# NOXIOUS WEEDS
# Act 359 of 1941

AN ACT for controlling and eradicating certain noxious weeds within the state; to permit townships, villages, and cities to have a lien for expenses incurred in controlling and eradicating such weeds; to permit officials of counties and municipalities to appoint commissioners of noxious weeds; to define the powers, duties, and compensation of commissioners; to provide for sanctions; and to repeal certain acts and parts of acts.

**History:** 1941, Act 359, Eff. Jan. 10, 1942;—Am. 1956, Act 81, Eff. Aug. 11, 1956;—Am. 1994, Act 26, Eff. May 1, 1994.

*The People of the State of Michigan enact:*

## 247.61 Commissioner of noxious weeds; appointment, term, removal, report.

Sec. 1. The governing body of any city, village or township may appoint a competent person to be the commissioner of noxious weeds who shall take the oath required of township, city or village officers, and shall hold office for the term of 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 appointing body. The body so appointing may, at any time, for good cause remove such commissioner from office and appoint his successor to serve the remaining portion of his term. The appointing body shall report the name and address of the person so appointed to the state department of agriculture within 10 days after making such appointment.

**History:** 1941, Act 359, Eff. Jan. 10, 1942;—CL 1948, 247.61;—Am. 1962, Act 10, Eff. Mar. 28, 1963.

## 247.62 Noxious weeds; definition.

Sec. 2. For the purpose of this act, "noxious weeds" includes 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), giant hogweed (Heracleum mantegazzianum), ragweed (Ambrosia elatior l.), and poison ivy (Rhus toxicodendron), poison sumac (Toxicodendron vernix), or other plant which in the opinion of the governing body of any county, city, township, or village coming under the provisions of this act is regarded as a common nuisance.

**History:** 1941, Act 359, Eff. Jan. 10, 1942;—Am. 1947, Act 114, Eff. Oct. 11, 1947;—CL 1948, 247.62;—Am. 2010, Act 358, Imd. Eff. Dec. 22, 2010.

## 247.63 Noxious weeds; eradication; duty of commissioner.

Sec. 3. The commissioner of noxious weeds shall diligently inquire concerning the introduction and existence of noxious weeds in his township, city or village 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.

**History:** 1941, Act 359, Eff. Jan. 10, 1942;—Am. 1947, Act 114, Eff. Oct. 11, 1947;—CL 1948, 247.63.

## 247.64 Destruction of noxious weeds; duty of owner, commissioner, agent, and department of natural resources and environment; notice; ordinance; resolution; expenses; lien; penalty; exceptions; action in court of claims.

Sec. 4. (1) The owner of land on which noxious weeds are found growing shall destroy the weeds before they reach a seed bearing stage and prevent their regrowth, or shall prevent them from becoming a detriment to public health. The commissioner shall notify by certified mail with return receipt requested the owner, agent, or occupant of land on which noxious weeds are found growing. The notice shall describe methods of treating and eradicating the noxious weeds and a summary of the provisions of this section. Failure of the commissioner to give the notice does not, however, constitute a defense to an action to enforce the payment of a fine provided for or debt created under this act. If the owner, agent, or occupant refuses to destroy the noxious weeds, the commissioner shall enter upon the land and destroy the noxious weeds. Expenses incurred in the destruction shall be paid by the owner of the land, and the township, city, or village of which the commissioner is an officer shall have a lien against the land for the amount of the expense. The lien shall be enforced in the manner provided by law for the enforcement of construction liens.

(2) A village, city, or township may, whether or not provided in its charter, provide by ordinance enacted for the purpose of controlling and eradicating noxious weeds in subdivided land that if the owner, agent, or

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occupant of subdivided land in a subdivision in which buildings have been erected on 60% of the lots, or the owner, agent, or occupant of a lot along an improved street in common usage, has failed, after 10 days' notice as provided in this section, to destroy the weeds, for a depth of 10 rods or the depth of the lot, whichever is less, then an agent authorized by the governing body of the township, village, or city may enter upon the lot and destroy noxious weeds by cutting. Mechanical equipment that will not damage the property or the adjacent sidewalk, may be used to cut the noxious weeds. Expenses incurred in the destruction shall be paid by the owner of the lot. The township, village, or city shall have a lien upon the lot for the amount of the expense. The lien shall be enforced in the manner prescribed by charter, by the laws of this state providing for the enforcement of tax liens, or by ordinance passed by the governing body of the township, village, or city.

(3) An owner who refuses to destroy noxious weeds as provided in this section is subject to a fine of not more than $100.00. When collected, the fine shall become a part of the "noxious weed control fund" of the township, village, or city. By ordinance, the township, city, or village may designate the refusal to destroy noxious weeds as provided in this section as a municipal civil infraction, in which case the fine shall be a civil fine. If the city establishes an administrative hearings bureau pursuant to statute to adjudicate and impose sanctions for blight violations, the city by ordinance may designate the refusal to destroy noxious weeds as provided in this section as a blight violation and any fine imposed shall be a civil fine.

(4) This act does not apply to weeds in fields devoted to growing any small grain crop such as wheat, oats, barley, or rye. In the case of an easement, property such as an abandoned subdivision, strip mine, or gravel pit, public property such as a forest preserve, and all other land as to which definite ownership is not known to the commissioner and cannot be established, the county board of commissioners shall cause the destruction of noxious weeds in accordance with this act.

(5) If the county board of commissioners of a county passes a resolution to participate under this act, the commissioner of noxious weeds shall notify the department of natural resources and environment, which shall determine whether there is land in the county belonging to this state under the jurisdiction of the department. The department of natural resources and environment shall cut noxious weeds growing on that land within 10 rods of any privately owned improved property, upon receipt of the notification. If the department of natural resources and environment fails to cut the weeds, the commissioner of noxious weeds shall enter upon the land and destroy the weeds. The expense shall be a charge against the department of natural resources and environment and may be recovered in an action in the court of claims.

**History:** 1941, Act 359, Eff. Jan. 10, 1942;—Am. 1947, Act 114, Eff. Oct. 11, 1947;—CL 1948, 247.64;—Am. 1956, Act 81, Eff. Aug. 11, 1956;—Am. 1962, Act 29, Eff. Mar. 28, 1963;—Am. 1984, Act 58, Imd. Eff. Apr. 12, 1984;—Am. 1994, Act 26, Eff. May 1, 1994;—Am. 2003, Act 321, Imd. Eff. Jan. 12, 2004;—Am. 2010, Act 118, Imd. Eff. July 13, 2010.

**Compiler's note:** For transfer of powers and duties of department of natural resources to department of natural resources and environment, and abolishment of department of natural resources, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

For transfer of powers and duties of department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

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### 247.64a Cutting of weeds by township, city, or village; publication of notice; charging cost to owner; provisions inapplicable to railroads.

Sec. 4a. (1) Instead of the notice required by section 4, the township, city, or village may publish a notice in a newspaper of general circulation in the county during the month of March that weeds not cut by May 1 of that year may be cut by the township, village, or city and the owner of the property charged with the cost under the provisions of section 4. The publication shall also contain all other information required of the notice provided for in section 4. The township, city, or village may cut weeds as many times as is necessary and charge the cost to the property owner.

(2) The provisions of this act relative to entering on property for the cutting of weeds shall not apply to railroads which shall continue to be subject to the provisions of section 11.

**History:** Add. 1969, Act 172, Eff. Mar. 20, 1970;—Am. 1987, Act 210, Imd. Eff. Dec. 22, 1987.

### 247.65 Noxious weeds; means of eradication; limitation of expense.

Sec. 5. The commissioner shall apply the best known means, and use the utmost diligence, in eradicating noxious weeds; but he shall not have power to expend in work or materials more than $25.00 on any 1 infested tract, without the advice and consent, in writing, of the supervisor of the township.

**History:** 1941, Act 359, Eff. Jan. 10, 1942;—CL 1948, 247.65.

### 247.66 Noxious weeds; prosecution of violators of act.

Sec. 6. It shall be the duty of the commissioner to prosecute or complain to the proper authorities of any person or corporation who may violate any law now existing, or which may hereafter be passed, on the


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subject of noxious weeds.

**History:** 1941, Act 359, Eff. Jan. 10, 1942;—CL 1948, 247.66.

### 247.67 Commissioner; annual report, contents.

Sec. 7. The commissioner shall, annually, before the first day of December, make a written report to the department of agriculture and to the body by whom he was appointed, as the case may be. Said report shall be made out upon blank forms furnished by the department of agriculture and shall contain such information with reference to the existence and growth of noxious weeds as said department may require.

**History:** 1941, Act 359, Eff. Jan. 10, 1942;—CL 1948, 247.67.

### 247.68 Department of agriculture; duty to enforce law; cooperation with commissioners.

Sec. 8. The department of agriculture is authorized and it shall be its duty to assist in the enforcement of this law. The department shall cooperate with the various commissioners of noxious weeds in carrying out the provisions of this act and shall advise them from time to time of the most effective methods of treating and eradicating noxious weeds.

**History:** 1941, Act 359, Eff. Jan. 10, 1942;—CL 1948, 247.68.

### 247.69 Board of supervisors; auditing accounts of commissioner; payment.

Sec. 9. The board of supervisors or other official body appointing any commissioner shall audit the accounts of the commissioner, both for his services and for the money expended or labor employed by him; and they shall provide for their payment as they now do for other county or municipal expenses.

**History:** 1941, Act 359, Eff. Jan. 10, 1942;—CL 1948, 247.69.

### 247.70 County board of commissioners; appropriation; powers; penalties; jurisdiction.

Sec. 10. (1) The county board of commissioners may make an appropriation from the county treasury to aid in destroying the noxious weeds in a town or precinct of the county. The board of commissioners may assume control over the noxious weeds in all or part of the county. The county board of commissioners may adopt a noxious weed ordinance that it considers necessary. For each violation of the ordinance, the ordinance may do either of the following:

(a) Impose as a penalty for the violation a fine not exceeding $100.00.

(b) Designate the violation as a municipal civil infraction and impose a civil fine for the violation.

(2) The action for imposition of the fine shall be commenced in the name and for the use of the proper county, before the district or municipal court of the judicial district or municipality in which the weeds are located. If the board of commissioners assumes control, its jurisdiction is superior to that of the commissioner of noxious weeds so long as the board of commissioners exercises that control.

**History:** 1941, Act 359, Eff. Jan. 10, 1942;—CL 1948, 247.70;—Am. 1990, Act 218, Imd. Eff. Oct. 8, 1990;—Am. 1994, Act 26, Eff. May 1, 1994.

### 247.71 Railroads; failure to comply, penalty.

Sec. 11. If any company, association or person owning, controlling or operating a railroad shall refuse or neglect to dig up and destroy, or take other certain means of exterminating noxious weeds that may at any time be growing upon the right of way or other lands of such roads, or appertaining thereto, they shall be fined for each offense not less than $50.00 nor more than $200.00.

**History:** 1941, Act 359, Eff. Jan. 10, 1942;—CL 1948, 247.71.

### 247.72 Highways; noxious weeds; duty of officials to prevent growth.

Sec. 12. It shall be the duty of the state highway commissioner to prevent all noxious weeds as defined in this act from growing within the right of way of any highways under his jurisdiction. It shall be the duty of each county road commission to prevent all noxious weeds as defined in this act from growing within the right of way of any highways under their jurisdiction.

**History:** 1941, Act 359, Eff. Jan. 10, 1942;—CL 1948, 247.72.

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