

ORDINANCE NO. 23-840

**AN ORDINANCE AMENDING CHAPTER 92 (WEED ORDINANCE) OF THE CITY OF HUTCHINSON
CODE OF ORDINANCES INCLUDING ADDING LANGUAGE IN SECTION 92.037**

THE CITY COUNCIL OF THE CITY OF HUTCHINSON, MINNESOTA ORDAINS:

Notice of hearing was duly given and publication of said hearing was duly made and was made to appear to the satisfaction of the City Council that it would be in the best interests of the City to amend the Weed Ordinance to amend language in Chapter 92 of the City Code as follows:

**CHAPTER 92
WEED NUISANCE VEGETATION**

§ 92.035 SHORT TITLE.

This subchapter shall be cited as the "Weed Nuisance Vegetation Ordinance".

§ 92.036 JURISDICTION.

This subchapter shall be in addition to any state statute or county ordinance presently in effect, subsequently added, amended or repealed.

§ 92.037 DEFINITIONS; EXCLUSIONS.

(A) For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DESTRUCTION ORDER. The notice served by the City Council or designated city official, in cases of appeal, on the property owner of the ordinance violation.

PROPERTY OWNER. The person occupying the property, the holder of legal title or a person having control over the property of another, such as a right-of-way, easement, license or lease.

NATIVE VEGETATION. Grasses and flowering broad-leaf plants that are native to, or adapted to, the State of Minnesota, and that are commonly found in meadow and prairie plant communities, except weeds.

NATURAL LANDSCAPING. Groups of plants native to the State of Minnesota.

WEEDS, GRASSES and RANK VEGETATION.

(a~~1~~) Includes, but is not limited to, the following:

1. Noxious weeds and rank vegetation shall include but not be limited to: alum (allium), Buckthorn, Bur Cucumber, Canada Thistle, Corncockle, Cressleaf Groundsel, Curly Dock, Dodder, Field Bindweed, French Weed, Hairy Whitetop, Hedge Bindweed, Hoary Cress, Horsenettle, Johnsongrass, Leafy Spurge, Mile-A-Minute Weed, Musk Thistle, Oxeye Daisy, Perennial Sowthistle, Poison Hemlock, Purple Loosestrife, Quackgrass, Russian Knapweed, Russian Thistle, Serrated Tussock, Shatter Cane, Sorghum, Wild Carrot, Wild Garlic, Wild Mustard, Wild Onion, Wild Parsnip;
2. Grapevines when growing in groups of 100 or more and not pruned, sprayed, cultivated, or otherwise maintained for two consecutive years;
3. Bushes of the species of tall, common or European barberry, further known as berberis vulgaris or its horticultural varieties;

4. Any weeds, grass or plants, other than trees, bushes, flowers or other ornamental plants, growing to a height exceeding eight inches; and
5. Rank vegetation includes the uncontrolled, uncultivated growth of annuals and perennial plants.

(b2) The term WEEDS does not include shrubs, trees, cultivated plants or crops and the following:

1. Native vegetation included as part of a natural landscaping plan is allowed provided the owner applies for and receives an approved natural landscape plan from the City, and maintains the property in a condition sufficient to maintain the plan.
2. Natural landscape plans are required if landscaping includes grasses or broad-leaf plants that exceed 8 inches in overall height and exceed 25 percent of the pervious surface area of the parcel excluding natural wooded areas, wetlands, rain gardens and native shorelines.
3. Non-noxious weeds, native grasses and native broad-leaf plants are allowed within 20 feet of storm water ponds or within 50 feet of natural or altered creeks, rivers and stream corridors, including riparian buffer strips.
4. Non-noxious weeds, native grasses and native broad-leaf plants are allowed on land zoned agricultural, including pastures, provided that a mowed buffer zone of 10 feet between the agricultural land and any turf grass or right-of-way be maintained.

(B) In no event shall cultivated plants or crops include plants which have been defined by state statute or administrative rule as being noxious or detrimental plants.

§ 92.038 OWNERS RESPONSIBLE FOR TRIMMING, REMOVAL AND THE LIKE.

All property owners shall be responsible for the removal, cutting or disposal and elimination of weeds, grasses and rank vegetation or other uncontrolled plant growth on their property and rights-of-way adjacent to their property, which at the time of notice, is in excess of eight inches in height.

§ 92.039 FILING COMPLAINT.

Any person, including the city, who believes there is property located within the corporate limits of the city which has growing plant matter in violation of this subchapter shall make a written complaint signed, dated and filed with the City Administrator. If the city makes the complaint, an employee, officer or Council member of the city shall file the complaint in all respects as set out above.

§ 92.040 NOTICE OF VIOLATIONS.

(A) Upon receiving notice of the probable existence of ~~weeds~~ nuisance vegetation in violation of this subchapter, a person designated by the City Council shall make an inspection and prepare a written report ~~to the City Council~~ regarding the condition. The City Council or designated city official, upon concluding that there is a probable belief that this subchapter has been violated, shall forward written notification in the form of a ~~destruction order~~ Individual Notice to Control Tall Grass and Noxious Weeds to the property owner or the person occupying the property as that information is contained within the records of the City Administrator or any other city agency. The notice shall be served in writing to the owner of record by first class mail. The notice shall provide that within seven calendar days following the notice that the designated violation shall be removed by the property owner or person occupying the property.

- (B) (1) All notices are to be in writing and all filings are to be with the City Administrator or designee.
- (2) Certified mailing to the City Administrator or others is deemed filed on the date of posting to the United States Postal Service.

§ 92.041 APPEALS.

(A) The property owner may appeal by filing written notice of objections with the City Council or designated city official within 48 hours of the notice, excluding weekends and holidays, if the property owner contests the finding of the City Council. 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 subchapter, and should not be subject to destruction under the subchapter.

(B) 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.

§ 92.042 ABATEMENT BY CITY.

In the event that the property owner shall fail to comply with the "destruction order" within seven regular business days and has not filed a notice within 48 hours to the City Administrator of an intent to appeal, the City Council may employ the services of city employees or outside contractors and remove the weeds to conform to this subchapter by all lawful means.

§ 92.043 LIABILITY.

(A) The property owner is liable for all costs of removal, cutting or destruction of weeds as defined by this subchapter.

(B) The property owner is responsible for all collection costs associated with weed 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.

(C) All sums payable by the property owner are to be paid to the City Administrator and to be deposited in a general fund as compensation for expenses and costs incurred by the city.

(D) All sums payable by the property owner may be collected as a special assessment as provided by M.S. § 429.101, as it may be amended from time to time.

EFFECTIVE DATE OF ORDINANCE. This Ordinance shall take effect upon adoption and publication in accordance with the Hutchinson City Charter.

Adopted by the City Council this 24th day of October, 2023.

ATTEST:

Matt Jaunich, City Administrator

Gary Forcier, Mayor

First Consideration: 10/10/2023
Second Consideration: 10/24/2023
Date of Publication: