being maintained;
 - f. The nearness of dwellings to the property; and
 - g. The nature of the surrounding neighborhood or community.

300.03 NUISANCES INTERFERING WITH THE PUBLIC INTEREST

Pursuant to the police powers vested in the Common Council, the following things, activities, conditions, occupations and uses of property are declared to be public nuisances, and may be suppressed, abated or enjoined as hereafter provided. The declaration of a specific public nuisance hereunder shall not be construed to exclude any public nuisance not so enumerated.

(1) NUISANCES AFFECTING PUBLIC HEALTH AND SAFETY.

- (a) All decayed, adulterated or unwholesome food or drink sold or offered for sale to the public;
- (b) Carcasses of dead animals, including fish and fowl, not intended for human consumption or food which are not buried or disposed of within 24 hours;
- (c) Any accumulation of animal, vegetable or mineral matter, or any stagnant water, in which flies, mosquitoes, mice, rats or other vermin may breed;
- (d) The pollution of any water table, well, cistern, stream or other body of water by sewage, creamery or other industrial waste or substances;
- (e) Permitting the escape of smoke, soot or foul, offensive, noisome, noxious or disagreeable odors which annoy, discomfort, inconvenience or injure the health of any person of ordinary sensibility;
- (f) The open storage upon the surface of any land of junk, garbage, hewn or fallen trees, waste building materials from land development or building construction or repair, litter, rubbish and refuse, inoperable motor vehicles or motor vehicle parts, cloth, rags, clothing, paper, bottles, rubber, metals, alloys, or any other article or thing which from its worn or broken condition renders it practically useless for the purpose for which it was made.
- (g) Carcasses of deer or other dead animals to be used for human consumption not disposed of after a period of 72 hours or sooner if such carcass causes a nuisance subject to (c), (d) or otherwise creates an actionable nuisance.

(2) NUISANCES AFFECTING PUBLIC SAFETY, COMFORT, AND CONVENIENCE.

- h. Unauthorized traffic signs or any signs placed on a pole, post or other structure or device bearing any electrical wires or cables of a public utility, or authorized traffic sign.
- i. Any tree, plant, sign, awning or other structure or thing so situated or constructed as to obstruct any public street, sidewalk, alley or public right-of-way; or which interferes with the clear view of traffic by any person lawfully using street, sidewalk, alley or other public right-of-way; or which endangers the public safety.
- j. The keeping of any animal which by frequently barking, howling or making of other noises annoys or disturbs any neighborhood or significant

number of persons.

- k. Permitting any dog, cat or other pet or animal to wander at large.
- l. Any unauthorized use of property on or abutting a public street, sidewalk, alley or public right-of-way, or other public property which involves a large number of persons and which obstructs, hinders, slows or otherwise interferes with traffic and the free use of such street, sidewalk, alley, public right-of-way or other public property.
- m. The repeated violation of any ordinance of the City or of any statute of the state. 60 Wis. 2d 631 (1973).
- n. Any building erected, repaired or altered in violation of any ordinance of the City.
- o. Any building or other structure so old, dilapidated or out of repair as to be dangerous or unsafe or unsanitary or unfit for human habitation, or occupancy or use.
- p. Any tree or limb of any tree which is dead, dying, damaged or otherwise injured so as to present a danger to the safety of any person in its proximity.
- q. Any abandoned refrigerator or icebox or other appliance from which the doors or other covers have not been removed or equipped with a device for opening from the inside.

300.04 MAINTENANCE AND REPAIR OF PROPERTY

No person shall allow or permit exterior areas of property which they own or occupy to be or remain in a state of blight, disrepair or poor maintenance. Violations of this Section are hereby declared to be public nuisances. Compliance with this Section shall include, but is not limited to the following:

- (1) Fences, other minor structures, and outbuildings shall be properly maintained in a safe, sanitary, substantial and sturdy condition.
- (2) All exterior surfaces shall be treated with paint or other preservative and shall be maintained so as to prevent chipping, peeling, cracking or other deterioration of the exterior surfaces so as to present an attractive appearance and to maintain safety.
- (3) Every foundation, exterior wall, floor, ceiling, window, door and roof shall be reasonably weather tight, watertight and rodent proof and shall be kept in a state of proper repair and maintenance.

300.05 NOXIOUS WEEDS

- (1) No person shall permit the growth of Canada thistle, leafy spurge, field bindweed, or any rank or noxious growth of other weeds or grasses, (that is, more than five inches in length), or any unreasonable growth of brush, on any property in the City that is owned, occupied or controlled by that person.
- (2) Duty of owner or occupant. The owner or occupant of any lands within the City shall destroy or control by cutting, killing, application of chemicals or cropping or other means all noxious weeds on such lands.
- (3) Public notice to destroy noxious weeds. The Mayor shall annually on or before May 15 cause to be published a Class 2 notice under Chapter 985, Stats., that every person is required by law to destroy all noxious weeds on lands in the City which the person owns, occupies or controls.
- (4) Weed commissioner; duties; abatement or nuisance; charges collected as tax; special procedure for railroad and other lands.
 - a. The Mayor shall appoint one or more weed commissioners before May 15 of each year. The compensation for the commissioners shall be established by resolution of the Common Council at the time the Mayor announces the appointment to the Council. The weed commissioners shall after May 15, and without any notice other than the public notice prescribed by sub. (3) destroy or cause to be destroyed all noxious weeds in the City. The commissioners shall keep an accounting for each day devoted to destroying noxious weeds, specifying by special item the amounts chargeable to each piece of land and reasonably describing the same.
 - b. After submitting the accounting to the City Treasurer and being paid therefore, the weed commissioners shall submit the accounting to the Clerk who shall enter the amount chargeable to each tract of land in the next tax roll under the column "For Destruction of Weeds", as a tax upon the lands which tax shall be collected as other taxes are.
 - c. In the case of railroad lands or other lands not taxed in the usual way, the amount chargeable against the same shall be certified by the City Clerk to the state treasurer pursuant to Wisconsin Statutes for collection.

300.06 NATURAL LANDSCAPE MANAGEMENT PLANS

"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 300.06(1)-(4) of this Chapter that would permit an exemption under 300.08(2) of this Chapter.

- (1) A Natural Landscape Management Plan as used in this chapter shall consist or 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.

300.07 MOWING OF GRASSES

- (1) The owner of any property within the City shall mow and keep mowed all grasses on his/her/its property to a height not exceeding six (6) 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 six (6) inches above ground level.

300.08 LIMBS, BRUSH and SIMILAR ORGANIC MATERIAL; INCLUDING SPECIAL EXCEPTIONS APPLYING THERETO

- (1) 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.
- (2) Special Exceptions and Conditions of Issuance. A property owner may apply for a special exception from the prohibitions of this section 300.08(1). 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 300.06 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.
- (4) 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.
- (5) 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 this section. Any such waivers by abutting property owners shall be affixed to the application for special exception made pursuant to this section.

- (6) 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.
- (7) 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.
- (8) 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.

300.09 JUNKED AUTOMOBILES, APPLIANCES, ETC.

- (1) DEFINITIONS.
 - (a) Disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractors or trailers. Motor vehicles, truck bodies, tractors or trailers in such state of physical or mechanical ruin as to be incapable of propulsion to being operated upon the public streets or highways.
 - (b) Unlicensed motor vehicles, truck bodies, tractors or trailers. Motor vehicles, truck bodies, tractors or trailers which do not bear lawful current license plates.
 - (c) Motor vehicle. Motor vehicle means a vehicle as defined by *Wis. Stat.* § 340.41(35) and in addition includes a snowmobile.
 - (d) Inoperable appliance. Any stove, washer, dryer, refrigerator, air conditioner, or other common household appliance which is no longer operable for the purpose for which it was manufactured.

- (2) **STORAGE OF MOTOR VEHICLES AND APPLIANCES DECLARED A NUISANCE.** The storage of disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractors or trailers, or unlicensed motor vehicles, truck bodies, tractors or trailers, or the parts thereof, or inoperable appliances, is declared to be a public nuisance. No such items shall be stored or allowed to remain in the open upon public or private property within the City unless a permit for such storage has been issued by the Common Council pursuant to the Richland Center Municipal Code.
- (3) **REMOVAL FROM PUBLIC PROPERTY.** Whenever any policeman, zoning administrator, or health officer shall find any vehicle or appliance as defined herein placed or stored in the open upon public property within the City, he shall cause such vehicle or appliance to be removed either by the City street department or by a junk or salvage yard operator, and such items shall be stored in a junked or salvage yard for a period of 30 days. The office ordering removal of such property shall make a reasonable effort to identify the owner, and if the owner's identity and address are ascertained, the officer shall send him a notice by certified mail, return receipt requested, that such property shall be forfeited if not reclaimed by the owner within 30 days. An owner reclaiming such property shall pay the reasonable cost of storage of the property. If property is taken and stored under this section and not reclaimed within 30 days, it may be disposed of by the City or its agents and the proceeds from such disposition shall be applied to the cost of removing and storage of the property.
- (4) **REMOVAL FROM PRIVATE PROPERTY.** Whenever any policeman, zoning inspector, the building inspector, or the health officer shall find any vehicles or appliances as defined in sub.(1), placed or stored in the open upon private property within the City, he shall proceed under Section 300.10(3)(a)(2) of this Code.

300.10 ENFORCEMENT

- (1) **RESPONSIBLE OFFICIALS.** Any police officer, the building inspector, health officer, zoning administrator, city engineer, director of public works and the Mayor may enforce the provisions of this Chapter. Any of said officials may make inspections to determine whether a violation of this Chapter exists. Whenever any officer has made or caused an inspection or investigation and has determined that a public nuisance exists, said official shall proceed as hereafter provided.
- (2) **SUMMARY ABATEMENT.** If the inspecting officer determines that a public nuisance exists and that it threatens the health, safety or peace of the public, or any member of the public, the Mayor may cause the nuisance to be immediately abated. The costs of abating the nuisance shall be collected from the owner of the property where the nuisance arose as a special charge for current services pursuant to s. 66.0627, Stats.

(3) NON-EMERGENCY DIRECTION TO ABATE.

(a) **Notice and Order to Abate.** If the inspecting officer determines that a public nuisance exists on private premises, but that it does not pose an immediate danger to public health, safety or peace, the officer shall notify the owner or occupant of the property, either personally, by regular first class mail, or other reasonable means, of the existence of the nuisance and direct that person to abate the nuisance. Only one notice to abate need be sent annually. The notice shall order abatement within three (3) – ten (10) days, or as otherwise reasonable under the circumstances, and shall inform the recipient that if such a nuisance recurs in a calendar year after the owner or occupant has previously received an abatement order, the City will summarily cause the nuisance to be abated without notice. This applies for the following public nuisances:

1. Notice: Health and Safety; Imminent Threat. Nuisances described in Sections 300.03 (1)(a)-(f), 300.03(2)(a)-(j).
2. Notice: Health and Safety; Moderate Threat. Nuisances described in Section 300.03(2)(h), or Section 300.09(4).
3. Notice: Maintenance and Repair of Property. Nuisances described in Section 304.
4. Notice: Noxious Weeds. Nuisances described in Section 300.05.
5. Notice: Mowing of Grasses. Nuisances described in Section 300.06.
6. Notice: Limbs, Brush, etc. Nuisances described in Section 300.08.


(b) **Contents of Notice and Order to Abate.** The notice shall be sent to the occupant of the property and, if the occupant is not the owner, to the person listed on the current tax roll as the owner. The notice shall describe the nuisance, inform the recipient that if the nuisance is not abated within the time prescribed, the City will abate the nuisance and the costs of abatement shall be charged to the owner of the property and collected as a special charge for current services.

(c) **Remedy from Abatement Order.** Any person affected by notice or an order for abatement under Richland Center Municipal Code Ch. 300.10(3)(a), shall, prior to the abatement date, apply to the circuit court for an order restraining the City from entering on the premises and abating or removing the nuisance, or be forever barred.

(4) FORFEITURE. If any proceedings under this Section or Chapter 823, Stats., in which the City prevails, the person causing or maintaining the nuisance shall pay, in addition to any other costs or charges imposed against him or her or his or her property, a forfeiture as described in the Richland Center Municipal Code.

(5) This ordinance shall be in full force and effect from and after its passage and publication.

Enacted the 1 day of December, 2020.



Todd Coppernoll, Mayor

ATTEST:



Derek Kalish, City Clerk/Treasurer