

101.000 NOXIOUS WEEDS\* Ord. No. 41 Adopted: July 1, 1970

(Amendment thru 7/09)

\*Cross references: Nuisance abatement, Pt. 100; subdivision, Pt. 181.

An Ordinance to control and eradicate noxious weeds as defined herein on lands, including certain subdivisions, located in the Township of Washington; to create the office of Commissioner of Noxious Weeds and to appoint a Commissioner to enforce the provisions of this Ordinance and prescribe his duties thereunder; to require the owner, agent or occupant of lands on which noxious weeds are found growing to destroy said weeds or cause the same to be destroyed; to provide for a notice to said owners, agents or occupants requiring the cutting or destruction of said weeds, to provide a means of enforcement by imposition of a lien on such lands for the expense incurred by the Township of Washington in controlling and eradicating such weeds; to require the Commissioner to prosecute violators thereof and report annually to the Township Board; to provide for an audit and payment of the Commissioner's accounts, for creation of a noxious weed control fund and to provide a penalty for a violation thereof.

THE TOWNSHIP OF WASHINGTON, MACOMB COUNTY, MICHIGAN, ORDAINS:

**101.001 Short title.**

Sec. 1. This Ordinance shall be known and cited as the "Washington Township Noxious Weed Ordinance".

**101.002 Definitions.**

Sec. 2.

COMMISSIONER. The term Commissioner shall mean the Washington Township Noxious Weed Commissioner.

COUNTY. The term County shall mean the County of Macomb, Michigan.

NOXIOUS WEEDS OR WEEDS. The terms Noxious Weeds or Weeds shall mean, 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.) and poison ivy (*Rhus toxicodendron*) , poison sumac (*toxicodendron vernix*) or other plant which in the opinion of the Township Board is regarded as a common nuisance.

OWNER, AGENT OR OCCUPANT. The terms Owner, Agent or Occupant shall include a titleholder, whether or not of record, a land contract purchaser, a lessee, a licensee, a trespasser or an adverse possessor.

SUBDIVISION OR SUBDIVIDED LAND. The terms Subdivision or Subdivided Land shall mean all land which has been divided pursuant to the provisions of a Statute of the State of Michigan governing the making and recording of plats, and shall include supervisors' or assessors' plats

TOWNSHIP. The term Township shall mean the Township of Washington, Macomb County, Michigan.

TOWNSHIP BOARD. The term Township Board shall mean the Washington Township Board.

### **101.003 Commissioner of Noxious Weeds.**

#### **Sec. 3.**

*Section 3.1 Appointment.* Pursuant to authority granted by Act 359, Michigan Public Acts of 1941, as amended, there shall hereby be created the office of Washington Township Commissioner of Noxious Weeds. The Township Board shall by Resolution appoint a competent person to act in such capacity who shall take the oath required of Township officers and shall hold office for the term of two (2) years and until a successor is appointed and qualified, and he shall receive for his compensation such sum as may be fixed by the Township Board.

*Section 3.2 Removal.* The Township Board may, at any time, for good cause remove such Commissioner from office and appoint his successor to serve the remaining portion of his term.

### **101.004 Duty of Commissioner.**

*Sec. 4.* The Commissioner shall diligently inquire concerning the introduction and existence of noxious weeds in the Township and if any are found growing therein, he shall take charge of all such growing and take care that they do not go to seed or otherwise spread, or become a detriment to the public health, and he shall carefully seek and learn, so far as practicable, the best methods of their destruction, and he shall persistently apply in proper time such remedy or treatment as shall be best calculated to prevent their spread and to eradicate the same.

### **101.005 Duty of landowners, agents or occupants.**

#### **Sec. 5.**

- (a) It shall be the duty of all owners, agents, or occupants of land on which noxious weeds are found growing to destroy the same before they reach a seed bearing stage and to prevent such weeds from perpetuating themselves, or to prevent such weeds from becoming a detriment to public health.
- (b) It shall be the duty of all owners, agents or occupants of land three (3) acres or less in size which abuts a residential structure to destroy all weeds, grass or brush of any species or variety exceeding a height of eight (8") inches above ground level on such property.
- (c) The requirements of this Ordinance shall not apply to fields devoted to growing crops or to lands which are situated within flood plains or any natural streams or watercourses.

## **101.006 Notice of cutting.**

### **Sec. 6.**

*Section 6.1 Publication of Notice.* The Commissioner shall publish a notice in a newspaper of general circulation in the Township during the month of March that noxious weeds and any weeds, grass and brush of any species or variety exceeding a height of eight (8") above ground level on parcels of land three (3) acres or less in size which abut a residential structure, not cut by June 1 of that year will be cut by the Township and the owner of the property charged with the cost in the manner hereinafter provided. The Township may cut such weeds, grass or brush as many times as is necessary and charge the cost to the property owner.

*Section 6.2 Alternate notice.* As an alternate method of providing notice, the Commissioner may notify by certified mail with return receipt requested, the owner, agent or occupant of any lands on which noxious weeds are growing that unless said weeds are destroyed, the Township will cut the same and the owner charged with the cost thereof in the manner hereinafter provided.

*Section 6.3 Contents of notice.* In addition to the notification provisions prescribed by subsections 6.1 and 6.2, such notice shall contain methods of treating and eradicating such noxious weeds and a summary of the provisions of Section 4 of Act 359, Michigan Public Acts of 1941, as amended.

*Section 6.4 Effect of failure to give notice.* Failure of the Commissioner to give the notice described in subsections 6.1, 6.2 and 6.3, shall not constitute a defense to any action to enforce the payment of the penalty hereinafter provided or the lien created under the provisions of this Ordinance.

## **101.007 Enforcement; lien for cost of cutting; limitation of expenditure.**

### **Sec. 7.**

*Section 7.1 General Enforcement.* In case any owner, agent or occupant of land on which noxious weeds or weeds, grass or bush of any species or variety exceeding a height of eight (8") inches above ground level on parcels of land three (3) acres or less in size which abut a residential structure, are found growing shall refuse to destroy such weeds, grass or bush or cause the same to be destroyed, it shall be the duty of the Commissioner to enter upon such lands to destroy such weeds, grass or brush or cause the same to be destroyed. Express authority to enter upon such lands and destroy such weeds, grass or brush is hereby conferred upon the Commissioner.

All expenses incurred by the Township in connection with the destruction of such weeds, grass or brush shall be paid by the owner, agent or occupant of such lands and the Township have a lien against such lands for all expenses incurred by the Township and such lien may be collected against such property in the manner provided by law for the collection of tax liens.

*Section 7.2 Enforcement in certain subdivisions.* In the event the owner, agent or occupant of any subdivided land in any subdivision in which buildings have been erected on sixty (60%) percent of the lots included in such subdivision, or the owners, agents or occupants of lots along all improved streets in common usage, for a depth of ten (10) rods or the depth of the lots, whichever is the lesser, has failed, after ten (10) days notice as provided by Section 6 herein, to destroy such weeds or cause the same to be destroyed, then the Commissioner or any official, inspector or other agent authorized by the Township may enter upon such subdivided lands or lots and destroy by cutting with or without mechanical equipment which will not damage the sidewalk adjacent thereto, any such weeds.

All expenses incurred in such destruction shall be paid by the owner or owners of such subdivided lands or lots and the Township shall have a lien upon such subdivided lands or lots for such expense, such lien to be enforced in the manner prescribed by the general laws of the State of Michigan for the enforcement of tax liens.

*Section 7.3 Limitation of expenditure.* The Commissioner shall apply the best known means, and use the utmost diligence, in eradicating noxious weeds but he shall not have the power to expend in work or materials more than One Hundred Dollars (\$100.00) on any one (1) infested tract, without the advice and consent, in writing, of the Supervisor of the Township.

(amended: Ord. No. 41-78-1, 6-21-78)

**101.008 Prosecution of violators, annual report.**

**Sec. 8.**

*Section 8.1 Prosecution of violators.* It shall be the duty of the Commissioner to prosecute or complain to the proper authorities of any person, firm or corporation who may violate this Ordinance, or any Ordinance which may hereafter be enacted, on the subject of noxious weeds.

*Section 8.2 Annual report.* The Commissioner shall annually, before the First (1st) Day of December, make a written report to the Michigan Department of Agriculture and to the Township Board, which report shall contain all pertinent information with reference to the existence and growth of noxious weeds within the Township.

**101.009 Audit and payment of Commissioner's accounts.**

**Sec. 9.** The Township Board shall continually audit the accounts of the Commissioner, both for his services and for the money expended or labor employed by him. The Township Board shall provide for payment of such accounts as it now does for other Township expenses.

**101.010 Penalty for violations; Noxious Weed Control Fund.**

**Sec. 10.**

*Section 10.1 Penalty for violations.* Any owner of land, including subdivided land, who shall refuse to destroy noxious weeds found growing thereon as provided by this Ordinance, shall be subject to a fine of not more than One Hundred (\$100.00) Dollars.

*Section 10.2 Noxious Weed Control Fund.* There shall hereby be created a Washington Township Noxious Weed Control Fund. Said fund shall consist of all fines collected for violations of this Ordinance as provided by Subsection 10.1 herein.

**101.011 Repeal of conflicting provisions.**

*Sec. 11.* All Resolutions or Ordinances or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict, hereby repealed.

**101.012 Severability.**

*Sec. 12.* If any section, paragraph, clause or provision of this Ordinance is for any reason held to be invalid or unconstitutional, the invalidity or unconstitutionality of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

**101.013 Publication of ordinance.**

*Sec. 13.* This Ordinance shall be published in full in the ROMEO OBSERVER, a newspaper of general circulation in the Township of Washington, within ten (10) days after its adoption.

**101.014 Effective date.**

*Sec. 14.* This Ordinance shall take effect thirty (30) days from and after the date of publication of a true copy thereof in a newspaper circulating within the Township of Washington as heretofore provided by Section 13.