

**CITY OF BRIDGMAN
TALL GRASS AND WEED ORDINANCE
Ordinance 2018-199**

An ordinance to secure the public health, safety and welfare of the residents and property owners by the control and regulation of the height of tall grass and weeds in subdivided lands and upon lands along improved streets within the City of Bridgman; to preserve the City's natural environment of dune areas, wetland, and woodlands while maintaining properties in a way that protects the general health, safety, and welfare; and to provide penalties for the violation thereof and to repeal all ordinances or parts of ordinances in conflict therewith.

Motion made by Council Member High and seconded by Council Member Gipson:

**THE CITY OF BRIDGMAN,
BERRIEN COUNTY, MICHIGAN ORDAINS:**

SECTION 1. Title and Applicable Seasons.

This ordinance shall be known and cited as the City of Bridgman Tall Grass and Weed Ordinance, and shall be applicable and in full force and effect from May 1st through October 31st of each year.

SECTION 2. Purpose

The City hereby finds that unsightly tall grass and weeds growing in unsuitable areas can have a blighting effect on neighborhoods, and can provide a refuge for vermin and insects. The purpose of this ordinance is to regulate the height of grass and weeds in certain areas of the City in which there is a higher population density, while still maintaining and preserving the City's unique lakefront location, which includes sand dunes, wild dune grasses, meadows, wetlands, and woodlands.

SECTION 3. Definitions

- A. Grass:** any type of grass or weed, but not including crops grown as a source of income, including but not limited to corn, oats or barley.
- B. Weeds:** "weeds" shall include Canada thistle (*Cirsium arvense*), dodders (any species of *Cuscuta*), mustards (charlock, black mustard and Indian mustard, species of *Brassica* or *Sinapis*), wild carrot (*Daucus carota*), bindweed (*Convolvulus arvensis*), perennial sowthistle (*Sonchus arvensis*), hoary alyssum (*Berteroa incana*), ragweed (*Ambrosia elatior* L), Japanese knotweed (*Fallopian japonica*), poison ivy (*Rhus toxicodendron*), poison sumac (*Toxicodendron vernix*), garlic mustard (*Alliaria petiolata*), spotted knapweed (*Centaurea maculosa*), phragmites (*Phragmites australis*), and/or any other plant, which is in the opinion of the City Council, comes under the provisions of the Noxious Weeds Act, Public Act 359 of 1941, as amended (MCL 247.61, et seq.), including grass over six (6) inches in height, other than that which is part of a vegetable or flower garden. Weeds shall be regarded as a common nuisance.
- C. Owner:** any person holding an ownership interest in land in the City of Bridgman upon which there is tall grass growing. For the purposes of this Ordinance, the name and address listed on the City tax assessment roll shall indicate ownership interest in such land.

D. Occupant: any person who has the right to occupy a parcel of property due to being an owner or pursuant to a verbal or written lease or rental agreement with the owner or agent thereof.

E. Land Used for Agriculture: the use of land for tilling of the soil, the raising of field or tree crops or animal husbandry, as a source of income.

SECTION 4. Land Subject to Regulations

A. This ordinance applies to the following:

1. Lots in a platted subdivision with a structure.
2. Vacant lots within platted residential subdivisions in which buildings have been erected upon 60 percent or more of the lots, or
3. Parcels of land which have a tree lawn and/or which border improved public streets or rights-of-way.

B. This ordinance does not apply to:

1. Land used for agricultural purposes, including weeds in fields, devoted to growing any small grain crops such as wheat, oats, barley, or rye.
2. Portions of lots used for flower gardens, shrubbery or vegetable gardens.
3. Naturally wooded areas, dune and dunegrass areas, or regulated wetlands or meadows.
4. Areas designated as undeveloped open space or meadows by the City Council.

SECTION 5. Duty to Cut Grass

1. Except as otherwise provided in this Ordinance, an owner and/or occupants who owns or otherwise has occupancy rights for property in the City is responsible for cutting, destroying, and removing or causing to be cut, destroyed, or removed from the land all noxious and poisonous weeds growing thereon, as well as dead grass and brush thereon, to prevent such weeds from going to seed or blossom, as the case may be; to prevent grass from growing in excess of six (6) inches in height, except for dune grass; and preventing such dead grass and brush from becoming a fire hazard.
2. The duties imposed in this section extend to the tree lawn, which includes any portions of the abutting public right-of way that would become part of the property if the right-of-way were vacated, except for any roadway which is paved for vehicular traffic.
3. In addition to the property owner or occupant, the manager of a business on a property, meaning the person that exercises the most control over the day-to-day operations of the business, shall also be responsible parties subject to the duties imposed in this section.
4. On an undeveloped or vacant lot, tall grass and weeds must be cut back at a distance of at least twenty (20) feet from the roadway by the owner and/or occupants so as to allow a clear line of site for drivers, and the owner and/or operator shall also cut grass and weeds back at least twenty (20) feet on each lot line where such property abuts any residential property. The twenty (20) feet which abuts a public street for purposes of this Section shall begin at the curb, or if none exists, at the edge of the paved roadway nearest to the property. If a property under this section abuts a residential property on the rear or side of the property, the twenty (20) feet shall start at the lot line.

SECTION 6. Unlawful Acts

It shall be unlawful for the owner and/or occupant of any lot or parcel of land to which this ordinance applies to allow or maintain upon any portion of such lot or parcel any growth of tall grass or weeds as defined herein, or to permit the deposit or accumulation upon any portion of such lot or parcel of land, of any brush, yard debris, dead vegetation, or cut grass or weeds so as to create a nuisance due to unsightliness, an unhealthy or unsafe condition, or traffic hazard, or fire hazard. Growth of grass to a length greater than six (6) inches shall be considered to be a nuisance for the purposes of this section. Nothing in this ordinance shall be interpreted to prohibit natural composting when such composting is done in an appropriate area of the property, which shall not include the front yard.

It shall be unlawful for the owner and/or occupant of any lot or parcel of land to which this ordinance applies to place, throw, sweep or otherwise deposit any yard waste material of any kind on any alley, street, gutter, sidewalk or utility right-of-way in the City.

SECTION 7. Enforcement

- A. Enforcement Officer.** This Ordinance shall be enforced by the Bridgman City Police Department and/or the City's designated Code Enforcement Officer.
- B. Right of Entry.** The Ordinance enforcement officer and his or her authorized representatives are hereby empowered to enter upon any premises or land in the City of Bridgman for the purpose of inspecting, removing of and/or destroying tall grass and weeds prohibited under this ordinance. No person shall interfere with such person or persons while they are engaged in carrying out the provisions of this ordinance.
- C. Violation Notice.** After inspection, if any property is determined to be in violation of this ordinance, a Violation Notice will be sent to the property owner and/or occupant of said premises in which the name appears in the last local assessment record of the City. The notice shall be sent by both first class and by posting a copy of said notice on the property. The notice shall give the property owner ten (10) days from the date of the notice to cut the tall grass and weeds.
- D. Appeal Provisions.** A party aggrieved by a decision under Section C. of this Ordinance may appeal the Violation Notice as follows:
- 1.) Within the ten (10) day time period for which a lawn must be cut in Section C., an aggrieved party may file a written request with the City Clerk setting forth an appeal of the Violation Notice, along with specific reasons alleging why the allegations in the Violation Notice are improper.
 - 2.) The Clerk shall notice the aggrieved party in writing of the time, place and date that the City Council will hold a hearing on the appeal.
 - 3.) The City Council may grant relief on appeal if it finds that there is good cause to believe that the Violation Notice was issued in error. "Good cause" shall mean that the City Council finds by a preponderance of the evidence that the area ordered to be mowed is exempt from the provisions of this ordinance.
- E. Failure to Comply.** If no appeal is filed, and the tall grass and weeds are not cut within ten (10) days, or if the tall grass and weeds are not cut within five (5) days of a decision on appeal ordering the cutting of the grass and weeds, the City shall have the authority to enter upon the land and/or to cause the grass and weeds to be mowed by an authorized representative who is hereby empowered to enter upon any premises or land in the City for the purpose of mowing tall grass and weeds in violation of this ordinance, even if the

property owner and/or occupant failed to actually receive said notice. The City of Bridgman, its agents and representatives shall not be responsible for damage to buildings, vehicles, landscape, trees, shrubs, etc., during the mowing of property in violation of this ordinance.

- F. Assessment of costs.** All expenses of such cutting, to include equipment usage, transportation, man-hours involved, and overhead, including any and all cost incurred in the removal or relocation of debris, junk or other miscellaneous obstructions which would be necessary or convenient to carry out the requirements of this Ordinance shall be paid by the owners of such land plus an administrative charge of fifteen (15%) percent, thereof per residential parcel, per cutting. After having a lot mowed, the City shall then submit a bill to the property owner for the cost of the mowing. If the property owner does not pay the bill within sixty (60) days of the date of the invoice the cost of such payment shall be charged against the premises and it shall become a lien on the land or property assessed of the same character in effect as the lien created by general law for taxes, plus an additional delinquency fee of 10% per month until paid.

SECTION 8. Penalties

- A.** Any violation of this Ordinance shall be a Municipal Civil Infraction, subject to payment of a civil fine of not less than \$50.00, plus applicable costs and other sanctions for each violation as authorized by Section 21 of Act 359 of the Public Acts of 1947, as amended and the Bridgman Municipal Ordinance Violations Bureau Ordinance.
- B.** Repeat offenses under this ordinance shall be subject to increased fines as provided by this Section. As used in this Section, "repeat offense" means a second (or any subsequent) violation of the same requirement or provision of this Ordinance within any three (3) year period for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this Ordinance shall be as follows:
1. The fine for any offense which is a first repeat offense shall be not less than \$125.00 plus costs.
 2. The fine for any offense which is a second repeat offense shall be not less than \$250.00 plus costs.
 3. The fine for any offense which is a third repeat or any subsequent repeat offense, shall be not less than \$400.00 each plus costs.
- C.** Each day on which any violation of this Ordinance occurs or continues, constitutes a separate offense subject to separate sanctions.
- D.** If there is any evidence of retaliation by any offender against any complainant or witness, such evidence shall be communicated to the District Court. In sentencing any violator, the District Court or Magistrate shall first examine the evidence of retaliation, and if such be shown, shall consider such acts, including the amount of property damage, and sentence the violator accordingly, which sentence may include restitution for any damage.

SECTION 9. Declaration of Nuisance

Any violation of any provision of this Ordinance is hereby declared to be a nuisance and the City may seek enforcement of the Ordinance by suit for injunction, damages, or other appropriate legal action, as against a nuisance, at the expense of the property owner under MCL 600.2940(3), including reasonable attorney fees, which may be charged as a lien against the premises pursuant to the procedure in Section 7.F. Any such civil action shall be in addition to any prosecution for violations of this Ordinance as a Municipal Civil Infraction, Commencement of any such proceedings shall not constitute an election of remedies.

Section 10. Severability

The several provisions of this ordinance are declared to be separate; if any Court shall hold that any section or provision hereof is invalid, such holding shall not affect or impair the validity of any other section or provision of this ordinance.

Section 11. Effective Date

This ordinance shall be published as required by law and shall take effect immediately after it enactment and publication.

ROLL CALL VOTE:

Ayes: Georgia Gipson, Vince Rose, Hannah Anderson, Jim Catania, Rick Fuller, Bob Liskey, Ken High

Nays: None

Absent: None

Abstain: None

ORDINANCE DECLARED ADOPTED.

CERTIFICATION

I, Allyson Holm, duly appointed Clerk in and for the City of Bridgman, Berrien County, Michigan, do certify that the foregoing Ordinance is a true and exact copy of a Ordinance adopted by the City Council during its regular meeting, held August 20, 2018, and that public notice of said meeting was given pursuant to the Michigan Open Meetings Act.

Allyson Holm, City Clerk