

TOWNSHIP OF CLIMAX
COUNTY OF KALAMAZOO, STATE OF MICHIGAN

ORDINANCE NO. 144

NOXIOUS WEED ORDINANCE

Adopted: May 15, 2018

Effective: June 24, 2018

An Ordinance adopted pursuant to 1941 PA 359, as amended, and 1945 PA 246, as amended, to secure the health, safety and welfare of the people of the Township; to protect agricultural crops from invasive plant species, and to avoid a blighting factor, by the control, regulation, and eradication of certain noxious weeds, and also certain plant growth of excessive height; to establish remedies, provide for the enforcement, and fix sanctions for the violation of this ordinance; and to repeal all ordinances or parts of ordinances in conflict therewith.

THE TOWNSHIP OF CLIMAX
KALAMAZOO COUNTY, MICHIGAN

ORDAINS:

SECTION 1

TITLE

This ordinance shall be known and may be cited as the Climax Township Noxious Weed Ordinance.

SECTION 2

DEFINITIONS

As used in this ordinance the following words and terms shall have the meanings stated herein:

- A. "Noxious Weeds" means 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*), poison sumac (*Toxicodendron Vernix*), and any other plant species which the Township Board determines, by resolution, is regarded in the community as a common nuisance weed.
- B. "Uncontrolled Plant Growth" means any non-woody vegetation exceeding a height of 8 inches; except where such vegetation is not out of character with the development of and landscaping in the surrounding area within 500 feet, and also excepting all small grain or food crops, such as wheat, corn, oats, barley or rye, and garden vegetables.
- C. "Owner" and "occupant" shall mean any person or entity with any ownership or possessory right or interest, including deed holders and land contract vendees (whether recorded or unrecorded), mortgagees, lessees, and other tenants, residents, and any agent of any of same.

SECTION 3

DUTY TO DESTROY / CUT NOXIOUS WEEDS AND UNCONTROLLED PLANT GROWTH

- A. The owner and occupant of land on which noxious weeds are found growing shall destroy such weeds before they reach a seed bearing stage, or a height of 8 inches, whichever occurs first, and shall prevent their regrowth; provided that this requirement shall not apply to any incidental noxious weeds in fields devoted to growing any small grain or vegetable crop.
- B. The owner and occupant of the following described lands shall keep uncontrolled plant growth thereon cut to a height of not more than 8 inches:
 - (1) lots within platted subdivisions and condominium subdivisions, including vacant lots.
 - (2) unplatted lands with a dwelling or other occupied building thereon, for a depth of 165 feet, the depth of the parcel, or the depth of the established yard area, whichever is less.

SECTION 4

PUBLIC NUISANCE

All noxious weeds and uncontrolled plant growth in violation of the provisions of this ordinance are hereby declared to be a public nuisance.

SECTION 5

ADMINISTRATIVE PROCEDURES AND REMEDIAL ACTIONS TO ENFORCE ORDINANCE

- A. The Township shall give notice of the application of this ordinance by one or both of the following means:
- (1) publish in a newspaper of general circulation in the Township during the month of March a Notice that weeds and/or plant growth in violation of this ordinance not destroyed/cut by May 1 of that year as required by this Ordinance may be destroyed/cut by the Township, and that the owner of any such land shall be charged with the expenses incurred by the Township to destroy/cut such weeds/plant growth as many times as is necessary to keep the land in compliance with this ordinance, and that the Township shall have a lien against the land for the amount of such expenses, and that such lien shall be enforced in the manner provided by state law for the enforcement of real property tax liens; and/or
 - (2) mail by certified mail with return receipt requested a notice to the owner, occupant or agent of any lands in violation of this ordinance, describing the methods of treating and eradicating the weeds and/or of otherwise complying with this ordinance, and giving notice of those matters referenced in subsection (1) immediately above. Failure to give such notice shall not constitute a defense to any action to enforce the payment of any penalty or debt provided for in this ordinance.
- B. If the owner/occupant/agent has failed or refuses to comply with the ordinance after either form of notice provided for in Section 5.A. above, the Township or its agent/designee may enter upon such land with or without mechanical equipment and destroy/cut the weeds/plant growth thereon in violation of this ordinance.
- C. All expenses incurred in such destruction/cutting shall be paid by the owner of such land. The Township shall have a lien upon such land for the full amount of such expenses, which may be enforced in the same manner as the enforcement of real property tax liens through entry upon the next tax roll of the Township and assessment as a general Township tax. Such expenses shall be subject to all interest and penalties provided for taxes

due and collectible within the Township under the general tax laws of the State of Michigan. In addition to the foregoing, the Township may sue the owner in an appropriate court of law for the collection of such expenses.

SECTION 6

VIOLATIONS AND ENFORCEMENT

- A. Any person or entity who violates, disobeys, neglects or refuses to comply with any provision of this Ordinance, or any order issued under the Ordinance, including any conditions imposed thereon, or who causes, allows, or consents to any of same, shall be deemed to be responsible for a violation of this Ordinance.

Any person or entity responsible for a violation of this Ordinance, whether as an occupant, owner, licensee, agent, contractor, servant, employee, or otherwise, shall be liable as a principal. Each day that a violation exists shall constitute a separate offense.

- B. Any violation of this Ordinance shall constitute a basis for such judgment, writ or order necessary to compel compliance with the Ordinance and/or to restrain and prohibit continuation of the violation, or other appropriate relief in any court of competent jurisdiction, in addition to any other relief or sanction herein set forth or allowed by law.
- C. A violation of this Ordinance is a municipal civil infraction as defined by Michigan statute and shall be punishable by a civil fine determined in accordance with the following schedule:

	Minimum Fine	Maximum Fine
--- 1st offense	\$ 150.00	---
--- 2nd offense	\$ 325.00	---
--- 3rd or subsequent offense	\$ 500.00	---

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township has incurred in connection with the municipal civil infraction.

- D. This ordinance shall be administered and enforced by the person designated by the Township Board as the Township Noxious Weed Commissioner, by the Ordinance Enforcement Officer(s) of the Township,

or by such other person(s) as the Township Board may designate from time to time.

SECTION 7

SEVERABILITY

The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect.

SECTION 8

REPEAL

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 9

EFFECTIVE DATE

This ordinance shall take effect 30 days after publication as required by law.

Marcia Lewis, Township Clerk
Climax Township