

## NOXIOUS WEEDS

### § 95.35 DEFINITIONS.

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

**COMMISSIONER.** A competent person appointed by the Village Council as the village's Commissioner of Noxious Weeds, with the Village Chief of Police so appointed by this subchapter and subsequent appointments allowed by Village Council Resolution.

**NOXIOUS WEEDS.** Are declared to be a public nuisance and shall be abated as provided in this chapter, means:

(1) 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* 1), poison ivy (*rhus toxicodendron*) and poison sumac (*toxicodendron verni*); and

(2) Weeds, grasses and vegetation other than live flowers, trees, shrubs and fruit or vegetable plants, that exceed a height of eight inches above ground level.

(Ord. 7.01, passed 10-11-71; Am. Ord. 7.12, passed 5-12-08)

### § 95.36 PROHIBITIONS AND OBLIGATIONS.

(A) Unless exempt under division (C), owners, occupants and agents of owners of land upon which noxious weeds specified in the definition of noxious weeds in § 95.35, division (1), are growing, shall destroy the weeds before they reach a seed bearing stage and prevent their re-growth or prevent the weeds from becoming a detriment to public health.

(B) Unless exempt under division (C), owners, occupants and agents of owners of land shall maintain the land free from noxious weeds as defined in § 95.35, division (2), by necessary removal, cutting or mowing.

(C) Land that is located within a conservation area or easement, open space or natural area that has been approved by the village to be left in its natural state without the removal, cutting or mowing otherwise required by divisions (A) and/or (B), shall be exempt from those requirements. For purposes of this exemption, village approval may be by a permit or plan approval under Chapter 157 of this code or the village zoning ordinance.

(D) No person shall deposit, store or allow the deposit or storage of noxious weeds, grass or weed clippings, tree branches, leaves or cut dead plants of any nature on any property:

(1) Without the written permission of the owner of the property;

(2) In a manner that violates other applicable laws or village ordinances; or

(3) That creates or constitutes a nuisance or for a longer period than necessary to the lawful disposal of the materials.

(Ord. 7.01, passed 10-11-71; Am. Ord. 7.12, passed 5-12-08)

### § 95.37 NOTICES AND ACTIONS BY VILLAGE.

(A) On an annual basis in March, the Commissioner may cause a notice to be published in a newspaper of general circulation in the village that noxious weeds existing on a property as of May 1 of that year may be cut, mowed, destroyed or removed by the Village, with the property owner charged with the village's actual and administrative costs and expenses in doing so, as many times that calendar year as necessary to keep the property free from noxious weeds. Such a notice shall also contain the information described in division (B).

(B) (1) The Commissioner shall provide written notice based on the most recent tax assessment roll, to owners of property upon which noxious weeds exist, and to occupants and agents of owners of property, known to the Commissioner:

(a) To cut, mow, destroy or remove the noxious weeds within five days of the date of the notice;

(b) To thereafter maintain the property free from noxious weeds;

(c) That upon a failure or refusal to do so, that the Commissioner, by Village employees or contractors, will enter upon the property and perform the required cutting, mowing, destruction or removal;

(d) That payment of the village's actual and administrative expenses incurred in cutting, mowing, destruction or removal is the responsibility of the property owners and is secured by a lien on the property;

(e) That the existence of noxious weeds is a public nuisance; and

(f) That describes methods of treating and eradicating noxious weeds and summarizing the requirements to do so.

(2) The notice under this section shall be given by personal delivery, certified mail with return receipt requested or by posting on the property and first class mail unless the notice under division (A) has been published, in which case the notice may be by first class mail only.

(C) If at any time during the remainder of the calendar year commencing five days after the mailing of the notice under division (B), noxious weeds exist on a property, the Commissioner may cause the noxious weeds to be cut, mowed, destroyed or removed by village employees or contractors as many times that calendar year as necessary to keep the property free from noxious weeds, and after each such cutting, mowing or removal, shall bill the property owners for the village's expenses incurred consisting of actual costs and expenses and a 30% administrative fee on those expenses. If village employees perform cutting, mowing or removal work, the actual cost shall be based on the involved employees total hourly costs to the village (wages and benefits) and the rental rate at the closest equipment rental store for the equipment used by the village in performing the work. No additional notices shall be required to be given prior to such actions unless the village has received written notice of a change in ownership by property transfer affidavit or otherwise. In that event, the Commissioner shall provide the new owner with a notice under division (B) and wait the required five days before taking actions under this division.

(D) The Commissioner's bill for village expenses shall be paid within 30 days, after which a penalty of 1% per month shall be added and due on any unpaid balance. Payment of all expenses and penalties shall be secured by a lien on the property as of the date the village first performed work and if not paid within the time required, may be placed on the tax roll for collection in the same manner as delinquent special assessments under the Village Charter.

(Ord. 7.01, passed 10-11-71; Am. Ord. 7.12, passed 5-12-08)

## **§ 95.38 FINES, ORDERS AND RECOVERY OF EXPENSES BY VILLAGE.**

A person that fails to remove, cut or mow noxious weeds as required in this chapter is responsible for a municipal civil infraction, the fine for which shall be \$100 or such greater amount as may be authorized by law, for each failure that results in the Commissioner having the required work performed. In addition, the court judgment, writ or order against a person determined to be responsible for a violation of this chapter may include an order for payment of damages to the village for all unpaid expenses and penalties for noxious weed cutting, mowing or removal, interest and attorney fees incurred in enforcement.

(Ord. 7.01, passed 10-11-71; Am. Ord. 7.12, passed 5-12-08)

### **§ 95.39 COMMISSIONER AUTHORITY AND PROCEDURES.**

In administering and enforcing the noxious weeds regulations in this chapter, the Commissioner shall have the same rights and authority to declare nuisances, file complaints, certify charges for collection on the tax roll, condemn and post properties, enter upon properties and to designate sworn village police or ordinance officers to assist the Commissioner as are granted to the Health Officer in §§ 95.15 through 95.19.

(Ord. 7.01, passed 10-11-71; Am. Ord. 7.12, passed 5-12-08) Penalty, see § 10.99

### **§ 95.98 VIOLATIONS.**

(A) Any person, firm or corporation determined to have been in violation of the provisions of this chapter shall be responsible for a municipal civil infraction and subject to the provisions of § 10.99(A) (2). Nothing in this subsection should be construed as to prevent the Village of Lake Orion pursuing an action to abate the nuisance pursuant to § 95.24 of this chapter.

(B) The owner of any dwelling or any building or structure upon the same lot with a dwelling or the owner of any lot either improved or unimproved where a nuisance exists shall be guilty of a violation of this chapter and any person who shall violate or assist in violating any provisions of this chapter shall also jointly and severally for each such violation of each such nuisance be subject to the penalty of this chapter.

(Ord. 7.01, passed 10-11-71; Am. Ord. A-3, passed 1-13-97) Penalty, see § 10.99